

**BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA**

Order Instituting Rulemaking to Develop
Additional Methods to Implement the California
Renewables Portfolio Standard Program

Rulemaking 06-02-012
(Filed February 16, 2006)

**COMMENTS OF THE LARGE SCALE SOLAR ASSOCIATION
ON THE ALTERNATE PROPOSED DECISION OF COMMISSIONER
GRUENEICH ON PETITIONS FOR MODIFICATION OF DECISION 10-03-021
AUTHORIZING USE OF RENEWABLE ENERGY CREDITS FOR
COMPLIANCE WITH THE CALIFORNIA RENEWABLES PORTFOLIO
STANDARD**

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November 15, 2010

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The Large Scale Solar Association (LSA) submits these comments on the October 25, 2010 Alternate Proposed Decision (APD or Alternate Proposed Decision) of Commissioner Grueneich on Petitions for Modification of Decision 10-03-021 Authorizing Use of Renewable Energy Credits for Compliance with the California Renewables Portfolio Standard pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure.

I. INTRODUCTION

In this proceeding, the Commission has taken a hard look at the proper role of tradable renewable energy credits (TREC) in renewables portfolio standard (RPS) compliance. Over the past three years, the Commission has striven to strike a balance between the need to ensure that the RPS provides stakeholders with value by encouraging the development of new renewable

generation to serve the California electricity market and allowing some flexibility to ensure that regulated parties can achieve the RPS targets in an efficient and cost-effective manner.

In D.10-03-021, the Commission defines bundled and renewable energy credit-only (REC-only) transactions, focusing on whether the energy associated with the procurement will serve California load.¹ In particular, bundled transactions include

“1. Transactions where the RPS-eligible generator’s first point of interconnection with the WECC interconnected transmission system is with a California balancing authority [and] 2. Transactions in which the RPS-eligible from the transaction is dynamically transferred to a California balancing authority.”²

On the other hand, REC-only transactions include those transactions that either expressly convey only RECs (no energy) or transfer RECs and energy, but do not classify as bundled procurement.³ In D.10-03-021, the Commission limits both the use of TRECs, to 25% of the investor owned utilities’ (IOU) annual procurement targets, as well as the price that IOUs can pay for TRECs, to \$50.⁴ Although the Commission noted that the TREC limit was needed to provide “an opportunity to see how the TREC market is working and to evaluate the overall role of TRECs in RPS compliance,” D.10-03-021 indicated that both the TREC limit and price cap would sunset on December 31, 2011, absent action by the Commission to extend the limit and cap.⁵

¹ See D.10-03-021 at 26.

² *Id.* at 34-35.

³ *Ibid.*

⁴ *Id.* at 45, 59.

⁵ *Id.* at 44, 49, 61.

LSA is greatly concerned about the impacts to market stability and investment in California renewables that would result if the 2011 sunset date set forth in D.10-03-021 is not extended, as the end of 2010 is quickly approaching, and as insufficient information exists to evaluate the long-term impacts of the use of TRECs on establishing the generation and transmission needed to deliver energy to meet California's RPS. We are encouraged by the approach of Commissioner Grueneich in the APD to extend the 25% limit, recognizing that the Commission can revisit this decision, if necessary, based on careful review of "the state of the TRECs market and the utilities' RPS compliance."⁶ We further appreciate the Alternate Proposed Decision's acknowledgement of the uncertainty created by the sunset date and difficulty this sunset date poses for the harmonization of regulatory efforts to occur between the Commission and California Air Resources Board (ARB), in light of the ARB's September 23, 2010 decision to adopt the 33% Renewable Electricity Standard (RES) and harmonize the RES regulations with the Commission's TREC decision.⁷

In summary, LSA urges the Commission to adopt the Alternate Proposed Decision, thereby retaining the balance struck in D.10-03-021 and providing additional certainty for the evolving renewables market.

II. LSA Supports the Alternate Proposed Decision's Retention of the 25% Limit on TRECs Adopted in D.10-03-021.

⁶ Alternate Proposed Decision at 6.

⁷ California Air Resources Board Resolution 10-23 (September 23, 2010).

LSA supports the APD's retention of the TREC limit adopted in D.10-03-021. As stated in its previous comments, LSA believes that 25% TREC limit achieves two very important goals: it would serve the policy objectives of the RPS, while offering the best balance between the competing interests of the parties. Rather than making adjustments in the absence of new information on TREC markets or the value of TRECs to ratepayers, LSA requests that the Commission take the prudent approach of retaining the 25% TREC limit.

During the course of the proceeding, stakeholders and Commission staff have considered a range of different TREC limits. In D.10-03-021, the Commission concluded, after a thorough review of the stakeholder input, that the 25% limit is consistent with stakeholder comments in the proceeding, although the limit "does not precisely correspond to any of the initial quantitative limits suggested by parties."⁸ LSA agrees with Commission's assessment that the 25% limit represents a good compromise, one that will both provide compliance flexibility in the near term and allow the Commission and LSEs to gain experience with the TREC market, while ensuring that California ratepayers still receive benefits provided by and RPS based on long-term, fixed price, bundled contracts.

Since D.10-03-021 was adopted, LSA submitted comments on Commissioner Peevey's Proposed Decision modifying Decision 10-03-021 authorizing the use of renewable energy credits for compliance with the

⁸ D.10-03-021 at 45.

California Renewables Portfolio standard (Original PD⁹). Although the 40% TREC limit proposed in the original PD has been reduced to 30%, LSA believes that the retention of the 25% TREC limit, as proposed in APD, would provide a better overall approach for the RPS program. The effective TREC limit under the Third Revised PD would be much higher than the stated 30% limit, due to the decision's treatment of all approved contracts as bundled contracts. This grandfathering provision undermines the Commission's stated intention in D.10-03-021 to maintain "bundled contracts as the source of the majority of RPS procurement in any year."¹⁰

Thus, LSA strongly supports the retention of the 25% TREC limit and urges the Commission to adopt the approach in the APD.

III. LSA Supports the Elimination of the Sunset Date on the TREC Limit and Price Cap in the Alternate Proposed Decision.

The Alternate Proposed Decision acknowledges that, under the current sunset date of 2011 in D.10-03-021, the Commission likely will not have sufficient time to "reach a reasoned decision on whether the TRECs usage and price caps should be changed before the December 31, 2011 sunset date."¹¹ Given the current lack of information on the TREC market and need to take a considered approach, LSA supports the elimination of the sunset date and agrees with the APD's statement that the

⁹ Since the Original PD was released on August 25, 2010, Commissioner Peevey has issued three revisions of this proposed decision. The "Third Revised PD" refers to the third revision/current version of the document.

¹⁰ D.10-03-021 at 45.

¹¹ Alternate Proposed Decision at 5.

“Commission cannot and should not take any further actions on TRECs until it has Energy Division’s report in hand and has carefully reviewed the state of the TRECs market and the utilities’ RPS compliance.”¹²

Although LSA hopes the Commission will resolve the open question of whether certain types of RPS transactions utilizing firm transmission can be classified as bundled in short term, LSA also strongly recommends that the Commission avoid making any changes to the TREC limit until the Commission finally decides what different types of RPS transactions are classified as bundled.¹³

LSA recommends the elimination of the sunset date altogether, as opposed to the extension of the date to 2013 in the Third Revised PD. The elimination of the expiration date would serve the important function of providing market stability and responsible Commission oversight, ensure that no “cliff-hanger” changes to the program will occur by default based simply on reaching an arbitrary date. As the APD recognizes, “[i]f changes are appropriate based on solid and contemporary evidence, the Commission can at that time determine whether further modifications are warranted.”¹⁴ LSA suggests that such changes to the market are best triggered by market conditions, assessed by the Commission, and implemented gradually to avoid market shock, just as the Commission has successfully and responsibly managed many other significant market changes. The APD’s elimination of the sunset date ensures that any future decision about the TREC limit will include full consideration of whether the TREC limit has served the RPS program and ratepayers well, and whether its

¹² *Id.* at 6.

¹³ D.10-03-021 at 36-37.

¹⁴ Alternate Proposed Decision at 6.

continued use (whether at the same level, or at a higher or lower level) would be in their best interest. The elimination of the arbitrary expiration date ensures, even in the absence of future Commission action, that the TREC limit is based on sound reasoning and a thoughtful balance of competing interests.

Finally, LSA concurs with TURN and the APD that the expiration of the TREC limit injects further uncertainty to the renewables market and inhibits the ability of the Commission and ARB to work on harmonizing the RPS and RES. The ARB rulemaking that will begin after the final TRECs decision will also provide a forum for further discussion and consideration of the appropriate permanent solution to address TRECs as California moves toward achieving its renewable goals.

IV. CONCLUSION

In summary, LSA urges the Commission to adopt the Alternate Proposed Decision. The Alternate Proposed Decision maintains the balance struck in D.10-03-021 in setting the 25% TREC limit and provides needed certainty for the evolving renewables market.

Respectfully submitted,

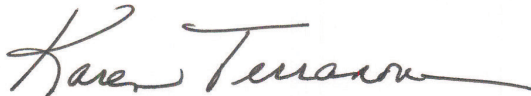
/s/ Shannon Eddy

November 15, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Comments of the Large Scale Solar Association on the Alternate Proposed Decision of Commissioner Grueneich on petitions for modification of Decision 10-03-021 authorizing use of Renewable Energy Credits for compliance with the California Renewables Portfolio Standard on all parties of record in R.06-02-012 by either transmitting an email message with the document attached to their email addresses of record or, for those parties without an email address of record, by mailing a properly addressed copy by first-class mail with postage prepaid to each party on the Commission's official service list for this proceeding.

This Certificate of Service is executed on November 15, 2010, at San Francisco, California.

A handwritten signature in cursive script that reads "Karen Terranova". The signature is written in black ink and has a long, sweeping horizontal tail.

Karen Terranova