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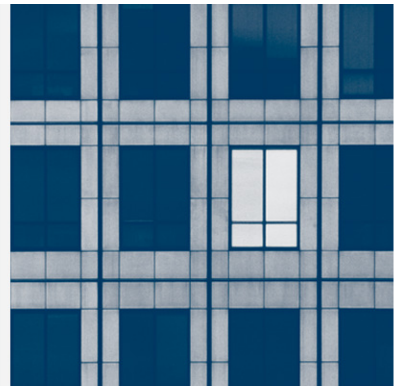
On the Subject



Energy & Commodities Advisory

March 17, 2010

The Revised PD seeks to improve compliance opportunities for load-serving entities and to provide incentives for the construction of new RPS-eligible generation.

CPUC Revised Decision: Unbundled and Tradable RECs for California RPS Compliance

On March 11, 2010, the California Public Utilities Commission (CPUC) issued a revised proposed decision (Revised PD) authorizing the use of unbundled and tradable renewable energy credits (TRECs) for compliance with the California renewable portfolio standard (RPS). Beginning April 1, 2010, utilities may submit for commission approval contracts conveying only renewable energy credits (RECs) and not energy that conforms to the requirements of the order.

The CPUC originally issued a proposed decision regarding TRECs on October 29, 2008, (and revised proposed decisions on March 26, 2009, and December 23, 2009). See McDermott's On the Subject "California PUC Creates a Tradable REC Market for RPS Compliance" for a discussion of the original proposed decision. For a discussion of the December 23, 2009, revised proposed decision, see McDermott's On the Subject "The CPUC Issues Revised Proposed Decision Allowing Use of Tradable Renewable Energy Credits for RPS Compliance in California."

California's RPS requires that all load-serving entities serve 20 percent of their total retail electricity load from eligible renewable resources by December 31, 2010, and 33 percent by 2020. The Revised PD seeks to improve compliance opportunities for load-serving entities and to provide incentives for the construction of new RPS-eligible generation.

Like prior iterations of the CPUC's proposed decision, the Revised PD outlines the general rules for a TREC market and for the integration of TRECs into the RPS flexible compliance program. In addition, the Revised PD changes how California will incorporate RECs into the RPS market. The Revised PD classifies RPS procurement transactions that convey energy and RECs as bundled transactions when one or more of the following conditions are met:

- The transactions serve California customer load without the substitution of energy from firming and/or shaping arrangements prior to the energy being scheduled in a California balancing authority.
- The generator of the energy associated with a REC has its first point of interconnection with the Western Electricity Coordinating Council transmission system in a California balancing authority area.
- The energy procured is dynamically transferred to a California balancing authority.

Any out-of-state transaction that cannot be classified as described is considered an unbundled TREC. Additionally, the Revised PD establishes a temporary limit on the quantity and price of TRECs that the three largest investor-owned utilities (IOUs) may use to meet their RPS requirements. The Revised PD caps the quantity at 25 percent of the utilities' overall annual RPS obligation. Additionally, it imposes a transitional price cap of $50/REC in REC-only contracts used for RPS compliance by all IOUs. Both limits will expire December 31, 2011, absent mitigating commission action prior to that date.

The Revised PD authorizes the consideration of changes to RPS procurement planning and bid evaluation in Rulemaking 08-08-009, and tasks the CPUC Energy Division with evaluating the REC transactions and revising RPS compliance documents as necessary. Finally, the Revised PD establishes two standard terms and conditions (STCs) related to RECs and one additional STC governing commission approval of utilities' REC-only contracts required for use in all RPS contracts not previously approved by the commission.

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