

**COMMENTS OF SIERRA PACIFIC POWER COMPANY (“SPPC”)
ON THE PRELIMINARY DRAFT REGULATIONS FOR THE CALIFORNIA
RENEWABLE ELECTRICITY STANDARD (“RES”)**

Andrew B. Brown
Brian S. Biering
Jedediah J. Gibson

Ellison, Schneider & Harris L.L.P.
2600 Capitol Avenue, Suite 400
Sacramento, California 95816-5905
Telephone: (916) 447-2166
Facsimile: (916) 447-3512
Email: abb@eslawfirm.com
Email: bsb@eslawfirm.com
Email: jjb@eslawfirm.com

April 8, 2010

Attorneys for Sierra Pacific Power Company

**COMMENTS OF SIERRA PACIFIC POWER COMPANY
ON THE PRELIMINARY DRAFT REGULATIONS
FOR THE CALIFORNIA RENEWABLE ELECTRICITY STANDARD (“RES”)**

Sierra Pacific Power Company (“Sierra”), one of the two multi-jurisdictional utilities (“MJUs”) operating in California, provides these comments on the Preliminary Draft Regulations (“Draft”) that the California Air Resources Board (“CARB”) circulated in March for implementing a 33 percent Renewable Electricity Standard (“RES”). CARB began the RES rulemaking pursuant to Executive Order S-21-09, with the intention of further reducing greenhouse gas (“GHG”) emissions related to meeting California’s electric demand.

Sierra is one of the two multi-jurisdictional utilities (“MJU”) serving retail electricity customers in California. Sierra, like the other MJU, is in a different position compared to the three large investor owned utilities (“IOUs”). Sierra serves a relatively small load primarily centered in the Sierra Tahoe region of California and the Reno area of Nevada. Sierra’s service territory is not part of the California Independent System Operator Corporation (“CAISO”), but rather, Sierra is its own balancing authority. Because Sierra’s territory is bisected by a state line, Sierra’s operations must comply with the laws of each respective jurisdiction. This MJU status poses unique challenges, and traditionally the California Public Utilities Commission (“CPUC”) and the California Legislature have acknowledged this by tailoring rules to meet the unique circumstances of the MJUs.

The challenges Sierra faces in the operation of its California electric system differ in significant respect from those facing other electric utilities located entirely within California. Sierra’s entire integrated retail operations serve approximately 400,000 customers throughout its combined Northern Nevada and California service territories. However, in California, Sierra serves only 46,000 customers, and its load peaks during the winter season. Its customers are primarily located around the western portions of the Lake Tahoe Basin, and its retail load is subject to variation from seasonal hotel

and resort demand. California sales represent a little over six percent (6%) of Sierra's total system retail sales, or approximately 532 GWhs in 2008.¹ The residential customer class is dominated by part-time customers, such as second home or vacation rental properties. Sierra has no industrial customers in California, and the larger customers are ski resorts and hotels.

Even though the Sierra service territory is divided by the California-Nevada state line, the service territory is operated as a single integrated territory. Sierra has limited electrical connections with the rest of California and is not a part of the electrical grid controlled by CAISO. The vast majority of Sierra's generation resources—both renewable and fossil—are located entirely within the state of Nevada and transmitted into the California service territory. Sierra's very limited electrical connections with the rest of California significantly restrict the ability to import electricity into Sierra's service territory from any other renewable resources located within the CAISO. Moreover, Sierra's resource planning efforts have been focused on achieving resource self-sufficiency within its control area, including securing resources to meet its renewable obligations.

Sierra makes resource planning, procurement and operations decisions on behalf of its entire service territory consistent with a detailed integrated resource plan developed pursuant to Nevada law, with limited reporting to the CPUC. Moreover, in the context of California's Renewable Portfolio Standard ("RPS") statute, Sierra's MJU status is explicitly recognized under the provisions of Public Utilities Code § 399.17 and rules developed by the CPUC and CEC's implementation of the RPS program. Those MJU-specific designs help avoid imposing incremental regulatory costs on just the 46,000 California customers. If the CARB's Draft is not modified to optimize the use of Sierra's existing resource planning and procurement structures, it will run the risk of elevating California customers' bills to the extent a California-only program is created. In its November 2009 comments

¹ Energy Information Administration Form EIA-826 Database Monthly Electric Utility Sales and Revenue Data, 2008 Year 12-month data set for SPPC California activities, posted at <ftp://ftp.eia.doe.gov/pub/electricity/f8262008.xls>.

on the RES concept, Sierra highlighted the need to include the MJU-specific program elements in the RES.² Unfortunately, the Draft does not include MJU-specific provisions. The comments below explain why this omission is problematic and should be corrected in the next iteration of the draft RES regulations.

I. Comments

A. The Draft Regulations Require Modification To Reflect The Correct Treatment For Multi-Jurisdictional Utilities Under the RPS Program.

The Draft fails to include provisions that mirror the existing MJU-specific elements found in California's RPS program. Specifically, the Draft is deficient because it does not mirror the RPS program elements found in Public Utilities Code Section 399.17. Those RPS statutory provisions allow Sierra to optimize the use of its integrated resource planning efforts by acknowledging eligibility of resources secured for the entire system, thereby avoiding imposition of unnecessary incremental regulatory costs that could be imposed from a California-only regulatory program.

Sierra has reviewed PacifiCorp's proposed modifications of the RES regulations presented in redline format and supports the direction of those changes. CARB should adopt those proposals to achieve some level of symmetry with the existing RPS program applicable to the MJUs. While Sierra understands that the RES program differs from the RPS program and that the CARB is free to deviate from the structure of the RPS program, Sierra believes that, at minimum, mirroring the existing § 399.17 program structure would be good public policy.

² Sierra's Comments on the RES Concept Proposal are available at: <http://www.arb.ca.gov/energy/res/comments/conceptoutline/sppcbrown.pdf>

B. The CARB RES Program Should Provide Flexibility To Allow Sierra's California Territory To Utilize Nevada-Sources Renewables Without Additional Regulatory Hurdles

As previously noted, Sierra's retail territory in California is served almost entirely from generation resources located within Nevada.³ The very limited interconnections to other California balancing authorities are not sufficient to reliably serve its California loads. This fact underscores the need to recognize the circumstances of this particular retail territory, particularly since the CARB Draft reduced the threshold volume for the "small utility" exemption.

A Joint Application is now pending before the California Public Utilities Commission ("CPUC") and other regulatory bodies that seeks approval of the transfer of Sierra's California retail territory to a new California utility, California Pacific Electric Company, LLC ("CalPeco").⁴ Under the proposed transaction, Sierra would continue to provide CalPeco wholesale power, delivered via Sierra's transmission assets, including its renewable power needs for an initial five-year term. The final arrangements, however, are subject to the ultimate approvals provided by the applicable regulatory bodies, which include the CPUC, the Public Utilities Commission of Nevada, and the Federal Energy Regulatory Commission.

CalPeco, as a utility located wholly within California, will not be covered by the MJU RPS program elements currently applicable to Sierra. However, as previously explained, the generating resources that serve those loads will most likely continue to be sourced out of Nevada in light of the nature of the existing Sierra distribution and transmission systems. Accordingly, Sierra urges CARB to build some flexibility into its RES program in order to permit any California utility that can only source its renewable generation from outside California to use WREGIS Certificates alone to evidence

³ The one notable exception is the presence of one biomass facility located in Loyalton, California. The owners of that resource ceased operations, but efforts are underway which may result in its return to service.

⁴ See, *Joint Application of Sierra Pacific Power Company (U903E) and California Pacific Electric Company, LLC for Transfer of Control and Additional Requests Relating to Proposed Transaction CalPeco*, CPUC Application 09-10-028. CPUC docket materials are available at <http://docs.cpuc.ca.gov/published/proceedings/A0910028.htm>.

compliance with the RES. Use of WREGIS Certificates should continue to be the primary method for the accounting of California-eligible RECs, however because the proposed CalPeco territory would remain within the Sierra balancing authority, there would be no inter-control area deliveries to track. Because WREGIS assures proper accounting of resources' actual generation, in the specific situation of a utility like CalPeco, reliance on WREGIS Certificates alone should be sufficient for showing procurement in satisfaction of the RES.

II. Conclusion

Sierra appreciates the opportunity to provide these written comments on the Preliminary Draft regulations. At a minimum, Sierra urges CARB to modify the program to create symmetry between the existing RPS program elements applicable to MJUs as detailed in PacifiCorp's proposed language changes. Specifically, the provisions of Public Utilities Code Section 399.17 should be mirrored in the draft RES regulation. Moreover, in light of the pending CalPeco transaction, Sierra asks that the CARB regulations be flexible enough to allow a California utility subject to transmission or other procurement-related constraints to utilize WREGIS Certificates alone to show satisfaction with the RES. If helpful to CARB staff, Sierra welcomes the opportunity to further explain its concerns.

Respectfully submitted,



Andrew B. Brown
Brian S. Biering
Jedediah J. Gibson

Ellison, Schneider & Harris L.L.P.
2600 Capitol Avenue, Suite 400
Sacramento, California 95816-5905
Telephone: (916) 447-2166
Facsimile: (916) 447-3512
Email: abb@eslawfirm.com
Email: bsb@eslawfirm.com
Email: jjg@eslawfirm.com

April 8, 2010

Attorneys for Sierra Pacific Power Company