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Calif. Remains On The Fence Over Unbundled RECs

Law360, New York (September 05, 2008) -- Until the California Public Utilities Commission decides to address the issue of whether to allow the use of unbundled Renewable Energy Credits (RECs) for purposes of RPS compliance, the only market for unbundled RECs in California is the voluntary REC market.

On Aug. 21, 2008, the California Public Utilities Commission (CPUC) issued its Decision on Definition and Attributes of Renewable Energy Credits (RECs) for Compliance with the California Renewable Portfolio Standard (RPS). In its decision, the CPUC adopted a final definition of an REC but declined to decide on whether to allow the use of unbundled RECs for RPS compliance.

California's RPS requires electrical corporations to increase their procurement of electricity from certain eligible renewable energy resources by at least 1 percent of their retail sales annually, until they reach 20 percent by 2010.

Under California law, an electrical corporation is defined as "any corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state" subject to certain exemptions depending on the intended use of the electricity.

Typically, an REC represents the environmental attributes of electricity generated from a renewable source. Under some state renewable portfolio standards, RECs, unbundled and purchased separately from the underlying electricity, may be surrendered by the regulated entity to the applicable regulator to meet any requirement of purchasing a requisite quantity of "renewable" generation, as opposed to requiring entities to purchase the actual electricity directly from a renewable energy source—generally considered to be RECs bundled together with the associated electricity.

California currently requires entities to meet their RPS obligation through such RECs bundled together with the associated energy and does not allow sources to unbundle the RECs from the associated generation for an RECs-only compliance method. In Senate Bill 107 (SB 107), the state legislature authorized, but did not require, the CPUC to allow the use of unbundled RECs for RPS compliance.

However, the CPUC stated in this decision that it will turn in a later decision on whether to authorize the use of unbundled RECs for RPS compliance. In addition, if the CPUC decides to so authorize RECs, it also will establish the structure and rules for its REC market and for the integration of unbundled RECs into the California RPS compliance regime.

Although the CPUC has declined to decide on the use of unbundled RECs for RPS compliance purposes, it defined RECs under California's RPS in the decision as "a certificate of proof, issued through the Western Renewable Generation Information System (WREGIS), that one megawatt-hour of electricity was generated by an RPS-eligible renewable energy resource and delivered for consumption by California end-use customers" in accordance with the definition of delivery implemented by the California Energy Commission (CEC).

The CPUC also specified that an REC must include all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource. To prevent double-counting, the CPUC ordered that an REC that is used for RPS compliance may not also be used as an emission reduction credit for compliance with any other local, state or federal program.

The CPUC recognized in its decision that it may need to revisit its REC definition in the future as a result of changes in both "the landscape within which [the] RPS program functions" and external changes, such as "the further development of regional [greenhouse gas] reduction strategies, expanded regional RPS goals, changes in WREGIS capabilities, and possible federal legislation."

WREGIS is an independent, voluntary renewable energy tracking system launched in June 2007 for the region covered by the Western Electricity Coordinating Council. WREGIS tracks renewable energy generation from units that register in the system using verifiable data and issues RECs for this generation to the applicable facilities.

The CPUC has stated that before developing an REC market, it must be assured that WREGIS and any REC tracking system developed by the CEC are operational, as required by SB 107.

Ultimately, if and until the CPUC decides to address the issue of whether to allow the use of unbundled RECs for purposes of RPS compliance, the only market for unbundled RECs in California is the voluntary REC market, managed through independent voluntary certification programs, such as Green-e Energy.

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