

To: WSPP Contract Subcommittee Members  
From: Members of the 2013 Exhibit C-SS Small Group Committee  
Date: June 2, 2014

RE: WSPP Exhibit C-SS, Definition of "Rec's" and Providing Serial Numbers to CARB

**Overview:**

- In May, 2014 (subsequent to the development of Exhibit C-SS) CARB issued a Final Statement of Reasons (FSOR) in which CARB provides new guidance on RECs that appears to be inconsistent with the regulations and prior guidance, that Exhibit C-SS was based on. The new guidance expands the definition of RECs as it pertains to reporting data to CARB.
- This has created some uncertainty regarding compliance for electric power entities and existing contracts for specified source electricity, and may require changes to Exhibit C-SS.
- Please review the information provided below for additional facts and relevant documents.

**Action Required:**

- Members may want to review their compliance and individually, ask CARB for clarification and/or correction of the May 2014 FSOR.
- Some members who have been following the developments at CARB are planning to send an email to CARB staff (see below) asking for clarification and correction on the May 2014 FSOR guidance.
  - **If you would like to add your company's name to the email, please notify Jeremy Weinstein (jweinstein@prodigy.net) by 1:00 PM, PPT, June 5<sup>th</sup> and provide the name and email address of your company's representative to be copied on the email.**
  - This email would not be from the WSPP, but rather from a group of companies that are WSPP members.

**Thank You**

- A big thank you to Clare Breidenich for sharing her research on this topic. Clare has submitted a letter to CARB on behalf of the Western Power Trading Forum, asking for the corrections to the May FSOR.
- And to the other members of the Small Group Committee who have jumped in to review this new twist in REC guidance.
  - Holli Krebs      Jeremy Weinstein      Braydon Boulanger
  - Harry Singh      Margaret Miller      Heather Harrison
  - Max Carpenter      Alex Spain      (apologizes if I missed anyone)

=====

**Draft email to CARB staff**

In May 2014, the California Air Resources Board (CARB) issued a Final Statement of Reasons<sup>1</sup> (FSOR) (<http://www.arb.ca.gov/regact/2013/capandtrade13/ctfsor.pdf>) that is in conflict with the cap and trade and reporting regulations. Specifically, in section E-2.2, page 209, the FSOR states "On the request to make a clarification as to whether REC serial numbers only need to be reported if the facility is California RPS eligible, the Cap-and-Trade requires if RECs are created the serial numbers must be

---

<sup>1</sup> Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms.

reported to MRR. The Cap-and-Trade Regulation does not differentiate whether the resource is RPS eligible or not.”

We believe that this statement is in direct conflict with the definition of REC provided in the regulations, as well as previous CARB guidance and would like CARB to revise the May 2014 FSOR accordingly.

Our specific concern and relevant regulation / guidance references are provided below.

\* The recently adopted changes to the cap and trade regulation ([www.arb.ca.gov/regact/2013/capandtrade13/ctfro.pdf](http://www.arb.ca.gov/regact/2013/capandtrade13/ctfro.pdf)) state that “Renewable Energy Credit” or “REC” has the same meaning as defined in the California Energy Commission’s “Renewable Portfolio Standard Eligibility, 7th edition, Commission Guidebook, April, 2013; CEC-300-2013-005-ED7-CMF.” The definition provided in the RPS guidebook refers to California Public Utility Code section 399.25 and explicitly refers to a certificate of generation from an eligible renewable energy resource, as defined in Public Utilities Code Section 399.12. Thus, the term REC as used in the cap and trade regulation is clearly limited to a certificate of generation from an energy resource that is eligible under the California Renewable Portfolio Standard.

\* This limitation of the meaning of REC was also stated in “Specified Source Guidance” ([http://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep-power/specified\\_source\\_guidance-2.pdf](http://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep-power/specified_source_guidance-2.pdf)) under the Mandatory Reporting Regulation in February 2013, which states “Pursuant to section 95802(a) of the Cap-and-Trade Regulation (title 17, California Code of Regulations, section 95800 et seq.), a Renewable Energy Credit (REC) includes all renewable and environmental attributes associated with the production of electricity from an eligible renewable energy resource, where these resources are also known as California’s Renewables Portfolio Standard (RPS) Participating Facilities and are specifically listed at [http://www.energy.ca.gov/portfolio/documents/list\\_RPS\\_certified.html](http://www.energy.ca.gov/portfolio/documents/list_RPS_certified.html). Therefore, only Eligible Renewable Energy Resources produce RECs recognized for use in California. Section 95852(b)(3)(D) of the Cap-and-Trade Regulation states that, “If RECs were created for the electricity generated and reported pursuant to MRR, then the RECs must be retired and verified pursuant to MRR.” Thus, if the resource is listed as an Eligible Renewable Energy Resource and the electricity is directly delivered, the RECs must be reported and verified pursuant to section 95111(g)(1)(M)3 of the reporting regulation. If a generation resource is not an Eligible Renewable Energy Resource, no RECs recognized for RPS compliance in California are created by the resource. Accordingly, when RECs are not created, neither are the environmental attributes for purposes of California’s program. For this reason, the environmental attributes are not required to claim a specified source with an associated emission factor.”

Thank you for your consideration of this matter. If you have any questions on our request, please contact Jeremy Weinstein at [jweinstein@prodigy.net](mailto:jweinstein@prodigy.net) or 925-943-3103.

Sincerely,

Company Names & Representative’s email address