BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA

In the matter of:	)	
	)	
Developing Regulations and Guidelines	)	Docket No. 13-RPS-01
For the 33 Percent Renewables	)	
Portfolio Standard	)	

COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND POWER TO THE CALIFORNIA ENERGY COMMISSION'S SECOND 15-DAY COMMENT PERIOD REGARDING MODIFICATIONS TO THE PROPOSED REGULATIONS ESTABLISHING ENFORCEMENT PROCEDURES FOR THE RENEWABLES PORTFOLIO STANDARD FOR LOCAL PUBLICLY OWNED ELECTRIC UTILITIES

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Dated: June 6, 2013

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Pursuant to the procedures established by the California Energy Commission (Energy Commission, or CEC) in the Notice of Changes to Proposed Regulations and Notice of Second 15-Day Comment Period (Notice) dated May 22, 2013, the Los Angeles Department of Water and Power (LADWP) respectfully submits these comments in response to the CEC's revisions to the proposed Regulations establishing Enforcement Procedures (Regulations) for the Renewables Portfolio Standard (RPS) for Local Publicly Owned Utilities (POUs).

I. INTRODUCTION

The City of Los Angeles is a municipal corporation and charter city organized under the provisions set forth in the California Constitution. LADWP is a proprietary department of the City of Los Angeles, pursuant to the Los Angeles City Charter, whose governing structure includes the Mayor, the fifteen-member City Council, and a five-member Board of Water and Power Commissioners (Board). As the third largest electricity utility in the state, one of five California Balancing Authorities, and the nation's

largest municipal utility, serving a population of over four million people, LADWP is a vertically integrated utility, both owning and operating the majority of its generation, transmission and distribution systems. LADWP has annual sales exceeding 23 million megawatt-hours (MWhs) and has a service territory that covers 465 square miles in the City and most of the Owens Valley. The transmission system serving the territory totals more than 3,600 miles transports power from the Pacific Northwest, Utah, Wyoming, Arizona, Nevada, and California to Los Angeles.

California's most recent legislation for its RPS Program requires:

> "each local publicly owned electric utility… to procure a minimum quantity of electricity products from eligible renewable energy resources."[1]

Since LADWP is a local publicly owned electric utility (POU), it is required to comply with Senate Bill (SB) 2 (1X).

II. LADWP REMAINS COMMITTED TO ITS REGULATORY OBLIGATIONS

As a result of combined regulatory mandates for increased renewable energy, an emissions performance standard on fossil fuel generation, energy efficiency, solar roofs, reduction in greenhouse gas (GHG) emissions, and the elimination of once-through cooling from coastal power plants, LADWP is facing a utility-wide transformation and making billions of dollars in investments on behalf of its ratepayers over the next 17 years to replace approximately 70% of the resources that it has relied upon for the last 50 years.

Prior to the enactment of SB 2 (1X), the City of Los Angeles was committed to the procurement of renewable energy as part of its long-term resource mix. On May 23, 2005, the Board adopted the LADWP RPS Policy that established the goal of increasing

[1] Public Utilities Code, Section 399.30(a)

its renewable energy resources to 20 percent of its energy sales to retail customers by 2017, with an interim goal of 13 percent by 2010. On April 11, 2007, the Board amended the LADWP RPS Policy by accelerating the goal of requiring 20 percent of energy sales to retail customers to be generated from renewable resources by December 31, 2010. In 2010, LADWP achieved its RPS goal of 20 percent renewables.

Per SB 2 (1X), LADWP has subsequently amended its RPS Policy to incorporate an Enforcement component[2] and has proactively acquired renewable energy resources such as wind and solar facilities that meet the requirements of the RPS Guidebooks established by the State of California. LADWP continues to implement renewable resources and is on track to meet the 33 percent renewables target by 2020.

III. COMMENTS

LADWP appreciates the opportunity to comment on this second 15-Day Language. However, LADWP remains concerned on the lack of a revised Initial Statement of Reasons (ISOR) to justify the substantial revisions provided by the CEC in this iteration of the Regulations. These changes will have significant impacts on the POUs, and as such, warrant justifications.

LADWP's comments propose further modifications to the Regulations that emphasize the need to recognize POU historical investments in renewable technologies prior to the enactment of SB 2 (1X). As the end of the first compliance period is fast-approaching and these regulations are still in flux, the LADWP has been following the direction provided by its Board in the LADWP RPS Enforcement Policy.[3] As such,

[2] As required by the Public Utilities Code §399.30(e)

[3] 2012 LADWP Power Integrated Resource Plan, Appendix D: Renewable Portfolio Standard, dated December 2012. Available At:

LADWP also wants to ensure that the CEC's Regulations do not abrogate the authority of LADWP's Board of Water and Power Commissioners or the Los Angeles City Council.

LADWP's comment (or lack of comment) on a specific topic should not be interpreted to mean that LADWP is agreeing with the CEC's position in the Regulations on a particular topic. To the extent the CEC has not incorporated LADWP's changes in these proposed enforcement regulations, the LADWP incorporates by reference its prior comments filed with the CEC. In addition, LADWP supports the comments being filed concurrently by the California Municipal Utilities Association (CMUA) and the Southern California Public Power Authority (SCPPA).

a. Section 3201 – Definitions

i. Inconsistency with the definitions

LADWP is concerned with the inconsistencies between the glossary provided in the RPS Eligibility Guidebook, 7th Edition (Guidebook) and the list of definitions provided in Section 3201 of the Regulations. For example, the definition provided for the term "procure" in the latest Guidebook is:

Procure – as defined in Public Utilities Code Section 399.12, Subdivision (f), means to acquire through ownership or contract

However, the CEC has drafted a different definition in the Regulations, as they are currently proposed:

(t) "**Procure**" means to acquire electricity products from eligible renewable energy resources, **either directly from the eligible renewable energy resource or from a third party**, through executed contracts or ownership agreements.

https://www.ladwp.com/cs/idcplg?IdcService=GET_FILE&dDocName=OPLADWP038230&RevisionSelectionMethod=LatestReleased

LADWP requests that the CEC not only adhere to the definitions already provided in statute, but also ensure that definitions provided across its documentation are consistent with one another.

b. Section 3202 – Qualifying Electricity Products

i. Pre-June 1, 2010 Resources

As LADWP has previously commented, the CEC's interpretation on the treatment of pre-June 1, 2010 resources would retroactively apply certification requirements to renewable energy resources previously adopted by POU governing boards prior to June 1, 2010. The use of the "rules in place" language in PUC Section 399.16(d)(1) did not retroactively apply the Guidebooks to POUs as the POUs were not subject to such rules at that time. This language clearly acknowledges that there were different rules that were applicable to the POUs and IOUs prior to SB 2 (1X). Since POUs were not governed under the CEC RPS Guidebook regime until the first compliance period of SB 2 (1X), the appropriate 'rules in place' for pre-June 1, 2010 procurement are the POU's RPS Policy, adopted pursuant to former California Public Utilities Code Section 387 (Section 387), not the CEC's RPS Eligibility Guidebooks.

Pre-June 1, 2010 renewable energy resources are eligible for the RPS based on PUC 387, the rules in place at that time for POUs, and should be certified, regardless of the Guidebook that was in place at the time the contract/agreement was executed. Further, if the POU can demonstrate to the Commission that the resource meets the current RPS Eligibility Guidebook, the CEC should allow such resource to count towards a portfolio content category (PCC).

c. Section 3203 – Portfolio Content Categories

i. Portfolio Content Category 1 RECs Should Never Be Redirected

Section 3203(a)(1)(C) currently states that:

> … If there is a difference between the amount of electricity generated within an hour and the amount of electricity scheduled into a California balancing authority within that same hour, only the lesser of the two amounts shall be classified as Portfolio Content Category 1.

The excess renewable energy generated should, under no circumstance, count other than towards PCC 1, as this energy should still meet the definition of a PCC 1 resource. For LADWP, the number of times a specific renewable energy resource over-generates is fairly common. The current interpretation creates a tiered-structure for PCC 1 resources, which are not accounted for in existing PCC 1-qualify contracts. The Power Purchase Agreements (PPAs) signed by the LADWP typically require the utility to take all generation from the renewable project. Taking only the scheduled amount is not a discretionary action and most contracts were not negotiated and executed to allow different payment for scheduled versus actual produced energy. The variable generation of renewable energy based on weather patterns is a factor that generally requires DWP to bargain for all the capacity of the renewable energy facility. Furthermore, and of greatest concern, this interpretation can inadvertently encourage parties to overschedule transmission, which can easily clog-up valuable transmission capacity and lead to inefficiency in grid operations.

The LADWP again requests that the CEC allow utilities to count these excess electricity products under PCC 1, as these excess electricity products would still meet the interconnection and bundled product requirements of PCC 1.

ii. Incremental Electricity Delivery Requirements are Unnecessary

Section 3203 (b)(2)(A) currently states:

> The first point to the WECC transmission grid for both the eligible renewable energy resource and the resource providing the incremental electricity must be located outside the metered boundaries of a California balancing authority area.

The CEC has previously substantiated its interpretation in the ISOR by stating the following intent:

> Electricity products must originate from outside of a California balancing authority because PUC Section 399.16(b)(2) specifies that products in this portfolio content category must be "scheduled into a California balancing authority."

However, this current interpretation provides unintended consequences. The energy market thrives on economic decisions; contracted substitute energy providers (SEP) will likely replace RPS-eligible energy with a cost-effective product. As such, if substitute energy originating from within California is cheaper than substitute energy produced from out-of-state, the SEP will procure the California sourced energy and deliver it to the designated point of delivery.

As currently proposed by the CEC, by limiting incremental electricity to originate from outside of California, the CEC may inadvertently influence the energy market by earmarking out-of-state substitute electricity as the PCC 2-compliant product. This interpretation sets preference for non-California electricity, which could not have been the intent of the Legislature. Further, when in-state electricity is less expensive than out-of-state energy on the wholesale market, such an interpretation would encourage renewable energy vendors to export substitute energy out of California and supplant it with higher-cost energy simply in order to meet the literal definition of a PCC 2-

compliant product. Finally, such an interpretation would create regulatory uncertainty for existing contractual obligations that, for many utilities, do not specify the source of the substitute energy in their perspective underlying agreements.

The LADWP again requests that the CEC remove this interpretation, as this interpretation negatively affects market activity, operational flexibility, and effectively sets a preference for non-California energy for PCC 2.

iii. Calendar Year Restriction is Unnecessary

Section 3203(b)(2)(D) currently states that :

> The incremental electricity must be scheduled into the California balancing authority within the same calendar year as the electricity from the eligible renewable energy resource is generated.

In the latest justification provided in the ISOR, the CEC states that:

> The substitute electricity must be scheduled into a California balancing authority in the same calendar year that the electricity from the eligible renewable energy resource is generated. This requirement was in place for retail sellers under the RPS Guidelines that were in effect when SB 2 (1X) was passed and was generally understood to be part of the definition of “firmed and shaped” in California.

This arbitrary requirement unjustly imposes unnecessary restrictions to PPC 2 electricity products.

In LADWP’s experience, several firming and shaping entities perform balancing in January and February for December energy produced, which conflicts with the proposed section. SB 2 (1X) did not dictate a calendar year timeframe requirement for the delivery of substitute electricity because an arbitrary cut-off does not reflect actual balancing of substitute electricity.

As all California utilities move closer to the 33 percent renewable energy compliance mandate, operational flexibility with firming and shaping is necessary for the

reliability of the grid and to minimize the impacts to ratepayers for the integration of renewable energy.

The arbitrary requirement of delivery within the calendar year implements an unnecessary barrier and reduces the renewable technology and procurement options that a utility will have to operate a reliable electric grid. Compliance with the RPS is judged on a compliance-period basis: Energy generated in 2012 and substitute electricity delivered in 2013 would still count within the same compliance period. Therefore, the restriction of a calendar-year delivery approach simply because it was a requirement applicable to the IOUs prior to SB 2 (1X) does not correspond with DWP's actual grid operations for reliability.

The LADWP requests that the CEC remove the calendar-year restriction or replace it with a "rolling 12-month" approach, where a POU would be required to schedule the substitute electricity within 12 months from the date the electricity is generated.

d. Section 3204 – RPS Procurement Requirements

i. Compliance Period 3 Interpretation Imposes a Progression Not Required by the Legislature for POUs

LADWP is extremely concerned with the last-minute proposed modification to Section 3204(a)(3):

> For the compliance period beginning January 1, 2017, and ending December 31, 2020, a POU shall demonstrate it has procured electricity products within that period sufficient to meet or exceed the sum of 27 percent of its 2017 retail sales, 29 percent of its 2018 retail sales, 31 percent of its 2019 retail sales, and 33 percent of its 2020 retail sales. The numerical expression of this requirement is:
>
> (EP2017 + EP2018 + EP2019 + EP2020) ≥
> 0.27(RS2017) + 0.29(RS2018) + 0.31(RS2019) + 0.33(RS2020)

The CEC may have made this last-minute modification to align with comments provided by some stakeholders, who in general want the POU Compliance Period obligations to align with those interpreted by the California Public Utilities Commission (CPUC) for the Investor Owned Utilities (IOUs) based on PUC Section 399.15 (b)(2)(B).

This single modification would potentially cost LADWP's ratepayers over $100 million dollars. The new interim targets would merely result in the transfer of money from the utility to either generators or other utilities as short-term contracts just to meet arbitrary standards not set forth in statute. Instead, LADWP submits that procurement plans that include provisions to put "steel in the ground" also serve to meet the "reasonable progress" provision of 399.30(c)(2). This is a better use of rate payer money and actually results in the development of real projects.

This change is not a proper interpretation of PUC Section 399.30(c)(2) and does not align with the express language of the statute or the Legislative intent of SB 2 (1X).

Section 399.30 (c)(2) reads as follows:	Section 399.12(b)(2)(B) reads as follows:
(c) **The governing board of a local publicly owned electric utility shall** ensure all of the following: (2) The quantities of eligible renewable energy resources to be procured for all other compliance periods reflect **reasonable progress** in each of the intervening years sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25 percent of retail sales by December 31, 2016, and 33 percent of retail sales by December 31, 2020. The **local governing board shall** require the local publicly owned electric utilities to procure not less than 33 percent of retail	**(b) The [CPUC] commission shall** implement renewables portfolio standard procurement requirements only as follows: **(2) (B)** In establishing quantities for the compliance period from January 1, 2011, to December 31, 2013, inclusive, the commission shall require procurement for each retail seller equal to an average of 20 percent of retail sales. For the following compliance periods, the quantities shall reflect **reasonable progress** in each of the intervening years sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25 percent of retail sales by

sales of electricity products from eligible renewable energy resources in all subsequent years.	December 31, 2016, and 33 percent of retail sales by December 31, 2020. **The [CPUC] commission shall** require retail sellers to procure not less than 33 percent of retail sales of electricity products from eligible renewable energy resources in all subsequent years.

The express authority for a POU is the POUs' governing board, while for IOUs it is the CPUC. The intent is identified in section (a) of each statute. Section 399.30 (a) states that a POU's governing board is tasked with adopting and implementing a plan to procure renewable energy for "each compliance period, to achieve the targets of subdivision (c)." Section 399.15(a) states that "the [CPUC] commission" establishes a standard for IOUs to procure renewable energy for "each compliance period to achieve the targets."

The Legislature identified the CPUC to adopt standards for the IOUs while it identified the governing board of POU's to come up with their own plans to satisfy the compliance periods and achieve the targets. The CEC should adhere to the statutory scheme adopted by the Legislature.

Had it been the Legislature's intent to have intervening targets for the second and third compliance periods, it could have easily done so by adding them to §399.30. The averaging of the first compliance period essentially demonstrates a way to impose intervening targets. However, the Legislature did not do so for the subsequent compliance periods: The Legislature expressly wrote that there will be no intervening targets in PUC Section 399.15(b)(2)(C):

> …Retail sellers shall not be required to demonstrate a specific quantity of procurement for *any individual intervening year.*

Consequently, a sensible interpretation of "reasonable progress" under PUC Section 399.30(c)(2) is to assess compliance on a qualitative, not a quantitative, fashion. With using the term "reasonable progress," the Legislature intended utilities to be diligent in pursuing the targets for the compliance periods, but avoided defining how to measure their pursuit. There are various strategies for pursing the compliance periods, including contracting for eligible renewable energy resources *or* owning them. The Legislature specifically recognized these two strategies when it defined the term "procure" to mean "acquire through *ownership or contract.*[4]"

The phrase "procurement of electricity products" as used in Section 399.30(c) shows that when speaking of "reasonable progress" ownership and contracting may have very different facts to show progress. For example, in the "ownership" context, reasonable progress may include developing an Environmental Impact Report under the California Environmental Quality Act (CEQA), a potentially multi-year process. In the "contracting" context, reasonable progress may include issuing a request for proposal (RFP), also a potentially multi-year process. Either of these could include transmission interconnection studies and agreements or transmission planning studies to assist the project in development and eventual integration to the power grid.

Moreover, in recent revisions to section 399.30, provisions directing POUs to submit to the CEC various supplemental data to show their "progress" were deleted. This supplemental data was outlined in prior §399.30(g) and Section 399.30 (*l)*, but have since been deleted, which further supports the interpretation that the governing

[4] PUC §399.12(f)

boards of POUs have control over their procurement plans for the compliance periods and to ultimately achieve the targets in Section 399.30(c).[5]

In addition, LADWP has historically advocated against the interpretation currently proposed by the CEC. At the CPUC R11-05-005 Proceeding:

> The LADWP disagree[d] with the interpretation [proposed by the CPUC] that Section 399.15(b) requires the Commission[6] to establish intermediate, enforceable, RPS targets beyond those intended by the Legislature. In fact, Section 399.15(b)(2)(C) clearly states that a "retail seller shall not be required to demonstrate a specific quantity of procurement for any individual year." The LADWP finds that the language of Section 399.15 (b)(2)(C) precludes the Commission or other enforcement entities from setting enforceable RPS targets for the intervening years of the compliance periods."[7]

In the statutory scheme, the Legislature recognizes that a POU's governing board is the most suitable entity to adopt and implement a RPS plan, while the CPUC is the most suitable entity to adopt and implement a RPS for IOUs. Each respective utility will strive to achieve the targets, but each employs different means for attaining them. Therefore, the phrase "reasonable progress" should be interpreted very broadly to achieve the Legislature's goals for the compliance periods while affording the CPUC and the POUs governing boards for their respective utility with the flexibility to assess and employ various strategies to achieve those goals.

The straight-line trend the CEC is currently proposing POUs diverges from its past proposals, the statute, the Legislative intent, the current LADWP RPS Procurement Policy, and the LADWP Integrated Resource Plan (IRP) that has been developed with substantial stakeholder and community input. LADWP has made significant investments

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[5] Compare 399.30 in 2012 with changes that took effect in 2013.

[6] In this instance, the Commission refers to the California Public Utilities Commission.

[7] Comments of the Los Angeles Department of Water and Power To The Administrative Law Judge's Ruling Requesting Comments on New Procurement Targets and Certain Compliance Requirements for the Renewables Portfolio Standard Program, dated August 30, 2011. Filing Available At: http://docs.cpuc.ca.gov/PublishedDocs/EFILE/CM/142601.pdf

by acquiring property and preparing plans to develop geothermal resources in Compliance Period 3 that will not align with recent interim compliance period proposal. Therefore, the LADWP urges the Commission to revert to its previous interpretation for Compliance Period 3.

e. Section 3205 – Procurement Plans and Enforcement Programs

The LADWP appreciates the CEC's desire to be informed each time there is a status update to its governing board. However, this process may be too imposing given the possibility that each time a POU provides a status update there may be a penalty associated with failing to send the CEC information on the status update. The LADWP would like to remind the CEC that the public is informed of its public meetings, which may include status updates, via the requirements under the Brown Act.

The LADWP governing authority, which includes the Mayor and fifteen City Council Members, might discuss or provide a status update outside of the control of, or without advanced notice to the POU,. A reasonable suggestion is that a POU be obligated to provide the CEC with information each time the governing board is presented with a recommendation for decision making, not just consideration.

f. Section 3206 – Optional Compliance Measures

i. Change of Law & Effects

A major concern between POUs and project developers (Developers) is the risk associated with Change in Law. Change in Law risks affect all contracts/agreements executed for compliance with California's RPS moving forward. However, one of the main points of contention between developers and utilities is change in law because it's difficult to assign liability of this factor to a party. This liability can significantly increase

the cost and/or risk of a project, as well as complicate the project's underwriting process to the point of infeasibility. This is not a speculative risk: it is real and has already affected several POUs and developers. Developers constantly point to the Biomethane Moratorium installed on March 29, 2012 which instituted economic impacts on historical decisions. As such, parties refuse to accept the Change of Law liability due to certification or PCC contingencies.

The CEC needs to be cognizant that changes to the Regulations (whether they be considered miniscule or not) have a significant effect on procurement decisions made by POUs and will impact compliance. Therefore, LADWP recommends that the CEC add a "Change in Law" section to Section 3206.

ii. Delays in Timely Compliance

The Legislature recognized that in some instances the targets might be unachievable due to real-world implementation issues when looking at PUC Sections 399.15(e) and 399.19 in SB 2 (1X). The CPUC, "in consultation with the Energy Commission," is required to report to the Legislature in "every even-numbered year" about "[t]he projected ability of each electrical corporation to meet the renewables portfolio standard procurement requirements under the cost limitations in subdivision (d) of Section 399.15 and any recommendations for revisions of those cost limitations."[8] Furthermore, a report to the Legislature is required "[n]o later than January 1, 2016":

> assessing whether each electrical corporation can achieve a 33 percent renewable portfolio standard by December 31, 2020, and maintain that level thereafter, within the adopted cost limitations.[9]

[8] PUC §399.19(c)
[9] Id.

Reporting to the Legislature is the extent of the CEC's role when a POU may be faced with a delay. As stated above, SB 2 (1X) limits direct involvement by the CPUC in implementing a retail seller's plans until a retail seller notifies the CPUC to grant a waiver, or delay from compliance.

SB 2 (1X) is then specific as to the exceptions that will be allowed. Those exceptions are itemized in PUC Section 399.15 (b)(5), including transmission issues as in PUC Section 399.15(b)(5)(A) and some exceptions will not be allowed, as in failing to obtain a waiver from the CPUC per PUC Section 399.15(b)(8). No such similar authority is granted to the Energy Commission over POUs.

The LADWP would like to emphasize that PUC Section 399.30 (c)(3) states that a POU "shall adopt procurement requirements consistent with PUC Section 399.16" and PUC Section 399.30(d) states that a POU governing board "may adopt the following measures." The CEC's authority is therefore limited to determining whether POUs abide by their procurement plan.

LADWP would also like to remind the CEC that procurement plans are continuously being shaped by technology, community engagement processes, and system modeling. Further, the POU's resource procurement and ratemaking process is different from an IOU's, as they are consolidated within the POU and costs are recovered directly from the POU's customer-owners. It is paramount that POUs maintain discretion over costs and delays incurred while procuring eligible renewable energy resources.

As such, the POU governing boards should continue to have the authority to adopt rules sustainable for their specific POU structure. The CEC's authority under PUC

Section 399.30(b) is therefore limited to determining whether POUs abide by their Enforcement Programs.

g. Section 3207 – Compliance Reporting for POUs

Based on the detailed and potentially voluminous information the CEC is requesting in Section 3207(c), the LADWP suggests that a provision be added to 3207 (g) to allow a grace period to self-report missing information or to correct information, or even to supplement the information as it becomes available, without violation of the proposed regulations. A reasonable time period for POUs to self-report would be a grace period of 90 days. This self-reporting opportunity would be in addition to the process identified in 3207 (g).

h. Section 3208 – Enforcement

The Enforcement Section, 3208, does not provide any time period for the CEC to file a complaint, or perform audits, recordkeeping, or verification of data. Similarly, Section 3207 (g) does not provide POUs with any certainty as to a time deadline of when the Executive Director may determine that a POU's report is incorrect or incomplete. For planning purposes, there should be finality with respect to enforcement of the regulations and audits for compliance periods.

PUC Section 399.25 requires the CEC to develop an accounting system for SB 2 (1X). However, there isn't a time period for the CEC to complete an audit, or verify information, or compliance reporting in the draft regulations. While the recordkeeping section in the proposed 7th Edition of the Guidebook requires records to be kept for "no fewer than 3 years" (p. 146), there is no equivalent time period for the CEC to begin or complete an audit, verify information for reporting, or enforce the proposed regulations.

It would provide POUs much needed certainty to be able to report on existing resources and targets and plan for additional resources and compliance obligations while knowing its obligations under enforcement have either been satisfied or are no longer considered for retroactive enforcement.

The LADWP proposes that the CEC add language to Section 3208 to include a time period of 3 years for the CEC to commence an enforcement action against a POU. Below is the suggested language:

The CEC must file a complaint against a POU pertaining to the enforcement of a RPS requirement, or any regulation, order, or decision adopted by the Commission pertaining to the RPS within three years.

i. Section 1240 – Renewables Portfolio Standard Enforcement

The Chief Counsel should have authority to grant an extension of time to a POU for answering a complaint or replying to a response. This authority may be provided in subsections (d) and (e), respectively.

j. Outstanding Issues

i. Solar Distributed Generation

LADWP's Solar Incentive Program (SIP) provides ratepayer-funded incentives for residential and commercial customers to install solar photovoltaic systems on their facilities. The SIP has been in existence for over 10 years, is in full compliance with SB 1 guidelines, and has successfully promoted the installation of over 6,000 solar photovoltaic systems, totaling over 70 MWs of generation capacity. Two incentives are available, one for customers that desire to retain the REC value and a higher incentive for those customers that are willing to sell the REC's to LADWP.

ii. Metering Requirement

As currently written, the RPS Guidebook requires:

> Applicants for a renewable facility that serves onsite load must meet all RPS eligibly requirements, including, but not limited to, participation in WREGIS and reporting eligible generation based on a meter with an independent verified rating of 2 percent or higher accuracy.[10]

To align with this requirement, new meters will have to be installed to in existing installations allow LADWP to verify the generation. However, this will be extremely onerous, costly, and grossly inefficient relative to the energy generated by the small-scale solar systems simply for accounting purposes. The estimated cost to meter, record and report monthly energy production for a typical 4 Kilowatt (kW) system producing about 400 to 800 Kilowatts per hour (kWh) per month would be about $10 per Megawatt-hour (MWh). This requirement is counterproductive to the program goal to promote distributed generation, and will add significant expense to the ratepayer-funded program. ***A metering requirement should not be a roadblock for the eligibility and PCC classification for these systems.***

Therefore, the LADWP requests that the CEC:

- Exempt existing small-scale solar photovoltaic projects from the use of WREGIS to track and report monthly generation of RECs based on a meter accuracy that was not the standard when the systems were installed; and
- Have a project capacity threshold of 10 kW for the metering requirement for existing systems.
- Requires 2% performance meters only on new installations

[10] Renewables Portfolio Standard Eligibility Guidebook, Seventh Edition. Page 63. California Energy Commission, Efficiency and Renewable Energy Division. Publication Number: CEC-300-2013-005-ED7-CMF

The Energy Commission should allow utilities to report for these projects with expected performance data, which is based on the characteristics of the photovoltaic system (e.g. size, location, orientation, tilt, shading, etc.). LADWP and other utilities with customer solar incentive programs have based incentive rebates on expected performance data for smaller systems for many years, and have found that these estimates are very close to actual energy output.

iii. Portfolio Content Category

As LADWP has commented in the past, LADWP's SIP installations meet the definition of an "Eligible Renewable Energy Resource" as well as the criteria set forth in PUC Section 399.16 (b)(1)(A), as these facilities are connected to distribution systems that serve end users within a California Balancing Authority. On top of SB 1 incentives, LADWP's SIP participants were offered a premium by LADWP to retain any electricity products generated to use towards its RPS goals. Nearly all participants in LADWP's SIP program have elected to receive a premium in consideration for the energy with the RECs. Since these installations are already located within LADWP's distribution system, these installations should qualify as a renewable energy resource electricity product that meets the PCC under PUC 399.16(b)(1)(A).

IV. CONCLUSION

LADWP remains committed to transitioning to a greater usage of a renewable energy resource mix in a cost-effective manner while maintaining grid reliability. LADWP appreciates this opportunity to comment on the proposed Regulations. LADWP wants to ensure that these regulations are eventually consistent with the legislative intent of SB 2 (1X), does not abrogate the authority of LADWP's governing board or the Los Angeles City Council, and minimizes cost impacts to its ratepayers while meeting the goal of 33% by 2020. LADWP looks forward to continue working with the CEC in this proceeding.

Dated: June 6, 2013

Respectfully Submitted,

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