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On Proposed Change to Renewables Portfolio Standard Guidelines

Additional submitted attachment is included below.

STATE OF CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:

Developing Guidelines for the
50 Percent Renewables Portfolio Standard

Docket No. 16-RPS-01

**COMMENTS OF THE
CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION
ON THE PROPOSED CHANGE TO
RENEWABLES PORTFOLIO STANDARD GUIDELINES**

I. INTRODUCTION

The California Municipal Utilities Association (“CMUA”) respectfully submits these comments in support of the California Energy Commission’s (“Commission”) proposed change to the Renewables Portfolio Standard (“RPS”) Guidelines. The Commission’s proposal consists of two elements: (A) *Process for Requesting Surplus Retired RECs Be Withdrawn From a Specified RPS Compliance Period and Used for the Following RPS Compliance Period*; and (B) *Revisions to Appeal Process in Section VII.C of the RPS Guidebook, Eighth Edition, to Address Amendments to Regulations in CCR, Title 20, Section 1230, et seq.* Both elements of the proposal make incremental improvements to the RPS program. As described below, CMUA recommends that the Commission consider further revisions to this proposal.

II. COMMENTS ON THE PROPOSED CHANGE

A. Surplus Retired RECs Proposal

CMUA supports the proposed change to allow publicly owned electric utilities (“POUs”) to move surplus renewable energy credits (“RECs”), that do not qualify as excess procurement, from one compliance period to the another compliance period if the Executive Director approves

the request. The RPS program involves complicated compliance and verification requirements, which present the potential for inadvertent errors to lead to substantial financial consequences. CMUA has advocated for the Commission to exercise its discretion to allow for greater flexibility. In particular, the Commission's regulations should seek to minimize the likelihood that minor mistakes could have unduly harsh results. Unlike the investor owned utilities, POUs do not have shareholders that can absorb these extra costs. Instead, the communities served by the POU will bear the burden.

The Proposal requires that the requesting POU provide an explanation of the circumstances giving rise to the request and the financial or other consequences if the request is denied. Additionally, the Executive Director has the discretion to consider if good cause exists. In light of these protections, CMUA recommends that the Commission broaden the applicability of the proposal in order provide greater flexibility and protection to consumers. Specifically, CMUA recommends that the Commission make the following changes:

...

~~6. If the request is approved, the surplus retired RECs in question may be applied only to the POU's RPS compliance period immediately following the compliance period for which the RECs were retired.~~

7. Surplus retired REC may be used to satisfy a POU's RPS procurement target or portfolio balance requirements for only one RPS compliance period.

~~8. A POU may make only one request per RPS compliance period to withdraw surplus retired RECs from one compliance period and use them for the following RPS compliance period.~~

...

12. The Executive Director may approve a POU's request to withdraw surplus retired RECs from one RPS compliance period and use them for the following a different RPS compliance period, if he or she finds the POU has demonstrated that good cause exists for approving the request. In determining whether good cause exists, the Executive Director may consider, without limitation, whether the

POU was diligent in submitting a request upon learning that a mistake was made when retiring RECs, whether the POU's failure to correct the mistake in a timely manner was caused by circumstances beyond its control, and whether the POU will suffer financial consequences or other hardships if the request is denied.

B. Revisions to the RPS Certification Appeals Process

CMUA supports the proposed revisions to the Guidebook that would provide greater transparency for the Commission's actions, as well as, clear timelines for the appeals process. As California moves to a 50 percent RPS, a significant amount of new generation will need to be certified as RPS-eligible in a relatively short amount of time. To accommodate this growth, it is essential that the certification process functions efficiently and fairly. The consequences of rejections or revocations of RPS eligibility can have severe financial impacts, so a clear and fair process is vital.

With these goals in mind, CMUA recommends the following changes to improve the clarity of the proposal:

If the petition for reconsideration is complete, the Executive Director shall direct staff to perform an evaluation of the petition. Within 30 days of receiving a complete petition, the Office of the Executive Director shall provide a written response to the petition that identifies the action the Executive Director intends to take and the basis for that action. This action may include 1) denying the petition based on the lack of merit, lack of jurisdiction, or insufficient evidence, 2) conducting further investigation, 3) correcting or modifying prior staff action, or 4) taking other appropriate action, including rejecting the petition for being incomplete, or 5) taking other appropriate action. ~~issue a decision based on the petition and the written response of Energy Commission staff.~~

If the Executive Director denies the petition for lack of merit, lack of jurisdiction, or insufficient evidence. ~~If petitioner disagrees with the decision of the Office of the Executive Director,~~ the petitioner may appeal the denial decision to the Energy Commission in accordance with Section VII.C.2: Energy Commission Appeals.

III. CONCLUSION

CMUA appreciates the opportunity to provide these comments to the Commission on the Proposed Change to the RPS Guidelines.

Dated: March 4, 2016

Respectfully submitted,



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