

DOCKETED

Docket Number:	16-RPS-01
Project Title:	Developing Guidelines for the 50 Percent Renewables Portfolio Standard
TN #:	210915
Document Title:	California Municipal Utilities Association Comments: Regarding RPS Scoping Workshop
Description:	N/A
Filer:	System
Organization:	California Municipal Utilities Association
Submitter Role:	Public
Submission Date:	3/30/2016 4:41:27 PM
Docketed Date:	3/30/2016

Comment Received From: California Municipal Utilities Association

Submitted On: 3/30/2016

Docket Number: 16-RPS-01

California Municipal Utilities Association Comment re RPS Scoping Workshop

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 RPS SCOPING WORKSHOP**

I. INTRODUCTION

The California Municipal Utilities Association (“CMUA”) appreciates the opportunity to provide comments to the California Energy Commission (“Commission”) on the proposed *Staff Workshop on Future Edition of Renewables Portfolio Standard Eligibility Guidebook* (“Scoping Workshop”), held on March 17, 2016. In these comments, CMUA responds to the proposed revisions suggested by Commission staff, as well as issues raised by stakeholders during the Workshop.

The RPS Eligibility Guidebook provides information on the requirements and processes used for certifying resources as RPS eligible and the processes used to verify retail sellers’ compliance with the State’s RPS mandates. As evidenced by the frequency with which revisions to the Guidebook are necessary, the processes and requirements set forth in the Guidebook must often be refined to reflect legislatively mandated changes to the RPS program, as well as lessons learned during the course of the program. As such, it is imperative that the RPS Guidebook provide clear and concise direction to affected entities. However, in order to be effective, the RPS Guidebook should also recognize the dynamic nature of the expanding and evolving RPS

program, and allow for the greatest possible flexibility in complying with the requirements. That flexibility is especially important as the RPS mandates grow and the program requirements are expanded. CMUA supports the Commission’s recognition of the need to address unforeseen circumstances through various provisions of the Guidebook, such as the retroactive creation of RECs in WREGIS and the need to “unretire” surplus RECs. CMUA urges the Commission to continue to allow for these types of adjustments to the RPS program and the Guidebook, and not take any actions that would abridge or limit the provisions and measures that afford this necessary flexibility.

II. COMMENTS ON THE SCOPING WORKSHOP

A. Responses to Scoping Workshop Questions

1. Should the allowed time be reduced from 24 months to 12 months when requesting creation of retroactive RECs for any generation that precedes the date of request? If not, what is a reasonable timeframe?

CMUA opposes reducing the time allowed to 12 months for requesting the creation of retroactive RECs for generation that precedes the date of request. During the workshop, several stakeholders voiced concerns with this proposal, both due to the fact that the need to create such RECs may not be discovered for some time, and the significant amount of time and resources necessary to comply with the current Guidebook requirements for a retroactive REC creation requests. CMUA understands that Staff is concerned that the 12-month period would avoid the potential for the creation of RECs that may subsequently be ineligible for RPS compliance due to the 36-month limitation on retiring RECs. While this may occur in limited instances, that does not warrant such a change to this provision or counter the reduced flexibility that would result from a shortened request period. CMUA urges Staff to retain the current 24-month period.

2. Should the requirement of 90 days within commercial operations date be removed when determining the eligibility date of a facility? Is it fair to require that if a facility is not certified by the utility reporting deadline, generation cannot be reported until the next reporting period? If not, what is a balanced approach?

The CEC should retain a “date certain” for determining eligibility of a facility. CMUA opposes removing the requirement that an application for certification be submitted within 90 days of the commercial operations date (“COD”) in order for the eligibility date to be set consistent with Section (IV.) (A.) (2.) (a.) of the Eighth Edition of the Eligibility Guidebook. There is value providing a predictable and clear obligation on the developers/operators of renewable facilities to complete the certification process as soon as practicable. Initiating the certification process will identify if there are any potential issues that may cause the application to be denied. The longer after COD that an application for certification is submitted, only increases the amount of generation that will have an uncertain RPS eligibility. Instead, CMUA strongly supports the existing process where an applicant can request an extension of the certification application deadline. This process prevents generation from unnecessarily being ineligible, while still requiring submission within 90 days as the default.

If Staff believes that the 90-day period is too short based on the number of applicants that are requesting extensions of the certification application deadline, CMUA recommends simply increasing the deadline from 90 days to not more than 180 days. This keeps the same basic structure, while reducing the administrative burden. CMUA also notes that once the new RPS Online System is operational, the application process should be more streamlined, which should allow applicants to complete the process over a shorter timeframe.

3. Should extensions of certification application deadlines be limited to no more than 2 years? If not, what is an acceptable limit, and why?

The Commission should not impose a specific limitation for extensions of certification applications deadlines. As the default, CMUA believes that applications for certification should be processed in a timely manner because it reduces uncertainty regarding the eligibility of RECs. Because electric utilities have very limited ability to take actions after a compliance period has ended, this uncertainty should be reduced as much as possible. However, in light of the complexity of the RPS Program and the frequency with which the requirements change, there will always be unique situations that require additional consideration.

A request for an extension of an application deadline is subject to the Executive Director finding good cause. Specifically, the “Executive Director may consider, without limitation, whether the applicant was diligent in submitting a request for an extension of time upon learning that an application deadline was missed”¹ This limitation acts as a check against applications that request unreasonably early eligibility dates, while leaving the Executive Director with the discretion to determine that unique circumstances justify a requested eligibility date.

4. Are the proposed conditions under substantial amendments to RPS certification logical? (use of energy storage, decrease in nameplate capacity, changes within an aggregated unit, additions to a certified facility) If not, how should these circumstances be handled?

CMUA provides no response at this time.

¹ 8th Ed. RPS Eligibility Guidebook at 75.

5. What documentation is acceptable to verify the RECs generated by entities participating under the western EIM?

Based on staff comments at the Scoping Workshop, it appears that significant staff resources will be dedicated to addressing this issue. CMUA recommends that, as an initial step, more information be gathered about how likely it is that any entities will be engaging in renewable transactions through the EIM. This input may allow Commission staff to avoid devoting substantial effort towards a problem that is only theoretical.

6. Should we continue using the ITS for limited circumstances? If so, in what conditions?

CMUA strongly supports the continuation of the ITS. As several stakeholders clarified during the Scoping Workshop, there do not appear to be any current circumstances that require the ITS. However, it is very possible that future unforeseen complications or issues with WREGIS could require use of the ITS again. Rather than eliminating this option, the Commission should keep these provisions in the Eligibility Guidebook to provide the needed flexibility to address future instances where WREGIS RECs may not be properly or timely generated.

7. In the adopted resolution for moving RECs, is the limitation of one request per RPS compliance period reasonable? If not, should this requirement be modified or removed?

CMUA supported the Commission's newly adopted process to allow POUs to request to move surplus RECs from one compliance period to a later compliance period. Because such a request is subject to approval by the Executive Director, CMUA recommends removing the restriction that only one request may be submitted per compliance period. These types of requests will be exceptionally rare and based on very unique circumstances. If the POU can demonstrate the need for utilizing this provision to the satisfaction of the Executive Director, the

fact that the request may be necessary more than once during a compliance period should be irrelevant. The integrity of the program is not compromised if an entity requires the use of this provision more than once in a compliance period, and the additional flexibility should be allowed.

Additionally, CMUA reiterates the comments that it filed on March 5, 2016,² recommending further changes to provide additional clarity and flexibility to the two newly adopted changes to the RPS Eligibility Guidebook.

B. Additional Recommended Changes to the Eligibility Guidebook

1. Revise the Precertification Process to Provide Greater Certainty.

Increasing the degree to which precertification status indicates that the facility will be certified can assist projects in gaining financing. Therefore, the Commission should do everything within its statutory discretion to provide regulatory certainty to project developers. One key mechanism for increasing this certainty would be to apply the requirements of the RPS Eligibility Guidebook in place at the time the application for *precertification* was submitted as long as the project does not substantially differ from the project described in the application for precertification.

2. A Careful Roll-Out of the RPS Online System is Essential.

CMUA strongly supports the Commission's efforts to develop the RPS Online System. Changes to the Guidebook that address the use of the RPS Online System are necessary to authorize the utilization of this system, but should not be seen as an indication that the nascent system is fully functional. In light of the critical role that this new online system will play, CMUA recommends a careful, deliberate, and transparent process for developing and approving

² See "Comments of the California Municipal Utilities Association on the Proposed Change to Renewables Portfolio Standard Guidelines," filed on March 4, 2016.

the system. The Commission must continue outreach to the various entities that will be relying on this system for certification, verification, and RPS compliance, at each new stage of the system's development. The Commission should openly solicit feedback on draft versions of the system and share this information with affected stakeholders. Additionally, the timeline for transitioning to the RPS Online System should not be predetermined based on arbitrary deadlines. If additional time is needed to complete the system or to ensure the functionality of any part of the system, the Commission should be prepared to delay the rollout. To support this, there should be a temporary period (or other mechanism) where there will be an overlap and entities will be able to default to the existing forms.

3. Specify the Initial Eligibility Date for Behind the Meter Generation

To provide greater clarity, the RPS Eligibility Guidebook should clarify that behind-the-meter generation is eligible to count towards the RPS Program as of January 1, 2011.

III. CONCLUSION

CMUA appreciates the opportunity to provide comments on the Scoping Workshop.

Dated: March 30, 2016

Respectfully submitted,



Justin Wynne
Braun Blaising McLaughlin & Smith PC
915 L Street, Suite 1480
Sacramento, CA 95814
(916) 326-5813
wynne@braunlegal.com

Attorneys for the
California Municipal Utilities Association