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PG&E Comments on Proposed Changes to the RPS Guidebook 2016

Additional submitted attachment is included below.

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California Energy Commission
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1516 Ninth Street
Sacramento, CA 95814-5512

Re: Docket 16-RPS-01: Pacific Gas and Electric Company Comments on Proposed Changes to the Renewables Portfolio Standard Eligibility Guidebook

I. Introduction

Pacific Gas and Electric Company (PG&E) welcomes the opportunity to suggest new topics and comment on staff-proposed revisions to the next edition of the *Renewables Portfolio Standard Eligibility Guidebook* (RPS Guidebook).

Since the proposed changes to the RPS Guidebook were only described in general terms at the March 17, 2016 workshop, PG&E offers its preliminary comments and looks forward to the opportunity to file additional comments once specific rule revisions and draft RPS Guidebook language are released for public comment. Summary responses to the questions posed by the CEC are provided immediately below with further discussion of the issues provided in Section II of this letter.

PG&E encourages the CEC to use its 2016 RPS Guidebook revision process to level the playing field for all energy providers that are subject to the RPS. As PG&E stated in the comments submitted to this docket on March 4, 2016, the CEC should include the recently adopted changes to POU RPS Rules in Resolution No. 16-03-09-04A in the next edition of the RPS Guidebook. Those rules allow for the transfer of excess RECs to a later compliance period, but only by POUs. In the interest of fairness to all California RPS-obligated entities, PG&E recommends these rule changes apply beyond the POUs so that the CEC's Executive Director may approve the shifting of surplus retired RECs from one compliance period to the next compliance period for all LSEs.

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 time frame?** No. This proposal to shorten the eligibility period for RPS generation that can be submitted to the Western Renewable Energy Generation Information Service (WREGIS) for renewable energy credit (REC) attribution from 24 months to 12 months before the date of submission appears to be intended to prevent the potential creation of "older" RECs that could not be retired within 36 months of the date of generation. However, this proposal does not promote fairness or solve any problems. It denies renewable energy generators the opportunity to create legitimate RECs and could thereby frustrate their ability to comply with

their RPS power purchase agreements (PPAs). PG&E recommends retaining the allowed time of 24 months to maintain a generator's flexibility to retroactively create RPS-compliant RECs.

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?** No; the CEC's requirement that the generator seek CEC certification within 90 days of commercial operation helps assure load-serving entities (LSEs) that deliveries will be RPS-eligible within a reasonable period after commercial operation begins. If the deadline for requesting RPS certification is removed, buyers may not receive the RPS-eligible deliveries as expected. A longer compliance period, such as 120 days, could be a workable solution. In addition, the CEC should not prohibit late-certified facilities from reporting generation until the next reporting period, because LSE customers could incur REC replacement costs as a result.
3. **Should extensions of certification application deadlines be limited to no more than 2 years? If not, what is an acceptable limit, and why?** No. In Resolution No. 14-0422-12, the CEC Executive Director was authorized to extend and waive application deadlines for RPS certification. It is not necessary to adopt a limit on extensions of the deadline for certification applications because the resolution allows the Executive Director to grant an extension only upon the applicant's showing of good cause. This procedure, coupled with the existing 3-year deadline to retire RECs, sufficiently limits the period for which a time extension can be sought.
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?** It is unclear to PG&E how the CEC should handle this without further information on proposed changes or definitions in the guidebook. Currently, the "new conditions" that would qualify as substantial changes for the purpose of evaluating an application for RPS certification have not been sufficiently defined. PG&E requests that staff define these new conditions in more detail to allow stakeholders to better understand the potential impact of those conditions on RPS-compliant deliveries.
5. **What documentation is acceptable to verify the RECs generated by entities participating under the western EIM?** PG&E believes that additional documentation may be needed to verify that the RECs and associated energy generated by entities participating under the western EIM (Energy Imbalance Market) have been imported into a California balancing authority. PG&E suggests that the CEC should be provided the incremental imports ascribed to the generator as documented in the CAISO dispatch algorithms used to run the EIM market. However, PG&E will also consider any revisions suggested by interested stakeholders and participate in the discussion of this issue during the draft RPS Eligibility Guidebook review process.
6. **Should we continue using the interim tracking system (ITS) for limited circumstances? If so, in what conditions?** PG&E supports the continued use of the ITS for limited circumstances. While many RPS participants are very familiar with CEC and WREGIS requirements, new participants lacking that knowledge may overlook or not understand some of the RPS certification and WREGIS requirements during the initial phases of their project's operation. The ITS would help to avoid a good faith, inadvertent oversight and the potential loss of RECs, and should be retained.

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?

PG&E assumes that staff is referring to CEC Docket 16-RPS-01, Resolution No. 16-0309-04A, which authorizes the Executive Director to approve an extended period for withdrawing surplus retired RECs from one compliance period and shifting those RECs to the next compliance period. Condition 8 of the resolution allows a publicly-owned utility (POU) to make only one request per RPS compliance period. PG&E believes the resolution for moving RECs, including the limitation of one request per RPS compliance period, is reasonable only if the Executive Director's authority is incorporated into the RPS Guidebook and applied to *all* LSEs.

II. Detailed Discussion on CEC Questions

General Comments: To provide a level playing field, the CEC should incorporate the recently adopted changes to the POU RPS Rules that allow for the transfer of excess RECs to a later compliance period into the RPS Guidebook.

On March 9, 2016, the CEC authorized the Executive Director to approve an extended period for withdrawing surplus retired RECs from one compliance period and shifting those RECs to the next compliance period.¹ These rules were adopted only for POUs. PG&E recommends these rule changes apply to all LSEs, not just POUs. By applying only to POUs, the proposal effectively creates two categories of RECs; those belonging to POUs that can be resurrected from retirement and re-categorized as "surplus" for use in the next compliance period, and RECs belonging to other LSEs that cannot be resurrected and shifted to the next compliance period. The proposal gives POUs more flexibility to benefit from their RECs than non-POUs, such as IOUs, energy service providers (ESPs) and other LSEs.

These conflicting compliance standards result in different relative values for RECs depending upon whether they are owned by POUs or other LSEs. Moreover, the CEC's Executive Director may approve the shift of RECs between compliance periods if, among other things, a POU applicant will suffer financial consequences or other hardships if the request is denied. The proposal gives POUs the option to realize the benefit of excess procurement in a later compliance period when that option is not available to any other LSE. By limiting extended withdrawals to just POUs, the procedure unfairly imposes financial hardships on other LSEs who meet the stated criteria for shifting surplus RECs. The CEC should allow all LSEs the flexibility to apply to use excess RECs in another compliance period by incorporating the terms of CEC Resolution 16-03-09-04A into the RPS Eligibility Guidebook.

1. PG&E recommends against reducing the period of retroactive REC creation from 24 months to 12 months prior to the date of the request.

In October 2014, the CEC adopted Resolution No.14-1007-10, which approved a process to allow the CEC to request that WREGIS create retroactive RECs in accordance with the WREGIS Operating Rules and subject to certain criteria, including that the Retroactive RECs are limited to generation that occurred within 24 months before the request or generation from the RPS eligibility date assigned to the generating facility by the Energy Commission, whichever is earlier.

¹ CEC Docket 16-RPS-01, Resolution No. 16-0309-04A.

The CEC staff is considering shortening the allowed timeframe from 24 months to 12 months. At the workshop, the CEC staff indicated that one of the reasons for shortening the allowed time is that the process for requesting the retroactive RECs includes a time consuming requirement to submit an audit report.² CEC staff is concerned that the time needed to fulfill this requirement, which begins on the date of the request, in combination with allowing RECs to be created up to 24 months prior to the date of the request, may impinge on the WREGIS 36 month deadline to retire RECs. PG&E believes that generators are themselves capable of factoring the verification process into their strategies and timeframes for requesting retroactive RECs. It is unnecessary to add another constraint on the generators' ability to retire their RECs within 36 months, and the proposal would limit potential opportunities to create such retroactive RECs.

The CEC could reform the verification process by permitting the generator to file appropriate attestations that the RECs in question have not been sold elsewhere. This would significantly reduce the time required for this process and lessen the possibility of any 36-month REC retirement issues.

2. The deadline from the date of commercial operation by which a facility must establish RPS-eligibility may be relaxed from 90 days to 120 days, but cannot be removed without creating significant commercial issues.

Each of the form PPAs by which California investor owned utilities (IOUs) may procure RPS-eligible electricity require the generator (seller) to obtain a CEC determination of RPS eligibility within the CEC's timeframe. It is important to note that the RPS certification date is a condition precedent to the effectiveness of many, if not all, CPUC-jurisdictional RPS PPAs. The seller's failure to obtain RPS certification means the seller in question is not providing the buyer the agreed-upon product. Leaving CEC's determination of the CEC RPS eligibility date open-ended will hinder the administration of many PPAs.

Under the CEC's current proposal, if a facility is not certified by the reporting deadline, it cannot be reported until the next reporting period. This proposed change is counterproductive for the statewide RPS program, and could result in seller non-compliance with a condition precedent to the effectiveness of its RPS PPA for such a substantial period that its contract may be placed at risk. PG&E believes that this issue bears further exploration before draft language is proposed.

3. The existing requirement for generators to show just cause for extending their REC Certification deadline makes a new 2-year deadline unnecessary.

PG&E believes the 3-year REC retirement deadline set forth in CEC Resolution No. 14-0422-11, and the criteria and processes outlined in the Resolution, sufficiently limit the period in which a REC retirement deadline extension can be sought. Introducing a separate 2-year REC certification deadline adds an additional unnecessary constraint to this process, since the current certification deadline extension process and the 36-month REC retirement deadline sufficiently constrain this process without the need for the proposed two year limitation.

² This audit must be submitted by an independent accountant or certified internal auditor verifying the RECs associated with the vintage month(s) and year(s) for which the creation of retroactive RECs are being requested have not been sold, traded, or otherwise transferred to any other individual or entity or used to satisfy any state regulatory or voluntary program.

The Resolution is sufficiently flexible that the Executive Director can properly take into account the unique circumstances of each case. For example, an applicant for an extension must explain why it was unable to submit a timely application for certification and/or supporting documentation and whether these circumstances were beyond the applicant's control. In addition, the Executive Director may grant an extension of time if he or she finds that the applicant has demonstrated good cause exists, based on enumerated criteria, for granting an extension of time.

4. PG&E intends to comment on the new conditions that would qualify as “substantial changes” to an RPS certification application when the proposed conditions are better defined.

An amended RPS certification application with substantial changes will be reviewed under the edition of the RPS Guidebook in place at the time the Energy Commission receives the amended application.³ The conditions proposed for designation as “substantial changes” include: use of energy storage, decrease in nameplate capacity, changes within an aggregated unit, and additions to a certified facility.

PG&E recommends these proposed new conditions be defined more specifically, so that stakeholders can better understand the extent of the changes contemplated. It is unclear what is meant by additions to a certified facility and how it differs from currently listed substantial changes in the guidebook, such as increase in nameplate capacity, or change in technology or energy resource type. While it seems logical to require a facility experiencing an increase in nameplate capacity to be reviewed under the edition of the RPS Guidebook in place at the time the Energy Commission receives the application, it is not clear that a decrease in nameplate capacity due to the removal of some wind turbines or solar panels, and no other change to the facility, should trigger this rule. Requiring an amended certification application each time an aggregated facility is changed would be extremely burdensome for all involved -- the Commission could adopt a minimum threshold of increase that would require an amended application. More specificity in the description and definition of substantial changes would help reviewers to comment on these proposals.

5. Additional documentation may be needed to verify the RECs generated by entities participating under the western EIM.

Additional documentation may be needed to verify that the RECs and associated energy generated by entities participating under the western EIM (Energy Imbalance Market) have been imported into a California balancing authority. PG&E suggests that the CEC should be provided the incremental imports ascribed to the generator as documented in the CAISO dispatch algorithms used to run the EIM market. However, if this topic is retained for discussion, PG&E will investigate, and if necessary, comment on this topic during the public review of the draft RPS eligibility Guidebook.

6. PG&E supports the continued use of the interim tracking system (ITS) for limited circumstances.

Although PG&E does not have a current need for using the ITS, new participants unfamiliar with CEC or WREGIS requirements could overlook key requirements during the initial phases of

³ Section IV. B.1 of the RPS Guidebook

operation and suffer a REC shortfall. The ITS can be retained as an insurance policy for RPS participants.

III. Conclusion

PG&E appreciates this opportunity to provide written comments on the CEC's proposed changes to the *Renewables Portfolio Standard Eligibility Guidebook* discussed at the workshop held on March 17, 2016. PG&E looks forward to continuing to work with the CEC in this proceeding.

Sincerely,

/s/

Nathan Bengtsson
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Pacific Gas and Electric Company