

## DOCKETED

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<b>Project Title:</b>	Developing Guidelines for the 50 Percent Renewables Portfolio Standard
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**BEFORE THE ENERGY COMMISSION  
OF THE STATE OF CALIFORNIA**

In the matter of:	)	Docket No. 16-RPS-01
	)	
Developing Guidelines for the 50 Percent	)	RE: Guideline Revisions for
Renewables Portfolio Standard (RPS)	)	RPS Implementation
_____	)	

**COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) TO THE  
CALIFORNIA ENERGY COMMISSION (CEC) NOTICE REQUESTING PUBLIC COMMENTS ON STAFF  
DRAFT RENEWABLES PORTFOLIO STANDARD (RPS) ELIGIBILITY GUIDEBOOK, NINTH EDITION**

Dated: December 20, 2016

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**INTRODUCTION**

The City of Los Angeles (City of LA) 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 LA, pursuant to the Los Angeles City Charter, whose governing structure includes a mayor, a fifteen-member City Council, and a five-member Board of Water and Power Commissioners (Board). LADWP is the third largest electric 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 of LA and most of the Owens Valley. The transmission system serving the territory totals more than 3,600 miles and transports power from the Pacific Northwest, Utah, Wyoming, Arizona, Nevada, and California to Los Angeles. LADWP appreciates the opportunity to comment on the California Energy Commission (CEC) Staff Draft Renewables Portfolio Standard (RPS) Eligibility Guidebook, Ninth Edition. Please note that all page references in this document correspond to the marked-up version of the Draft RPS Eligibility Guidebook.

## **GENERAL COMMENTS ON THE CEC DRAFT RPS ELIGIBILITY GUIDEBOOK**

LADWP appreciates the opportunity to participate in the public process for commenting on the next revision of the CEC RPS eligibility guidebook. LADWP also appreciates CEC's efforts to continuously improve the clarity and completeness of the guidebook. However, it is difficult for interested stakeholders to participate in the process with meaningful feedback when commenting deadlines are set so aggressively. The revised CEC Staff draft RPS guidebook was released on Wednesday, December 7, 2016. The commenting deadline was Tuesday, December 20, 2016. This only allocated less than ten business days for stakeholders to review over 100 pages of regulation and coordinate meaningful comments for submission to new legislative goals of achieving 50% renewables over the next 14 years (by 2030).

Utilities use this guidebook to make significant financial decisions. To ensure meaningful dialog and input from stakeholders, LADWP respectfully requests that the CEC provide longer review and commenting periods for draft eligibility guidebooks. Additionally, LADWP requests that the draft guidebook go through multiple commenting periods before adoption. Interaction among stakeholders and CEC staff is instrumental in continuing the success of California's RPS program.

Similarly, LADWP respectfully requests that the CEC delay full implementation of the RPS online reporting system. The reporting mechanism to verify RPS compliance is just as important as the eligibility guidebook. Adequate time should be given for stakeholder collaboration with CEC staff before such a significant change is made. LADWP supports CEC efforts in improving the certification and verification process through an RPS online system. The transition to a new online system should not be so sudden. The CEC has held several workshops over the last couple of months. During these workshops, there were still many issues related to security and functionality. LADWP requests that CEC allow for a transition period in which stakeholders have the option to submit RPS applications and reports via email or the online system. This will give CEC staff the opportunity to conduct more instructional workshops and discuss concerns with stakeholders before the online system is mandatory. If

CEC continues with its implementation schedule, LADWP fears that stakeholders will encounter issues similar to the issues that were experienced during the hurried transition from the ITS to WREGIS, which resulted in numerous RECs not being properly accounted for and issues with verification. LADWP requests that the CEC delay or at least consider granting a transitional period for the RPS online system implementation in order to ensure appropriate time for stakeholder input and training.

LADWP is committed to achieving California's goal of 50% renewable energy by 2030. In order to achieve this goal, CEC must continue to evolve the guidebook to incorporate new renewable technologies and ensure that all California utilities have the ability to achieve 50% in a manner that best fits that utility with the resources available. Additionally, RPS resource diversity is important for utilities to maintain overall electric reliability. Resource diversity is vital to helping utilities keep the lights on. Therefore, the CEC should expand the resource eligibility, instead of narrowing it, to assist California utilities in maintaining resource diversity and grid reliability. The CEC should reconsider allowing the eligibility of renewable resources that are currently ineligible, such as out-of-state biomethane, large hydroelectric facilities, small hydroelectric generation, including small hydro from British Columbia, pumped storage, conduit hydroelectric facilities, and hydroelectric generating units operated as part of a water supply or conveyance system.

Below are specific comments from LADWP on the CEC draft RPS eligibility guidebook, ninth edition.

## **SPECIFIC COMMENTS ON THE CEC DRAFT RPS ELIGIBILITY GUIDEBOOK**

### **2.C. Biomethane (Energy Resource Eligibility Requirements)**

In section 2.C.2.a(2) regarding "Adjustments to Existing Biomethane Procurement Contracts", the draft guidebook lists several types of contract adjustments that would cause additional biomethane procurement received from an existing procurement contract to be subjected to the new biomethane contract requirements. Some of these contract adjustments

include: (b) increasing quantities of existing biomethane sources, (c) adding quantities of biomethane specified as optional to the buyer in an existing biomethane procurement contract, (d) adding new biomethane sources, and (e) receiving biomethane from a new source that was not producing biomethane on or before April 1, 2014 (p.10). If these adjustments are accommodated in the existing contract without modifications or amendments, the additional biomethane procured should not be subject to new contract requirements. The CEC should remove items (b), (c), (d), and (e). Additional biomethane procurement would be subjected to the new contract requirements if the existing contract language is actually modified or amended. The parties in the existing contracts have binding obligations to meet the contract terms and conditions, and facilities utilizing existing contracts with these adjustments should not be subject to new requirements with retroactive application. The guidebook will likely be effective soon after the close of Compliance Period 2. Impacts to eligibility and verification after the close of a compliance period will wreak havoc on a utility's ability to adequately count its generation and RECs with verification for years to come.

In section 2.C.3.b. entitled "Claiming GHG Reductions From Methane Reduction", the draft guidebook states:

"A POU or intermediary party, including the electrical generator, to a biomethane procurement contract shall not make a marketing, regulatory, or retail claim that asserts that the biomethane procurement contract resulted, or will result, in GHG reductions related to the destruction of methane if the capture and destruction of methane are required by law. If the biomethane source is required by law to capture and destroy the methane produced by the biomethane source, the applicant for the designated generation facility must convey this information to the Energy Commission as part of the application for RPS certification." (Draft Guidebook, p.14)

The language underlined above may conflict with the exemption from compliance obligations for biomethane under Section 95852.2 of the California Air Resources Board (CARB) *Regulation for the California Cap On Greenhouse Gas Emissions and Market-Based Compliance Mechanisms to Allow for the Use of Compliance Instruments Issues by Linked Jurisdictions*. Under the CARB's Cap & Trade regulation, emissions from combustion of biomass-derived fuels,

including biomethane, are not subject to the Cap & Trade program compliance obligation if they meet the eligibility and verification requirements in CARB's Cap & Trade and mandatory reporting rules.

Use of biomethane instead of natural gas results in a reduction in GHG emissions because the biomethane (biomass-derived fuel) is displacing natural gas (fossil fuel) that would otherwise have been burned to produce electricity. Good public policy should encourage the beneficial use of biomethane, not discourage it.

Moreover, 2.C. for biomethane should only apply prospectively, not retroactively. The Legislature emphasized this important point by enacting the language "under the rules in place at the time the contract was executed, including the Fourth Edition of the Energy Commission's Renewables Portfolio Standard Eligibility Guidebook," Public Utility Code Section 399.12.6(a)(1). (emphasis added). Otherwise, it would interfere with existing contracts and impose additional constraints that did not exist at the time the contracts were negotiated and entered into by the parties.

### **3.B: Renewable Facilities Using Multiple Energy Resources**

The methodology used by the Online System for calculating biomethane RECs from facilities with multiple energy resources considers only one of the several methods proposed in the draft 9<sup>th</sup> Edition Guidebook (page 32-34). The options in the guidebooks for measuring renewable generation are:

- a. Thermal Conversion and Fuel Cell Technologies:
  - 1. Direct Energy Resource Measurement
  - 2. Net Renewable Energy Resources Contribution
  - 3. Direct Measurement of the Thermal Contribution
- b. Direct Measurement of the Generation Out
- c. Alternative Measurement Methods

The Online System addresses only option (a) (1)—The Thermal Conversion-Direct Energy Resource Measurement—which is applicable to either a generating facility as a whole or individual generating units within a facility. This method is the algebraic product of multiplying the generated energy (MWh) by the ratio of the biomethane MMBTU to the Total Gas MMBTU.

Method (a)(1) can only be applied to simple cycle generators. The current configuration of the RPS Online System does not offer any of the other adopted CEC RPS guidebook methods to be used for claiming RECs through the CCP report. By not including availability of all 3 methods in the RPS Online System, LADWP would be prevented from receiving credit for the total amount of RECs generated by its combined cycle units. This lost credit would be close to 30%. CEC must modify the RPS system or allow for another reporting avenue to accommodate all CCP calculation methods to be accepted in the verification process as described in the CEC RPS Guidebook.

LADWP recommends the following be implemented as part of the Online Verification System:

- Ability to account for biomethane RECs attributable to the steam generating units in a combine cycle configuration
- Ability to account for the other methods in the Guidebook

### **3.B.1.c Alternative Measurement Methods**

On p.34, the draft guidebook states, “Applicants may submit an alternative measurement method if it can be demonstrated to the Energy Commission’s satisfaction that the method is superior to the methods discussed above and is the most appropriate method for the specific facility. The method shall be based on the total annual energy input of each energy resource to the generating system, and any inputs not separately metered. The Energy Commission will evaluate and consider the proposed measurement method as part of the facility application.” Given the CEC’s willingness to consider alternative methods, these statements should consider the following suggestions to ensure flexibility: (1) For multi-fuel



facilities, the CEC should consider allowing REC calculations on a per unit basis instead of a per facility basis, and (2) calculations should be allowed to be performed on a monthly basis or an annual basis. In addition, there should be added flexibility to allow alternative methodologies to be submitted at any point in time during the certification or verification process.

### **3.E. Incremental Generation (Facility Requirements)**

Section 3.E.3(a) on p.43 identifies generator output as the only characteristic to determine improved facility or unit efficiency. The CEC should consider modifying this language to include generator pumping efficiency improvements. If hydroelectric generators demonstrate efficiency in generation mode as well as pumping mode, both types of efficiencies should be RPS eligible. This would be consistent with section 2.F.4.b. on p.19 that identifies the RPS eligibility criteria for incremental hydroelectric facilities or generating units as “improvements that make more efficient use of the existing water resource and improve the efficiency of equipment”.

The CEC should also consider removing section 3.E.3(b) which requires the proposed pro rata approach to be “approved by FERC under the FERC Renewable Energy Production Tax Credit, pursuant to the Energy Policy Act (2005).” (p.44) This requirement limits the applicability of the pro rata approach for hydroelectric facilities and generating units as well as prevents entities from using this approach if they are not eligible for the FERC tax credit. LADWP, as a public utility cannot take advantage of tax credits for its facilities.

The CEC should consider removing the words “superior” and “most” in section 3.E.3.c. on p.34. It is an acceptable requirement to prove that an alternative measurement method is a more appropriate test for a given facility or generating unit compared to the other methods already mentioned in this section. However, using the terms “superior” and “most” allow for too much subjectivity in the analysis of the alternative method.

The CEC should consider including additional information in section III.E.3. to specifically address how the REC will be calculated for hydroelectric facilities and generating units that are approved for RPS eligibility via an alternative measurement method. In the other two methods, a historical baseline of performance is established and any performance above that baseline is

identified as RPS eligible. A historical baseline method is not appropriate for all measurement methods. LADWP suggests that a percentage calculation be used to determine the amount of generation from the hydroelectric facility or generating unit that is eligible for REC creation. The RPS eligible percentage should be calculated from the analysis of before and after testing of the facility or generating unit over the entire load range in pumping mode and generating mode. Then the RPS eligible percentage should be multiplied by the total generation output of the facility or generating unit to calculate the amount of eligible megawatts for Renewable Energy Credits.

### **3.F. Energy Storage**

LADWP appreciates the work CEC has done to expand this section. Previous guidebooks lacked detail on how CEC would address the role of energy storage at renewable facilities, specifically with respect to calculating RECs. The new diagrams, formulas, and examples describing the treatment of energy storage provide much needed clarity. LADWP also appreciates the clarification of how utilities may utilize pumped storage facilities as energy storage to integrate with other renewable facilities according to this section.

Although this section is significantly improved, there are still some items that need clarification. On p. 45 section (b), the guidebook states “The energy storage device must be operated as part of the facility represented in the application and not in conjunction with any other facility, renewable or otherwise.” LADWP believes that the use of an energy storage unit should not be limited to storing energy from only one renewable facility. The value of energy storage is that it can add flexibility and balance out intermittency of multiple renewable resources. For example, an energy storage unit can be utilized to store solar generation during the day and store wind energy at night.

In addition, on p.46 the language regarding pump storage should be revised to optimize its use an energy storage device. The language proposed is as follows:

Pumped storage hydroelectric units used as energy storage may qualify for RPS if 1) the unit meets the eligibility requirements for conduit hydroelectric, small hydroelectric, or incremental hydroelectric energy, and 2) the electricity used to pump the water into the

storage reservoir qualifies as RPS-eligible, in whole or in part. The amount of energy that may qualify for the RPS is the amount of electricity dispatched from the pumped storage unit.

A facility certified as RPS-eligible may include an electricity storage device if it does not conflict with other RPS-eligibility criteria, but the storage unit itself will not be separately certified.

There is no reason to limit the usage of energy storage which will play an increasing significant role as utilities continue to work towards California's RPS goals while balancing out the variability and limited predictability of certain renewables. Therefore, LADWP recommends that the CEC remove any limitations for the operation of energy storage in conjunction with multiple renewable facilities and optimize the use of pump storage as an energy storage device.

LADWP looks forward to working with CEC to continue developing the role of energy storage in renewable facilities.

#### **6.B. Common Carrier Pipeline Biomethane (Annual Facility Reports)**

On p.68 of the draft guidebook, there is an extensive list of reporting requirements that need to be met in order to maintain RPS eligibility for common carrier pipeline biomethane. Some of these requirements need more clarification while other requirements are impossible to fulfill.

Reporting requirement 4 identifies the requirement of "monthly meter data and documentation showing the monthly quantities in million British thermal units (MMBtu) of all biomethane and nonrenewable energy resources at the generating facility." The term "documentation," should be stricken because metering data is sufficient to provide the combined total use.

Reporting requirements 5 and 6 should be removed. Reporting requirement 5 requests documentation regarding "storage sites". The definition of this term is not clear. Reporting

Requirement 6 is vague and open to interpretation. It is not clear what “additional documentation” the CEC is requesting to satisfy this requirement.

## **8.B Records and Audits**

The CEC should clarify that the audit provisions on p.85 of the draft guidebook do not apply to POUs. The *Enforcement Procedures for the Renewables Portfolio Standard for Publicly Owned Electrical Utilities* contain the exclusive procedure available relating the verification or auditing of data submitted by POUs. Public Utilities Code Section 399.25 requires the CEC to develop an accounting system.

While the audit provisions do not apply to POUs, it should also be noted that there is no guidance in this section regarding the timeliness of a CEC audit. The CEC should initiate and complete an audit within 5 years. While the Record Retention section requires records to be kept for “no fewer than 5 years,” (p. 86) there is no equivalent time period for the CEC to begin or complete an audit.

It would provide POUs much needed certainty to be able to plan for additional resources while knowing the existing resources have met the compliance targets as reported. Also, it would provide the CEC with needed certainty to be able to plan for and direct its limited human resources towards the cases that are most critical.

### **8.D.1. Revocation of RPS Certification**

The Executive Director is provided with broad authority and discretion to revoke RPS certification. On p.88, the draft guidebook states that the Executive Director can revoke the RPS certification of a facility “if it is determined that the RPS-certified facility no longer satisfies the requisite eligibility requirements”. This implies that the RPS certifications for all facilities are constantly in jeopardy as the RPS eligibility guidebook is revised.

It is not reasonable to evaluate facilities based on new eligibility standards that were not in effect during the facility’s procurement or certification process. Facilities should only be evaluated based on the edition of eligibility guidebook that was in effect during the procurement or certification process for that facility. If guidebook requirements change in the

future, these facilities should be protected as long as they continue to satisfy the requirements set forth by the appropriate eligibility guidebook edition that was used to determine initial certification for the facility.

In addition, the ability to revoke a certification within 15 days is simply untenable. The building of RPS-eligible facilities takes years of planning, environmental permitting, and many more months of construction, not to mention hundreds of millions of dollars of financing. The facilities built and certified should remain so.

The CEC should clarify that the revocation procedures do not apply to POUs for which the *Enforcement Procedures for the Renewables Portfolio Standard for Publicly Owned Electrical Utilities* contain the exclusive procedure relating to revocation.

#### **8.D.2. Fraud and Misrepresentation**

In this section titled Special Provisions, the draft guidebook explains that the Executive director can initiate an investigation of any RPS-certified facility if fraud or misrepresentation is suspected. P.88 of the draft guidebook states that “the Executive Director may take any action deemed appropriate, including, but not limited to, cancellation of RPS certification, and, with the concurrence of the Energy Commission, recommending the Attorney General initiate an investigation and prosecution as appropriate under applicable law.”

Based on basic principles of due process, there should be concrete findings of intentional misdeeds before revoking an RPS certification. Furthermore, the Executive director should be required to formally notify the entity of fraudulent suspicions. At the conclusion of the investigation, the entity should also have the opportunity to review the findings and dispute any of the information before any action is taken.

#### **4. RPS Online System**

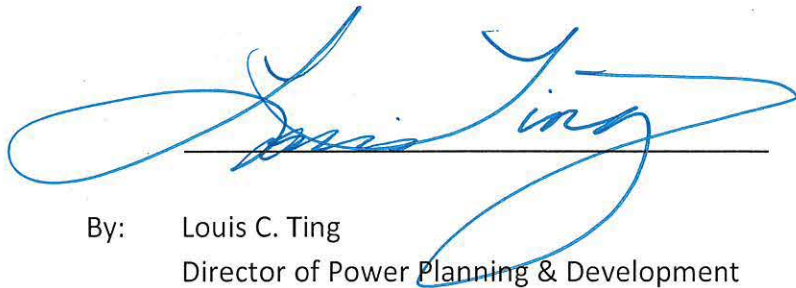
LADWP respectfully requests that the CEC delay full implementation of the RPS online reporting system and that it remains as a Beta System until Major Errors are addressed. The reporting mechanism to verify RPS compliance is critical to a successful state program.

California is the leading state in the nation with a forward thinking progressive renewables program that other states will look to as a model for their programs. This is especially important as utilities throughout the region of the Western Electricity Coordinating Council (WECC) study regionalization, as states look for ways to reduce their greenhouse gases, and as publicly owned electric utilities, such as LADWP, look at the costs and benefits of their respective programs to consider support for even higher targets than the ones found in Senate Bill 350 (SB350).

## CONCLUSION

In closing, LADWP appreciates the opportunity to participate in the rulemaking process regarding the Draft Renewables Portfolio Standard Eligibility Guidebook, Ninth Edition. We look forward to continue working with the California Energy Commission to help shape effective regulations that will benefit the health, safety, and security of all California residents.

Respectfully Submitted,



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