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Document Title:	Response to Comments from LADWP regarding the Staff Draft RPS Eligibility Guidebook, Ninth Edition
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Organization:	California Energy Commission
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January 23, 2017

Mr. Louis C. Ting
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Los Angeles Department of Water and Power
111 North Hope Street, Suite 921
Los Angeles, CA 90012

RE: RESPONSE TO COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER
AND POWER (LADWP) ON THE STAFF DRAFT RENEWABLES PORTFOLIO
STANDARD (RPS) ELIGIBILITY GUIDEBOOK, NINTH EDITION – DOCKET #16-RPS-01

Dear Mr. Ting:

The California Energy Commission appreciates Los Angeles Department of Water and Power's (LADWP) comments on the *Staff Draft Renewables Portfolio Standard (RPS) Eligibility Guidebook, Ninth Edition (Draft RPS Guidebook, Ninth Edition)* and the opportunity to speak with your staff to discuss LADWP's concerns. This letter is in follow up to our January 12, 2017, meeting during which our respective staff discussed the December 20, 2016, comments LADWP submitted on the *Draft RPS Guidebook, Ninth Edition*.

The *Draft RPS Guidebook, Ninth Edition* implements elements of Senate Bill 350 (de Leon, Chapter 547, Statutes of 2015), Senate Bill 1393 (De León, Chapter 677, Statutes of 2016), and resolutions adopted by the Commission; implements a transition to a new online RPS certification application and reporting system (RPS Online System); alters select program administration processes; clarifies existing requirements; and makes minor corrections. In its December 20 comments, LADWP raised several concerns with and suggested changes for both the *Draft RPS Guidebook, Ninth Edition* language as proposed, as well as the accompanying transition to the online reporting system.

Among its general comments, LADWP expressed concern with the amount of time allocated to the December 20, 2016, public comment period for the *Draft RPS Guidebook, Ninth Edition*. LADWP also "requests that the draft guidebook go through multiple commenting periods before adoption."

The Energy Commission always strives to create a meaningful, transparent public process when developing programs and regulations. The *Draft RPS Guidebook, Ninth Edition*, went through a multi-step public process that included multiple comment periods:

- In March 2016, staff held a scoping workshop and public comment period to scope out potential revisions to be addressed in the planned update to the *RPS Eligibility Guidebook*, providing stakeholders the opportunity to suggest new topics as potential revisions and to comment on staff's proposed revisions, including the transition to the RPS Online System.
- On July 11, 2016, the *Staff Draft RPS Eligibility Guidebook, Ninth Edition*, was released to the public with a public comment period deadline of July 25, 2016.
- Staff held a workshop on August 18, 2016, on the RPS Online System to provide stakeholders an opportunity to view and demonstrate the RPS Online System with written comments due August 31, 2016.
- Staff held a second workshop on the RPS Online System on October 6, 2016, to allow stakeholders to view and demonstrate the RPS Online System with written comments due October 19, 2016.
- The revised *Staff Draft RPS Guidebook, Ninth Edition* was released for public review again on December 7, 2016, with written comments due December 20, 2016. Since this was not the first review period provided to stakeholders on the proposed language changes, Energy Commission staff estimated 10 business days sufficient to review the few minor changes introduced between drafts. Staff did not receive any requests from stakeholders to extend the comment period.

Concurrent with this process, staff held five informal focus groups and webinars with stakeholders to demonstrate and test key parts of the RPS Online System to inform its development.

In addition, to aid stakeholders in providing meaningful public comment, Energy Commission staff provides the public as standard practice, a redlined version of the Guidebook language to highlight alterations and additions to the current Guidebook language. This allows stakeholders already familiar with the program, such as LADWP, to focus their review on the proposed changes to the existing language. Further, should LADWP encounter any unique circumstances preventing it from providing meaningful public comment, a representative can notify Energy Commission staff who may be able to accommodate the circumstance.

Staff appreciates the opportunities granted over the course of this process to discuss directly and occasionally in-person with LADWP staff, their concerns and questions regarding the proposed programmatic changes. As a result of this robust public process spanning the past year, Energy Commission staff is confident the RPS Online System and the proposed revisions to the *Draft RPS Guidebook, Ninth Edition* adequately considers stakeholder feedback.

Delay of RPS Online System or Transitional Period

Energy Commission staff recognizes that transitioning the RPS program over to a RPS Online System is a significant administrative change and staff appreciates LADWP's desire for this transition to occur smoothly. To minimize risks associated with the transition, Energy Commission staff has developed a comprehensive plan for developing and maintaining the security and operability of the RPS Online System after its adoption. In addition to several internal and external rounds of testing covering the entire system, Energy Commission staff has developed several protocols to ensure any errors in the system are immediately corrected and do not negatively impact stakeholders.

The Energy Commission has contracted the original website developer to remain onsite for six months following the transition to the new system to provide dedicated support to fix any malfunctions and errors in the system that are identified with the use of the system. This will ensure that any system issues can be addressed in a timely, effective manner. The Energy Commission has also trained an Energy Commission staff person as the system was being developed to be able to provide long term maintenance support for the system.

Should stakeholders encounter an issue in the use of the new system, staff has developed a dedicated email address for stakeholders to direct system-related questions and notifications. The Energy Commission aims to address all of these inquiries within one business day. In addition, staff has developed an internal procedure for handling any filing deadlines should a system malfunction prevent filing.

As part of its comment, LADWP also cites concerns regarding the security of the site. The Energy Commission and the State of California are very serious about protecting the confidentiality of personal information and have laws, policies, procedures, and guidelines in place to ensure such information is protected. The RPS Online System was built from the beginning with information security as a key component. The RPS development team has followed very strict security requirements which have been monitored and tested for quality assurance throughout the development of the system. The servers and the network where the RPS system resides are located in a certified Tier 3 Data Center. The data center follows industry best practices and has best of breed security controls and protocols in place to ensure security, redundancy, and uptime. All of these security measures not only meet the Energy Commission and the State of California's information security requirements, but also meet or exceed industry best practices for the development of online applications. The Online System provides additional security by requiring a secure log-in from external users. The external users (for example, LADWP) will decide who, within their organization, has access to company records/data. Furthermore, this data will only be accessible to a select number of RPS staff.

As a result of the Energy Commission's dedication to developing a secure RPS Online System, the Energy Commission is unable to overlap the RPS Online System with the current system that utilizes hard copy and email submissions, as requested by LADWP. The transition to the

RPS Online System is driven by a singular wholesale data migration of existing information into the new system. The system, as designed, provides that account holders are responsible for the management of their accounts including the input of application information. This practice provides an additional layer of privacy and security for RPS system users.

During the January 12, 2017, meeting between Energy Commission staff and LADWP staff, LADWP staff communicated concerns regarding users not being kicked off the account when someone else logs into the same account, as well as questions regarding biomethane data entry. Energy Commission staff offered to hold a dedicated call with LADWP's Energy Reconciliation staff the following week to understand and discuss these concerns.

Eligibility of Renewable Energy Resources

As part of its December 20, 2016, public comment, LADWP requested the Energy Commission to expand resource eligibility. More specifically, it stated: "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 generation units as part of a water supply or conveyance system."¹

Energy Commission staff want to correct any misunderstanding LADWP may have regarding resource eligibility, as the list of ineligible resources listed by LADWP in its December public comment is inaccurate. As specified in the applicable RPS statutes and *RPS Eligibility Guidebook*, facilities using biomethane from out-of-state sources are eligible if the biomethane procured meets the criteria established by Assembly Bill 2196 (Chesbro, Chapter 605, Statutes of 2012) (Public Resource Code Section 25741 and Public Utilities Code Section 399.12.6). Small hydroelectric facilities under 30 MW, as well as conduit hydroelectric facilities under 30 MW are both considered eligible renewable energy resources if certain criteria are met (see *Draft RPS Eligibility Guidebook, Ninth Edition*, Chapter 2, Section F). In addition, the *Draft RPS Eligibility Guidebook, Ninth Edition* includes language to make clear that pumped storage may qualify for the RPS if it meets certain criteria.

As LADWP notes, large hydroelectric facilities above 40 MW and hydroelectric generation units operated as part of a water supply or conveyance system are not RPS eligible. The eligibility of these resources is defined in statute and as such, the Energy Commission does not have the authority to grant LADWP's request under current law.

Eligibility Requirements (Section 2.C.2.a(2))

LADWP requests the Energy Commission remove several contract adjustments that would cause existing biomethane procurement contracts to be subject to the new biomethane contract requirements, specifically (b)-(e) in section 2.C.3.a.2 of the *Draft RPS Guidebook, Ninth Edition*.

¹ Ting, Louis. Comments from LADWP. December 20, 2016

These requirements were not introduced in this update. They originate verbatim from AB 2196 (Public Utilities Code 399.12.6(a)(2)), and as such, the Energy Commission does not have the authority to grant LADWP's request under current law.

LADWP also raised concerns that section 2.C.3.b may conflict with the exemption from compliance obligations from biomethane under the California Air Resources Board's (ARB) Cap and Trade Regulation. Staff has reviewed this concern with ARB Cap and Trade program managers and both agencies agree that there is no conflict. The two programs are independent and act under separate legislative authority and regulatory guidance.

Lastly, LADWP states that section 2.C Biomethane should only apply prospectively, not retroactively, as AB 2196 contains special provisions for existing biomethane contracts entered into before March 29, 2012, be subject under the rules in place at the time the contract was executed (PUC 399.12.6). Staff wants to highlight that this provision is already implemented in the Guidebook in Section 2.C.3.a.1.

Renewable Facilities Using Multiple Energy Resources

LADWP submits that the RPS Online System provides only one method for calculating biomethane Renewable Energy Credits (RECs) from facilities with multiple energy resources, and as such, requests that the ability to account for biomethane RECs attributable to the steam generating units in a combined cycle configuration and other methods be included in the system.

Under the new reporting system, staff has developed an approach that allows for the accounting and verification of RECs attributable to steam generating units in a combined cycle power plant. This method, including how the data is reported, is identical to how generation from these facilities was verified under Compliance Period 1 (2011-2013). This is reflected in the *Draft RPS Guidebook, Ninth Edition*, Section 6.B with the following language: "In special cases, Energy Commission staff may ask for biomethane inputs to be reported in a different manner but still consistent with the reporting requirements in the guidebook. For example, a combined cycle facility registered with multiple WREGIS IDs may need to report all inputs for that combined cycle system under one WREGIS ID."

Alternative Measurement Methods

LADWP requested the Energy Commission consider allowing REC calculations to be performed for multifuel facilities 1) on a per unit basis instead of a per facility basis, and 2) either on a monthly basis or annual basis. The *RPS Eligibility Guidebook* already has an established process to allow applicants to submit alternative measurement methods to be evaluated and considered by staff.

The method described by LADWP for multifuel facilities was previously submitted by LADWP during the Compliance Period 1 verification process. Upon evaluation of the specific request,

staff determined the method appropriate and applied it accordingly. Should LADWP have future requests to use an alternative measurement method, including one that differs from what was on the facility's original certification, it can submit the request in writing to the Energy Commission for consideration.

Incremental Generation (Facility Requirements)

In response to LADWP's written comment, the Energy Commission wants to clarify that the incremental generation from efficiency improvements made to a pumped storage hydroelectric facility that meets other RPS requirements is considered to be RPS eligible, consistent with Public Resources Code Section 25741, subdivision (a)(1) and the corresponding requirements specified in the *RPS Eligibility Guidebook*. The *Draft RPS Guidebook, Ninth Edition* addresses the requirements for pumped storage hydroelectric energy storage technologies. Improvements to pumping efficiency not related to electrical generation are not considered RPS eligible. Energy storage by itself is not considered renewable for any resource; however, as described in the *Draft RPS Guidebook, Ninth Edition*, storage can be used as an addition or enhancement to an RPS eligible facility.

The Energy Commission recognizes POUs are limited in their ability to use the FERC-approved pro rata approach to determine incremental generation of a hydroelectric facility. This federally-approved method was requested by an investor owned utility and approved by the Energy Commission as an additional option for calculating incremental generation based on the fact that it was a method reviewed and approved by FERC. Energy Commission staff are unable to perform the review and approval of a utility's proposed pro rata approach conducted by FERC, and as such, maintains that FERC approval of the approach is required.

LADWP requests additional information to be included to address how RECs would be calculated for hydroelectric facilities and generating units that are approved for RPS eligibility via an alternative measurement method. The Energy Commission already has an established process to allow applicants to submit alternative measurement methods to be evaluated and considered by staff. If an alternative measurement method is evaluated and approved by staff, they will work with the applicant of that alternative method to ensure they are aware of how generation and associated RECs will be calculated under that alternative method.

These points only respond to certain points made in LADWP's written comment. As was discussed during our January 12, 2017, meeting, these comments were precipitated by issues related to LADWP's Castaic pumped-storage hydroelectric plant. Staff and LADWP agreed that renewed conversations regarding the certification of this facility are warranted. Energy Commission staff offered to continue conversations aimed at assisting LADWP in certifying the Castaic power plant and look forward to working with LADWP on this issue.

Energy Storage

The Energy Commission recognizes that achieving the state's goal of 50% renewable energy by 2030 will require employing diverse strategies to integrate increasing levels of renewable energy onto the electrical generation system, including energy storage. As LADWP notes, the Draft RPS Guidebook, Ninth Edition advances the treatment of energy storage as part of the RPS program. This round of *RPS Eligibility Guidebook* updates did not contain a dedicated discussion of how the current requirements can be appropriately expanded, how different energy storage technologies should be treated, how electricity associated with a storage facility can be metered/tracked to ensure no generation is double-counted, and other considerations. Staff plans to address the expansion of energy storage in its next *RPS Eligibility Guidebook* update, with an initial scoping workshop scheduled for Summer 2017. This will allow for a more inclusive, consummate discussion of how the RPS program can appropriately enable grid integration strategies.

Common Carrier Pipeline Biomethane (Annual Facility Reports)

LADWP asserted that there are specific reporting requirements to common carrier pipeline biomethane that are either ambiguous or are impossible to fulfill. The proposed modifications staff has made to these requirements in the Draft RPS Guidebook, Ninth Edition, do not change the fundamental reporting requirements that have been previously established and met for facilities using common carrier pipeline biomethane. LADWP has successfully satisfied these requirements in the previous Compliance Period.

Requirement 5 was originally included to ensure staff has requisite information to ensure any common carrier pipeline biomethane that is stored is accounted for and can receive RPS credit if used by a certified facility the following year(s). Staff added additional language to requirement 5 in response to LADWP's July 25, 2016, comment that more clarity was required regarding the definition of energy storage. It appears that this additional language does not satisfy LADWP's original concern, so staff will remove the additional language. Staff is not inclined, at this time, to remove the requirement as no other stakeholder has expressed concerns with it and there has not been an opportunity for more robust discussion on agreed upon language to clarify the already-existing requirement. Requirement 6, which was a requirement of previous *RPS Eligibility Guidebooks*, ensures Energy Commission staff has the flexibility to request any additional information or documentation that may be needed in certain circumstances in order to prevent procurement claims from being found ineligible because of insufficient documentation.

Records and Audits

LADWP requests the CEC to "clarify that the audit provision on p. 85 of the draft guidebook do not apply to POUs." As Energy Commission staff clarified in our January 12, 2017, meeting, the audit provisions in the *RPS Eligibility Guidebook* have, and continue to apply to all "awardees," including POUs. Energy Commission staff do not feel it appropriate to set a deadline for

initiation and completion of an audit as requested by LADWP, as each potential situation may vary in its complexity, duration, and impact.

Revocation of RPS Certification

LADWP expressed concern that draft language in section 8.D.1 "implies that the RPS certifications for all facilities are constantly in jeopardy as the RPS eligibility guidebook is revised." In addition, LADWP stated that "facilities built and certified should remain so," and asked the Energy Commission to state that the revocation procedures for facilities engaged in fraud or misrepresentation do not apply to POUs.

As staff clarified during the January 12, 2017, meeting, if a facility no longer satisfies the eligibility requirements under the *RPS Eligibility Guidebook* in place when the certification was approved, RPS certification may be revoked. This applies to all facilities, regardless of ownership. Staff maintains that the option to revoke certification is required under certain circumstances, including fraud or misrepresentation and other circumstances, in order to maintain the integrity of the program.

Fraud and Misrepresentation

In the instance of suspected fraud or misrepresentation, the Energy Commission will follow basic principles of due process. As described during the January 12, 2017, meeting, the Executive Director may initiate an investigation if he/she has reason to believe the information provided for purposes of RPS certification or related reports was misstated, falsified, or misrepresented, and based on the results of that investigation may take appropriate action, including revoking a facility's RPS certification. The Energy Commission anticipates requesting the participation of affected entities in its investigations. Revocation of RPS certification will be based on whether the facility meets the requisite RPS eligibility requirements as determined by the Energy Commission.

RPS Online System

The Energy Commission recognizes LADWP's request to delay full implementation of the RPS online reporting system. As previously discussed, Energy Commission staff is not aware of any significant errors in the system that remains to be addressed and as such, feel the program is ready to transition to the RPS Online System. The robust public process that was followed to create and improve both the RPS Online System and to update the *RPS Eligibility Guidebook* engaged many stakeholders through several venues over the course of the past year. As a result, Energy Commission staff believes the process has resulted in a product that will ease reporting requirements for participants and position the RPS program to continue to serve as a model for other states.

Energy Commission staff look forward to continuing its relationship with LADWP as it works to meet the state's clean energy goals. As this letter serves to confirm the discussions that took place at our January 12, 2017, meeting, if you or your staff have any concerns or dispute

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anything in this letter, please notify me immediately. Also, if you or your staff has any questions regarding the RPS Online System, RPS program requirements, or other issues, please do not hesitate to contact me directly.

Best,



Courtney Smith
Deputy Director, Renewable Energy Division

cc: Pjoy Chua, Manager of Regulatory Standards and Compliance, LADWP
Robert P. Oglesby, Executive Director

11-28-20