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California Energy Commission
Docket Office, MS-4
RPS Processing
1516 Ninth Street
Sacramento, CA 95814-5512

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DOCKET	
02-REN-1038	
DATE	Nov. 02 2011
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Re: **Comments on Proposed Changes to the Renewable Portfolio Standard Eligibility Guidebook and the Overall Program Guidebook for the Renewable Energy Program (Docket No. 11-RPS-01 and Docket No. 02-REN-1038)**

Dear California Energy Commission:

Southern California Edison Company ("SCE") respectfully offers these comments on the California Energy Commission ("CEC") staff's proposed changes to the Renewables Portfolio Standard ("RPS") Eligibility Guidebook ("RPS Guidebook") and the Renewable Energy Program Overall Program Guidebook ("Overall Program Guidebook").

COMMENTS ON RPS GUIDEBOOK

First and foremost, SCE believes that the CEC's close collaboration with the California Public Utilities Commission ("CPUC") is essential to the implementation of the RPS and should continue with respect to crafting the proposed revisions to the RPS Guidebook. The CEC's staff's unilateral effort to incorporate SB 2 (1x)'s language into the revised RPS Guidebook, while clearly motivated by the best of intentions, is likely premature because many aspects of the program are still under deliberation and pending final decisions in other forums, including before the CPUC, and thus may create ambiguity in the implementation of the new RPS program.

Similarly, it is premature for the CEC to make changes to the "Glossary of Terms" given that many of the terms the CEC is attempting to introduce or redefine in the Overall Program Guidebook are concurrently under discussion and pending final decisions about how they will be incorporated into state policy in other policy forums. Accordingly, terms such as "California Balancing Authority Area," "Distributed Generation," "Distribution Network," and "Localized Electricity Generation Facility," should not be defined in the Overall Program Guidebook at this time, but instead should be introduced or modified after definitive policies are created. Introducing or redefining these terms that are currently under debate may result in the development of inconsistent policies regarding critical issues.

For the same reasons, SCE discourages the CEC from starting any initiative regarding the tracking of RPS products while this issue remains unresolved at the CPUC. Consequently, SCE

recommends the CEC coordinate future revisions to the RPS Guidebook with decisions being made at the CPUC in order to allow for a stable and consistent transition to the new RPS program.

Notwithstanding the above, SCE offers the following written comments on the proposed revisions to the RPS Guidebook dealing with the tracking of RPS-eligibility test energy, certification of RPS eligible facilities, the role of energy storage in the RPS program and the three issues raised in Attachment B of the public notice of the Staff Workshop on the Proposed Changes to the Renewables Portfolio Standard Eligibility Guidebook and the Overall Program Guidebook for the Renewable Energy Program (“Attachment B”).

A. Retail sellers should be allowed to continue to use the Interim Tracking System to ensure Californians receive maximum benefits from RPS-eligible facilities

As part of the RPS Guidebook revisions, the CEC states that beginning in 2011 the CEC will accept only retail sellers’ procurement claims for generation that are tracked in WREGIS and reported to the CEC using WREGIS compliance reports.¹ During the October 21, 2011 CEC staff workshop dealing with the revisions to the RPS Guidebook, the CEC staff stated that WREGIS accepts test energy up to 75 days prior to the date a facility is commercially operational and that the CEC will continue to count that energy as RPS eligible. This 75-day limit, however, is too restrictive and fails to give electricity providers the full credit of their contributions to the state’s renewable goals because there are renewable projects that deliver energy for upwards of two years before they reach commercial operation. And, many facilities are compensated pursuant to Power Purchase Agreements for the renewable attributes they produce before they reach commercial operation. All of their output should count toward the state’s RPS goals.

Moreover, the revised RPS Guidebook specifically states that generation produced after the eligibility date assigned by the CEC as part of the pre-certification and certification process and properly tracked in the WREGIS system *will be considered RPS-eligible* (except in the case of the Net Surplus Compensation program). Accordingly, electricity produced by a renewable electrical generation facility that obtains CEC RPS certification is RPS eligible. A technical limitation in WREGIS’ technical ability to track test energy should not preclude electricity providers from getting full RPS credit from eligible renewable electrical generation facilities.

In sum, all output of such generators, after initial synchronization, should be allowed to count toward the RPS. Given WREGIS’ limitation, the CEC should continue to allow retail sellers to use the Interim Tracking System (ITS) to report RPS-eligible energy not reported through WREGIS. Before transitioning from ITS to WREGIS, WREGIS should be enhanced to allow for the tracking of all RPS-eligible production between initial synchronization and commercial operation.

B. The renewables market needs certainty in the RPS-eligibility precertification and certification process

The revised RPS Guidebook introduces a new clause for certification that states that “All facilities must meet the eligibility requirements set forth in the edition of the *RPS Eligibility*

¹ Page 102.

Guidebook that is in place at the time the Energy Commission receives an application for certification, regardless of whether the facility had previously been awarded precertification status.” In question C of Attachment B, the CEC asks for public comments regarding whether there is a reasonable amount of time after a precertification is submitted that the facility should apply for certification and what version of the RPS Eligibility Guidebook should apply to the facility's application. SCE recommends that facilities be subject to the RPS Eligibility Guidebook in place at the time of the precertification application. Requiring facilities to adhere to new RPS-eligibility requirements put in place after they have already applied for RPS precertification creates unnecessary uncertainty for developers and retail sellers. Facilities should be governed by the precertification rules that were in place at the time of their application.

C. Issues related to energy storage are not and should not be a part of the process of RPS implementation

In the revised RPS Guidebook, the CEC introduces new issues related to energy storage under the section titled Outstanding Issues. Energy storage is an emerging and important issue and is being addressed in the CPUC's Energy Storage Order Instituting Rulemaking. Accordingly, energy storage issues should not be a part of this process for implementing the RPS.

RESPONSE TO QUESTIONS IN ATTACHMENT B

Set forth below are SCE's answers to the CEC's questions presented in Attachment B.

A. Multi-Fuel Facilities and the De Minimis Quantity of Nonrenewable Fuels

Please provide an amount of generation increase, in terms of a percent, that constitutes a significant amount of generation. Please explain why the selected percent should be considered significant.

AB 1954 allows the CEC to adjust upward, up to a maximum of five percent, the *de minimis* quantity of nonrenewable fuel used by eligible renewable energy resources if the facility can demonstrate that the use of nonrenewable fuel will not only significantly increase its generation, but also result in a reduction in its electrical output variability. Under the current RPS Guidebook, only facilities that participate in Existing Renewable Facilities Programs (“ERFP”) are eligible to use up to 5% of nonrenewable fuel in their production and still count 100 % of their output as RPS eligible, with some exceptions. Statutory law, however, does not limit eligibility for an increase in the *de minimis* quantity on a facility's participation in a customer funded program, such as ERFP. The revised RPS Guidebook should therefore be revised to clarify that eligibility for an increase in the *de minimis* quantity is not limited solely to facilities that participate in the ERFP. The revised RPS Guidebook should make clear that facilities participating in the existing ERFP, qualified facilities (“QFs”) certified under PURPA and FERC, as well as facilities that were awarded a renewable PPA as a result of the 2002/2003 interim RPS procurement solicitation are all entitled to use a different threshold for use of nonrenewable fuel.

In addition, given that other percentages apply to QF facilities, the CEC should also adopt clear regulations that define which percentage increase in the use of nonrenewable fuel applies to a QF facility that also participates in a program such as ERFP (*i.e.*, which percentage threshold takes

precedence, 5% or 25%?). Other questions should also be clearly addressed, such as what happens when a facility goes beyond the *de minimis* quantity (e.g., only the production from nonrenewable sources is ineligible) and how will significant increases in generation be measured for purposes of qualifying for a five percent use of nonrenewable fuel.

B. Repowering

1. Is 80 percent the appropriate minimum level of capital investment to qualify an existing plant as a “new” facility? Explain.

Repowering of facilities should be encouraged as long as requirements are in line with the intent of SB 2 (1x), which, among other things, is to encourage new development of RPS-eligible renewable energy resources. The language the CEC included in the revised RPS Guidebook provides clear guidance about the applicability of the repowering requirement.

SCE may, in this or other forums, seek to expand the definition of in-state facilities to include resources scheduled from eligible renewable energy resources into a CBA without substituting electricity from another source. Doing so will provide market participants with greater certainty with regards to eligibility requirements and product categorization.

2. Should capital expenditures be limited to a certain number of years? Explain.

The two year limit set in the current RPS Guidebook is a reasonable time limit for completing repowering capital investments.

3. What is the appropriate definition of “prime generating equipment” for each technology? Explain. Do the proposed definitions of prime generating equipment, and/or your suggested definitions, provide consistent replacement requirements for all technologies?

Prime generating equipment refers to any device that powers a generator. Consistent with that definition, the current RPS Guidebook, under section III., Subcategory C. accurately describes the definition of prime generation equipment for renewable resources.

4. Can the goals of repowering be achieved through efficiency and process improvements alone? If so, explain how.

The goals of repowering cannot be achieved solely through efficiency and process improvements because facilities repower only through the replacement of equipment.

C. Pre-certification

1. The Energy Commission is considering eliminating the option of pre-certifying a facility that is in development and not yet online. Please discuss what value you believe pre-certification status provides to individual facilities, utilities, or other stakeholders, and provide examples.

SCE has long relied on the precertification process as evidence that facilities under contract with SCE are RPS eligible. In fact, as part of its Power Purchase Agreements (“PPA”), under its development milestone requirements, SCE requires developers to provide proof of precertification. Developers use the precertification process as proof of RPS eligibility as they seek to secure financing for their projects. Precertification is also valuable in that it provides evidence of RPS eligibility for unproven technologies in the marketplace. With precertification, developers are encouraged to continue developing, testing and bringing new technologies to market. SCE encourages the CEC to continue offering the precertification process as it provides utilities and other stakeholders confidence that a project is RPS eligible.

2a. If the Energy Commission keeps the option of pre-certification, is there a reasonable amount of time after a pre-certification is submitted that the facility should apply for certification and that the same RPS Eligibility Guidebook should apply to the facility's application - after which the pre certification status would expire? Facilities would need to reapply for pre-certification and the RPS Eligibility Guidebook in place at that later time would apply. Please explain.

With regard to time limits to move from precertification to certification, the previous CEC-adopted time limitation of three years is a reasonable window to apply for RPS certification. Facilities should be subject to the RPS Eligibility Guidebook in place at the time of the precertification application. However, if the precertification status expires, facilities should be subject to the most current RPS Eligibility Guidebook in order to ensure alignment with changes in law.

2b. What milestone(s) should be met by a facility before an application for pre-certification will be accepted by the Energy Commission? For example, should an applicant be required to demonstrate that the facility has applied for permits or that permits have been approved, land or a loan for the land has been acquired, etc.? How should these milestones be demonstrated by the applicant?

Development milestones should not be part of the RPS precertification process because precertification is not a question of viability, but rather one of eligibility. Precertification should not be used to weed out projects, but should instead be used to provide evidence that a project and its technology are RPS eligible. Accordingly, SCE recommends that the CEC not impose any additional requirements for precertification than those already in place in the current RPS Guidebook.

CONCLUSION

For all the foregoing reasons, SCE urges the CEC to make the revisions suggested above to the proposed RPS Guidebook.

Very truly yours,

/s/ Manuel Alvarez

Manuel Alvarez

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