Union of Concerned Scientists
Citizens and Scientists for Environmental Solutions

November 2, 2011

California Energy Commission
Docket Office, MS-4
Docket No. 11-RPS-01 and Docket No. 02-REN-1038
1516 Ninth Street
Sacramento, CA 95814
(submitted via email to: docket@energy.state.ca.us and RPS33@energy.state.ca.us)

Re: RPS Proceeding

Docket Office:

Please find the enclosed comments from the Union of Concerned Scientists regarding the CEC's proposed changes to the Renewables Portfolio Standard Eligibility Guidebook.

If you have any trouble viewing this material, please contact me using the information listed below.

Sincerely,

Laura Wisland

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Comments of the Union of Concerned Scientists on the CEC's proposed changes to the Renewables Portfolio Standard Eligibility Guidebook

The Union of Concerned Scientists ("UCS") thanks the California Energy Commission ("CEC") for providing the opportunity to submit initial comments on its proposed changes to the Renewables Portfolio Standard Eligibility Guidebook ("RPS Guidebook draft changes").

Renewables Portfolio Standard Targets

On pages 15 and 16 of the RPS Guidebook draft changes, the CEC describes the new renewable energy investment requirements that were established by SB 2(1X) and are contained in § 399.15(b) and § 399.30(b) and (c) of the Public Utilities Code. The RPS Guidebook draft changes characterize the second and third compliance requirements for retail sellers in the following way: "For the second and third compliance periods through December 31, 2016, and December 31, 2020, the targets will equal 25 and 33 percent of retail sales, respectively."[1] The Guidebook similarly characterizes the same compliance requirements for the publicly-owned utilities ("POUs") in the following way: "For the second and third compliance periods through December 31, 2016, and December 31, 2020, the targets must equal 25 and 33 percent of retail sales, respectively."[2]

UCS wishes to clarify that the compliance requirements for the compliance periods January 1, 2014 through December 31, 2016 and January 1, 2017 through December 31, 2020 are not simply to meet 25 percent of retail sales with renewable energy by December 31, 2016 and 33 percent of retail sales by December 31, 2020. Instead, SB 2(1X) creates cumulative compliance requirements to be achieved over the course of each compliance period. Both § 399.15(b)(2)(B) and § 399.30(c)(2) require that each compliance period "*reflect reasonable progress in each compliance period in each of the intervening years* sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25 percent of retail sales by December 31, 2016 and 33 percent of retail sales by December 31, 2020."[3] In other words, the statute requires retail sellers and POUs to reach 25 percent renewables in 2016 and 33 percent renewables in 2020, in addition to making reasonable progress on procuring and delivering renewable energy in the intervening years between 2014 and 2020. A utility that makes no progress on renewable energy investments in intervening years is not making "reasonable progress" and should not be considered in compliance with the 33 percent RPS law.

[1] California Energy Commission, *Renewables Portfolio Standard Eligibility*, *Staff Draft Guidebook*, October 2011, pp.15-16.
[2] *Id*. at 17.
[3] Pub. Util. Code § 399.15(b)(2)(B) and § 399.30(c)(2). (emphasis added).

Cost Containment

In the section of the RPS Guidebook draft changes that describes additional RPS requirements for the POUs, the CEC characterizes the cost containment policy in the following way:

> The governing boards may also elect to set a limit for each POU on procurement expenditures for RPS-eligible generation. If a POU cannot procure enough renewable resources to meet RPS targets within this expenditure limit, or without exceeding a de minimis increase in rates, then the POU is not required to procure resources beyond what can be obtained within that limit.[4]

UCS believes that the CEC is interpreting the section of code that refers to a POU's ability to establish an RPS cost containment policy, which is § 399.30(d)(3): "Cost limitations for procurement expenditures consistent with subdivision (c) of Section 399.15."[5] There is nothing in § 399.30(d)(3) or the section it refers to – § 399.15(c) – that would allow a POU to refrain from procuring renewable energy to meet RPS compliance requirements simply because doing so would exceed a de minimis increase in rates.

Public Utilities Code § 399.15(f), which contains the statutory language describing what happens if an electrical corporation reaches its cost limitation, says the following:

> If the cost limitation for an electrical corporation is insufficient to support the projected costs of meeting the renewables portfolio standard procurement requirements, the electrical corporation may refrain from entering into new contracts or constructing facilities beyond the quantity that can be procured within the limitation, *unless* eligible renewable energy resources can be procured without exceeding a de minimis increase in rates, consistent with the long-term procurement plan established for the electrical corporation pursuant to Section 454.5.[6]

Even if the CEC was interpreting § 399.15(f) to also apply to POUs, the statute still does not allow a utility to refrain from procuring renewable energy to meet RPS compliance requirements simply because doing so would exceed a de minimis increase in rates. Instead, the statute says that an electrical corporation is required to procure renewable energy until it hits a cost limitation, unless such procurement can still be made without exceeding a de

[4] California Energy Commission, *Renewables Portfolio Standard Eligibility*, *Staff Draft Guidebook*, October 2011, p.17.
[5] Pub. Util. Code § 399.30(d)(3).
[6] Pub. Util. Code § 399.15(f). (emphasis added).

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minimis increase in rates, consistent with the expenditures approved in an approved long-term procurement plan. UCS requests that the CEC clarify that a POU may <u>not</u> refrain from procuring renewables simply because such procurement would exceed a de minimis increase in rates.

Conclusion
UCS thanks the CEC for the opportunity to submit these initial comments and looks forward to additional participation in this proceeding.

Sincerely,

Laura Wisland
Senior Energy Analyst