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**STATE OF CALIFORNIA
BEFORE THE CALIFORNIA ENERGY COMMISSION**

In the matter of:)	Docket No. 11-RPS-01
)	
Developing Regulations and Guidelines)	Docket No. 02-REN-1038
for the 33 Percent Renewable Portfolio)	
Standard)	RE: SMUD Comments on
)	Guideline Revisions for
and)	RPS Implementation and
)	Renewable Energy Program
Implementation of the Renewables)	
Investment Plan Legislation)	
<hr/>		November 10, 2011

**Comments of the Sacramento Municipal Utility District on
Proposed Changes to the
Renewables Portfolio Standard Guidebook, 4th Edition**

The Sacramento Municipal Utility District (SMUD) appreciates the opportunity to comment in this RPS Proceeding, 02-REN-1038 and 11-RPS-01, on proposed changes to the Renewables Portfolio Standard Guidebook, 4th Edition. SMUD has consistently and voluntarily followed the requirements in the various editions of the Renewables Portfolio Standard Guidebooks crafted by CEC staff, and commends the CEC staff on the development of this most recent draft. The proposed Renewables Portfolio Standard Eligibility, Staff Draft Guidebook, 5th Edition (Draft Guidebook) does an excellent job of incorporating the various legislative changes enacted since the last edition, and begins the task of adding modifications to reflect SB X1-2.

SMUD is a leader in the development and procurement of renewable power in California. Our governing board adopted a 33% by 2020 target in 2008, long before passage of SB X1-2 this year, which placed that target in law for all electric utilities. SMUD is the only large utility that met the previous 20% by 2010 goal with actual resource deliveries that meet the eligibility requirements of the current CEC RPS Eligibility Guidebook.¹

SMUD recommends that the proposed changes in the Draft Guidebook be modified as described below.

¹ Another 3.9% of SMUD's retail load participates in our green pricing program, outside of the RPS. Thus, the total amount of SMUD energy from renewable sources in 2010 is approximately 25%.

A. Separate Treatment of Distributed Generation in the Guidebook

Distributed Generation (DG) resources, which are now clearly eligible for the RPS, should not be described in a section of the RPS Guidebook meant to cover treatment of unbundled Renewable Energy Credits (RECs).

The RPS Guidebook discusses distributed generation as an “outstanding issue” and suggests that distributed generation is ineligible for the RPS until such time as the California Public Utilities Commission (CPUC) determines policy regarding Tradable RECs, or TRECs. The Draft Guidebook notes that policy action and recent legislation now necessitate modifications to the treatment of distributed generation and the treatment of unbundled RECs. The most important of these is the new 33% RPS with the enactment of SB X1-2, which clearly allows use of unbundled RECs subject to maximum percentage limits for new contracts, and establishes a clear preference for generation that is scheduled into the state (or located in the state), subject to minimum percentage requirements for new contracts. Contracts for resources signed before June 1, 2010 do not fall into either of these categories, but are grandfathered under SB X1-2 and must “count in full” for the 33% RPS. This law effectively supersedes much of the TREC policy adopted in a CPUC decision earlier this year, which would in itself have required eligibility guidebook changes.

With the CPUC’s decision in March 2010, authorizing the use of TRECs by IOUs for RPS compliance, and SB X1-2, distributed generation is now RPS eligible. It deserves its own section in the Guidebook, separate from the Unbundled Renewable Energy Credit section. For example, under SMUD’s 100 MW Feed-In Tariff (FIT), SMUD purchases bundled renewable energy from renewable DG facilities. SMUD envisions other instances of DG installations that involve bundled purchases of energy and RECs. SMUD purchases such renewable energy as a unit, and not as separate RECs and energy. Accordingly, these transactions should not be considered “unbundled.”

The June 2011 CPUC decision establishing a single rate for payment of excess generation from SB 1 systems also supports putting DG under a separate heading. If the CPUC has established a single rate for renewable energy from DG systems, and indicated that this represents a “bundled” purchase of RECs and energy, SMUD contends that such transactions should not be described in the “unbundled RECs” section.

To the extent that the Draft Guidebook describes the net surplus compensation transactions established by AB 920, the CEC should be careful to cover the POU obligations under this law, and not simply describe the CPUC processes. POUs were also obligated to establish net surplus compensation rates, and SMUD established our rate in January 2010. Footnote 9 on page 2 (and pages 2 and 3 in general) should include references to the POU procedures and should be updated to indicate that the CPUC has adopted an AB 920 rate, as indicated on page 67.

The Draft Guidebook revisions also incorrectly suggest on page 73 that only the RECs that are procured through net surplus compensation from these systems are RPS-eligible, and that the date when eligibility begins for RECs from these systems is the date in which the first net surplus compensation sales were made to a utility. In fact, all RECs from these systems should be RPS-eligible, not just RECs associated with net surplus generation. If need be, the CEC needs to find a viable way to distinguish between RECs that are bundled and those that are unbundled. For purposes of the RPS eligibility guidebook, SMUD would suggest that there is no necessity to make this distinction, as it is now the underlying resource that is RPS eligible, regardless of the TRECs status.

Finally, SMUD understands that there will be cases where in-state distributed generation is clearly “unbundled” from RECs, with the energy for example used on site and the RECs sold for the RPS. SMUD contends that should the next iteration of the Guidebook cover the categories established by SB X1-2, “unbundled RECs” from these in-state resources should not be considered “Category 3” resources under SB X1-2, as the underlying resources meet all the requirements of “Category 1”.

B. Keep Biomethane Policies Unchanged

The RPS Guidebook should not be changed to restrict eligibility of biomethane. In addition, if the RPS Guidebook is modified to discuss the portfolio content “categories” in SB X1-2, the RPS Guidebook should follow the rule that in-state generation belongs in Category 1, and use that treatment for in-state power plants that are fueled with biomethane, regardless of the source of the biomethane.

The Draft Guidebook contains no significant changes to biogas or biomethane eligibility, but signals that such changes are being considered. In September 2011, CEC staff held a workshop to discuss potential changes to the treatment of biomethane in the State’s RPS. As CEC staff and Commissioners consider stakeholder input to the question, SMUD reiterates its position that the eligibility of biomethane was not altered by the enactment of SB X1-2.

In 2010, SMUD’s biomethane use represented about 9% of our renewable resources. SMUD believes that biomethane is a highly efficient renewable resource, and plans to expand our use of biomethane. In the long-run, SMUD sees biomethane as critical to reducing our Greenhouse Gas (GHG) footprint to 10% of our 1990 levels, while maintaining sufficient local, dispatchable generation to provide reliable electrical service.

Biomethane use, as currently practiced, has many strategic benefits to California and to the State’s RPS policy. Biomethane use:

- Reduces GHG emissions by displacing natural gas and preventing methane releases;

- Reduces retail rates by maintaining the value of ratepayer investment in existing power plants and by using a lower cost renewable resource;
- Increases productive development and use of renewable resources;
- Creates local jobs by keeping local power plants operating and keeping electricity costs lower, which helps local businesses to prosper and add jobs; and
- Requires no new transmission or other grid infrastructure.

When biomethane is injected into the interstate gas pipeline system we know that it is safe, that it displaces natural gas, and that it provides GHG benefits. Under the current structure, the entity that purchases and injects biomethane into the pipeline, and designates where that biomethane is “used”, receives credit for its use. SMUD contends that this is the only viable way to recognize and provide an incentive for the development of out of state biomethane and achieve the benefits listed above. The CEC’s existing criteria for biomethane are adequate without modification.

C. Fully And Accurately Reflect SB X1-2

As mentioned by many at the staff workshop on October 21st, the new description of the provisions of SB X1-2 on pages 11, 12 and 15-18 of the Draft Guidebook does not accurately describe the new law. SMUD understands the value of having a description of the important underlying laws in the RPS Guidebook, and the difficulty of summarizing the provisions of the law in a simple and accurate manner. SMUD recommends that the RPS Guidebook simply refer to the law at a very high level, such as done on page 3. To the extent that more detailed descriptions are necessary for specific RPS Guidebook provisions, they can be included as paragraphs or footnotes in those sections. **SMUD would simply remove or vastly simplify the descriptions on pages 11, 12, 15, 16, 17, and 18 of the RPS Guidebook.** SMUD notes that much of the detailed description on these pages is informational, and has no direct impact on eligibility considerations that are the main topic of the RPS Guidebook. However, should the CEC determine that the level of detail in these sections is necessary, SMUD recommends the following changes:

- Page 11 should mention the POU Governing Board enforcement role, in addition to the CEC enforcement role and the requirement that POU Governing Board’s adopt procurement plans.
- Page 11 should include the phrase “... each of which independently justifies the program...” (from 399.11(b)) along with the list of benefits from the law that derive from the 33% RPS.
- Page 17 should correct the statement that POU Governing Board’s must adopt “... a procurement plan ...” by 1/1/2012. It is an “... enforcement plan ...” that the law requires by that date.

- Page 17 should not imply that the compliance obligation for the second and third compliance periods is 25% and 33%, respectively. The actual obligation in law is to achieve these targets by the end of the compliance periods, not for the periods overall.
- Page 17 should clearly indicate that it is POU governing boards that may adopt conditions for delaying timely compliance, similar to the treatment for banking excess procurement between compliance periods and establishing limits on procurement expenditures.

In addition, there is a reference on page 74 of the RPS Guidebook to conditions that must be satisfied by a POU to count electricity from a facility for the RPS even though the facility has not been certified as RPS-eligible. SMUD understands this section as primarily referencing the “grace period” provided to POUs as new obligated RPS entities under SB X1-2 to provide time until July 1, 2012 to get facilities RPS-certified as generally required for RPS eligibility. The second factor in this list states: “...The electricity generation occurred on or after January 1, 2011.” SMUD contends that this particular provision is not required by SB X1-2 and sees no need for this as a criterion for the “grace period” Hence, SMUD recommends that this provision be removed from the RPS Guidebook.

To the extent that this provision is intended to reflect a proposed limitation on the overall eligibility of pre-2011 generation, SMUD contends that such a limitation is not clearly supported by law, and that the CEC and POU Governing Boards have some discretion to determine how much and under what conditions pre-2011 generation may be “carried over” into the SB X1-2 33% RPS determinations. SMUD does not believe the Draft Guidebook should address this issue at this time.

D. Other Issues

SMUD requests other minor clarifications in the RPS Guidebook, as follows:

- Page 25 states that: “The biomethane must meet strict heat content and quality requirements within a narrow band of tolerance to qualify as pipeline quality gas.” SMUD agrees with this statement when applied to biomethane injected into the general natural gas pipelines in the state (or outside). However, SMUD believes that the CEC should clarify that this provision does not necessarily apply to biogas injected into a dedicated pipeline serving a specific power plant or set of power plants. In this special case, the biogas injected must meet quality requirements, but may not meet the heat content requirements referred to by the language.
- Page 66 states that a meter with an independently verified accuracy rating of 2% or higher is required for the RPS. SMUD contends that this level of meter accuracy is not required nor common for the smaller distributed systems now

eligible for the RPS and aggregated in WREGIS. A 5% meter accuracy rating should be continued for these systems.

- Page 73 includes a new statement about the requirement that all generation be tracked in WREGIS, and mentions the “grace period” exception proposed for POU’s in the RPS Guidebook. The language should read “...noted in this guidebook for **generation procured by** POU’s.”
- Page 75 contains a paragraph that refers to net surplus compensation generation eligibility constraints. SMUD believes that this paragraph should be removed, for two reasons. First, the proposed policy towards limiting the eligibility of net surplus compensation generators to only the “net-surplus” amount is not supported, in SMUD’s view, as explained earlier. Second, SMUD contends that the paragraph is misplaced, and should not be included in the “certification or precertification” section, which should assume eligibility has been adequately described in earlier sections and simply describe what is necessary for the logistical certification and precertification tasks. Eligibility language in this section is likely to lead to confusion and or discrepancies as the RPS Guidebook undergoes further revisions in the future.

E. Conclusion

SMUD appreciates the hard work of CEC staff in preparing the proposed changes to the RPS Guidebook and requests consideration of the revisions put forth in these comments. SMUD again urges CEC staff to work to not move distributed generation language into the “unbundled RECs” section, make no changes to the biomethane eligibility structures, and fully include needed changes pursuant to SB X1-2 as soon as possible to provide market certainty.

/s/

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cc: Corporate Files