

BEFORE THE CALIFORNIA ENERGY COMMISSION

In the Matter of:)
)
Developing Regulations and Guidelines for the) Docket No. 11-RPS-01
33 Percent Renewables Portfolio Standard) Docket No. 02-REN-1038
)

**COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND
POWER TO THE CALIFORNIA ENERGY COMMISSION'S NOTICE OF STAFF
WORKSHOP ON PROPOSED CHANGES TO THE RENEWABLE PORTFOLIO
STANDARD ELIGIBILITY GUIDEBOOK, 7TH EDITION**

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Pursuant to the procedures established by the California Energy Commission (Energy Commission, or CEC) in the Notice of Staff Workshop dated March 4, 2013, the Los Angeles Department of Water and Power (LADWP) respectfully submits these comments in response to the CEC's proposed changes to the Renewables Portfolio Standard (RPS) Eligibility Guidebook (Guidebook), 7th edition.

I. INTRODUCTION

The City of Los Angeles 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 Los Angeles, pursuant to the Los Angeles City Charter, whose governing structure includes the Mayor, fifteen member City Council, and a five-member Board of Water and Power Commissioners (Board). As the third largest electricity 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 and most of the Owens Valley. The transmission system serving the territory totals more than 3,600 miles that transports power from the Pacific Northwest, Utah, Wyoming, Arizona, Nevada, and California to Los Angeles.

California's most recent legislation for its RPS Program requires "each local publicly owned electric utility to procure a minimum quantity of electricity products from eligible renewable energy resources." Since LADWP is a local publicly owned electric utility (POU), it is required to comply with Senate Bill (SB) 2 (1X).

II. LADWP REMAINS COMMITTED TO ITS REGULATORY OBLIGATIONS

As a result of combined regulatory mandates for increased renewable energy, emissions performance standard on fossil fuel generation, energy efficiency, solar roofs, reduction in greenhouse gas (GHG) emissions, and the elimination of once-through cooling from coastal power plants, LADWP is facing a utility-wide transformation and making billions of dollars in investments on behalf of its ratepayers to replace about 70% of its resources over the next 17 years that it has relied upon for the last 50 years.

Prior to the enactment of SB 2 (1X), the City of Los Angeles was committed to the procurement of renewable energy as part of its long-term resource mix. On May 23, 2005, the Board adopted the LADWP RPS Policy that established the goal of increasing its renewable energy resources to 20 percent of its energy sales to retail customers by 2017, with an interim goal of 13 percent

by 2010. On April 11, 2007, the Board amended the LADWP RPS Policy by accelerating the goal of requiring 20 percent of energy sales to retail customers to be generated from renewable resources by December 31, 2010. In 2010, LADWP achieved its RPS goal of 20 percent renewables.

Per SB 2 (1X), LADWP has subsequently amended its RPS Policy to incorporate an Enforcement component and has proactively acquired renewable energy resources such as wind and solar facilities that meet the RPS guidelines established by the State of California. LADWP continues to implement renewable resources and is on track to meet the 33 percent renewables target by 2020.

III. BIOMETHANE IS ESSENTIAL FOR CALIFORNIA'S RPS

Biomethane continues to be one of the few renewable energy resources available that provides for both dispatch and baseload capability typically without using critical transmission capacity. Biomethane provides ancillary support to integrate other RPS resources (such as wind and solar) that have low capacity factor characteristics. By capturing biomethane for the use of electricity generation rather than releasing it into the atmosphere or flaring it, utilities are clearly reducing the net emissions and reduce the greenhouse gases being emitted.

Further, by injecting biomethane into the existing natural gas pipeline system, utilities are effectively offsetting the cost of building additional and unnecessary infrastructure to supply either natural gas or alternate renewable energy resources. It is important to LADWP that any rules and regulations developed for the implementation of SB 2 (1X) and AB 2196 stay true to the

intent of the legislation, create simple and effective verification requirements, respect the historic investments made by POUs under their self-regulated RPS Programs, and helps advance the goal of encouraging the development of renewable generation resources.

IV. COMMENTS

The LADWP would like to take this opportunity to thank CEC staff and Commissioners for their work on implementing both SB 2 (1X) and AB 2196 into the draft CEC RPS regulations and RPS Eligibility Guidebooks. LADWP's comments propose modifications to the RPS Eligibility Guidebook that emphasize the need to recognize those historical investments made by utilities in renewable technologies prior to the enactment of SB 2 (1X) and AB 2196. LADWP also desires to ensure that the CEC's Guidebook does not abrogate the authority of LADWP's governing board.

LADWP's comment (or lack of comment) on a specific topic should not be interpreted to mean that LADWP is agreeing to the CEC position in the Eligibility Guidebook on a particular topic. LADWP supports the comments being filed concurrently by the California Municipal Utilities Association (CMUA), the Southern California Public Power Authority (SCPPA), and the Sacramento Municipal Utility District (SMUD).

a. Need to Bifurcate the Eligibility Guidebook into Two Proceedings

LADWP appreciates that the CEC is attempting to address the implementation of AB 2196 as well as other outstanding issues in this iteration of

the Eligibility Guidebook. However, not enough time was provided to fully vet the entire Eligibility Guidebook. There is also a critical need to lift the ongoing biomethane suspension in order to prevent further delay of certifying biomethane resources. If this delay continues, there is a significant concern that these projects may cease to be viable.

The LADWP recommends that the CEC consider separating the proposed guidebook edits into two proceedings. One proceeding would concentrate on the revisions made by the implementation of AB 2196 and the other to address all other outstanding edits. This recommendation would allow the CEC to concentrate on AB 2196 implementation and formally submit a resolution to end the moratorium.

b. Applicable Rules Retroactively Penalizes POUs

LADWP disagrees with the staff proposal to retroactively apply the Third Edition RPS Eligibility Guidebook back to December 19, 2007 for biomethane resources. This proposal overlooks the grandfathering provisions in SB 2 (1X) Section 399.12 (e)(1)(C):

*"A facility approved by the governing board of a local publicly owned electric utility prior to June 1, 2010, for procurement to satisfy renewable energy procurement obligations pursuant to former Section 387 **shall be certified** as an eligible renewable energy resource by the Energy Commission pursuant to this article, if the facility is a renewable electrical generation facility as defined in section 25741 of the Public Resources Code."*

Applying the 3rd Edition RPS Guidebook to December 19, 2007 is inappropriate and unnecessary, as this interpretation would retroactively apply certification requirements upon renewable resources previously adopted by POU governing boards, under a different statute, prior to June 1, 2010. Further, SB 2

(1X) Section 399.16(d)(1) requires that “the renewable energy resources were eligible under the ‘rules in place’ as of the date when the contract was executed.” As previously emphasized by LADWP, the ‘rules in place’ before-June 1, 2010 are the POU’s adopted RPS Policy, not the CEC’s RPS Eligibility Guidebooks, as the POU’s were operating under a local self-regulated RPS Program. AB 2196 Section 399.12.6 (a)(1) states that biomethane resources reported to the CEC prior to March 29, 2012

“shall count toward the procurement requirements established under this article, 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...”

The ‘rules in place’ language is again utilized. This section includes the Guidebooks as a listed option for evaluating procurement based on the applicable rules at the time the contracts were executed and recognizes that the rules were different for POU’s and Investor-Owned Utilities (IOUs). Since POU’s were not governed under the CEC RPS Guidebook regime until the first compliance period of SB 2 (1X), the appropriate ‘rules in place’ for pre-June 1, 2010 procurement are the POU’s RPS Policy, adopted pursuant to former California Public Utilities Code Section 387 (Section 387), not the CEC’s RPS Eligibility Guidebooks.

Stated another way, prior to the enactment of SB 2 (1X), the POU’s RPS Policy was the law of the land with respect to POU’s, not the CEC Guidebooks. Section 387 was officially repealed on the effective date of SB 2 (1X). SB 2 (1X) provides for the grandfathering of renewable resources, which POU’s relied on under Section 387.

Therefore, the LADWP requests that the CEC staff modify the Guidebook rationale to incorporate the grandfathering provisions set forth in SB 2 (1X) Section 399.12 (e)(1)(C). LADWP recommends the following change:

- 06/01/2010 > **CONTRACT EXECUTION DATE**
 - Applicable “Rules In Place” = POU Governing Board Eligibility Rules
- 06/01/2010 ≤ **CONTRACT EXECUTION DATE** > 12/15/2010
 - Applicable “Rules In Place” = 3rd Edition RPS Eligibility Guidebook
- 12/15/2010 ≤ **CONTRACT EXECUTION DATE** > 03/29/2012
 - Applicable “Rules In Place” = 4th Edition RPS Eligibility Guidebook

c. Biomethane Certification Application Resubmittals

LADWP disagrees with the CEC requirement to resubmit biomethane certification applications:

“reapply using the new application forms associated with this seventh edition of the RPS Eligibility Guidebook to demonstrate that they acknowledge the new requirements, attest that they meet these new requirements and all applicable requirements in this guidebook, and provide any additional information that the Energy Commission’s staff may need to determine the electric generating facility’s eligible for the RPS.”¹

As emphasized above, the intent of this AB 2196 provision is to respect historic decisions made by the POUs prior to the enactment of both AB 2196 and SB 2 (1X). As such, since the old contracts met the ‘rules in place,’ there are no new statutory requirements applicable to the existing contracts.

¹ Staff Draft Renewables Portfolio Standard Eligibility Guidebook, Seventh Edition. California Energy Commission, Efficiency and Renewable Energy Division. Section II.C: Biomethane. Publication Number CEC-300-2013-005-ED7-SD

LADWP has four facilities that have been CEC pre-certified using biomethane contracts prior to March 29, 2012 and are pending certification due to the current suspension. As stated above, the applicable rules for contracts adopted prior to March 29, 2012 are the POU RPS Policies (if pre-June 1, 2010 procurement) or the 4th Edition RPS Guidebook. All information has been provided to the Energy Commission, and these contracts should be processed, as the requirements have, in fact, not changed for grandfathered resources.

d. Footnote 49 Is Inaccurate

LADWP believes that footnote 49 is inaccurate:

The eligibility requirements for the third and fourth editions of the RPS Eligibility Guidebook are largely the same with some additions to the fourth edition of the guidebook that were largely introduced as clarifications to the third edition guidebook.²

There was a fundamental change made between the third and the Fourth Edition Eligibility Guidebook regarding biomethane delivery requirements: Item 4 of the Pipeline Biomethane Delivery via Injection into a Natural Gas pipeline was added in the subsequent Eligibility Guidebook.

LADWP recommends that the CEC rewrite or remove this footnote, as it is false and misleading.

e. Adjustments to Existing Biomethane Procurement Contracts

As LADWP previously addressed in comments to the CEC, LADWP disagrees with the CEC's application of Section C.1.b, Adjustments to Existing Biomethane Procurement Contracts. Specifically, LADWP does not agree with

² Staff Draft Renewables Portfolio Standard Eligibility Guidebook, Seventh Edition. California Energy Commission, Efficiency and Renewable Energy Division. Footnote 49. Publication Number CEC-300-2013-005-ED7-SD

Electrical generation that is attributable to any quantities of biomethane delivered through a common carrier pipeline and associated with any of the following changes under the existing biomethane procurement contract will be considered RPS-eligible only if the biomethane procurement complies with requirements of Section 2: New Biomethane Procurement Contracts...

3. Any quantities of biomethane procurement from sources identified in the existing biomethane procurement contract, as originally executed and reported to the Energy Commission before March 29, 2012, that are specified as optional to the buyer in the contract, as determined by the Energy Commission. Quantities will be deemed optional if the buyer, through his or her initiation or election, can decide whether to accept the additional quantities of biomethane.
4. Any procurement of biomethane sources that were not identified in the existing biomethane contract, as originally executed and reported to the Energy Commission before March 29, 2012... The removal of a biomethane source cannot be replaced with a new source.³

These requirements penalize POUs who stayed true to the certification process prior to the effective date of AB 2196.

The CEC's guidance to POUs who submitted certification applications prior to the installment of the Biomethane Moratorium was to only list sources that were already in production and injecting biomethane: The CEC did not allow utilities to list sources that were not yet in production. Further, the CEC did not provide ample time between the Biomethane Suspension Notice (issued March 16, 2012), Comment Deadline (March 23, 2012) and the Business Meeting that effectively suspended certain biomethane eligibility criteria (March 28, 2012) to

³ Suspension of RPS Eligibility Guidelines Related to Biomethane, Corrected Resolution, California Energy Commission. Resolution No. 12-0328-3. Conditions of Suspension, Sections 5 through Section 7

provide the additional Precertification and Certification Applications for those additional sources.

As a general practice, it is common that a biomethane contract allows producers to add new sources in order to reach the stated contract supply limits or to make up the unforeseeable shortfalls from the existing sources. LADWP's existing biomethane contracts allow for the addition of biomethane sources to reach the million (MM) British Thermal Units (Btu) limits specified in the contracts (per day limit, contract length limit, etc.).

In order to allow producers to meet these contractual MMBtu limits, the LADWP requests that the CEC allow for new sources to be specified at a later date, and provide a reasonable grace period for utilities to submit additional information when those sources become available, which would specify sources that will be in production on or before April 1, 2014. This process will allow utilities to identify those additional sources that will be injecting biomethane before April 1, 2014 that utilities were not able to previously report in the original certification applications. This step, however, should not be a condition for CEC to delay granting of certification under the original applications as long as all other requirements are satisfied.

f. Distributed Solar Generation

LADWP's Solar Incentive Program (SIP) provides ratepayer-funded incentives for residential and commercial customers to install solar photovoltaic systems on their facilities. The SIP has been in existence for over 10 years, is in full compliance with SB 1 guidelines, and has successfully promoted the

installation of over 6,000 solar photovoltaic systems, totaling over 70 Megawatts of generation capacity. Two incentives are available, one for customers that desire to retain the REC value and a higher incentive for those customers that are willing to sell the REC's to LADWP.

i. Metering Requirement.

As currently written, the RPS Guidebook requires:

Applicants for a renewable facility that serves onsite load [t]o meet all RPS eligibly requirements, including, but not limited to, participation in WREGIS and reporting eligible generation based on a meter with an independent verified rating of 2 percent or higher accuracy.⁴

To align with this requirement, new meters will have to be installed to allow LADWP to verify the generation. However, this will be extremely onerous, costly, and grossly inefficient relative to the energy generated by the small-scale solar systems simply for accounting purposes. The estimated cost to meter, record and report monthly energy production for a typical 4 kW system producing about 400 to 800 kWh/month would be about \$10/MWh. This requirement is counterproductive to the program goal to promote distributed generation, and will add significant expense to the ratepayer-funded program.

Therefore, the LADWP requests that the CEC:

- Exempt small-scale solar photovoltaic projects from the use of WREGIS to track and report monthly generation of RECs based on a meter accuracy that was not the standard when the systems were installed; and

⁴ Staff Draft Renewables Portfolio Standard Eligibility Guidebook, Seventh Edition. California Energy Commission, Efficiency and Renewable Energy Division. Section III.F: Eligibility of Renewable Energy Credits for Distributed Generation Facilities and Onsite Load Publication Number CEC-300-2013-005-ED7-SD

- Have a project capacity threshold of 10 kW for the metering requirement.

The Energy Commission should allow utilities to report for these projects with expected performance data, which is based on the characteristics of the photovoltaic system (eg. size, location, orientation, tilt, shading, etc.). LADWP and other utilities with customer solar incentive programs have based incentive rebates on expected performance data for smaller systems for many years, and have found that these estimates are very close to actual energy output.

ii. Portfolio Content Category Treatment

As LADWP has commented in the past, LADWP's SIP installations meet the definition of an "Eligible Renewable Energy Resource" as well as the criteria set forth in PUC Section 399.16 (b)(1)(A), as these facilities are connected to distribution systems that serve end users within a California Balancing Authority.

On top of SB 1 incentives, LADWP's SIP participants were offered a premium by LADWP to retain any electricity products generated to use towards its RPS goals. Nearly all participants in LADWP's SIP program have elected to receive a premium in consideration for the energy with the RECs. Since these installations are already located within LADWP's distribution system, these installations should qualify as a renewable energy resource electricity product that meets the PCC under PUC 399.16(b)(1)(A).

g. Substitute Electricity Delivery Requirement

The current CEC interpretation for the delivery of substitute electricity is:

"Substitute electricity used to firm and shape the electricity from the RPS certified facility must be scheduled into the California balancing authority within the same calendar year as the electricity from the RPS-certified facility is generated."

This requirement is operationally infeasible. Several Firming and Shaping entities perform balancing in January and February for December energy, which conflicts with the CEC's Proposed Regulations. Further, SB 2 (1X) did not contemplate or specify a timeframe requirement for firming or shaping. A Calendar Year approach to substitute energy would effectively defeat the purpose of Firming and Shaping energy in the October- December timeframe. There is no statutory basis to preclude a rolling 12-month approach, whereas there is an existing operational need for this approach. Compliance with the RPS is judged on a compliance period basis: Energy generated in 2012 and substitute electricity delivered in 2013 would still count within the same compliance period. Therefore, in a practical sense, the restriction of a calendar-year delivery is unnecessary.

The LADWP requests that this restriction be removed or replaced with a "rolling 12-month" approach, where a POU would be required to schedule substitute energy within 12 months from the date the electricity is generated.

**h. PCC 1 Excess Generation Should Never Be Redirected to
Count as PCC 3**

The current CEC interpretation for PCC 1 procurement is that if a utility's actual renewable energy delivery is greater than the scheduled energy delivery, the excess electricity products generated will be placed in either PCC 2 or 3.

LADWP strongly believes that the excess renewable energy generated should, under no circumstance, count other than towards PCC 1, as this energy would still clearly be bundled and would still meet the definition of a PCC 1 resource.

For LADWP, the amount of times a specific renewable resource over generates is fairly common and can easily lead to premature saturation of PCC 3 before the end of a compliance period. The Power Purchase Agreements (PPA's) signed by LADWP typically require the utility to take all generation from the renewable project. Taking only the scheduled is not a discretionary action and most contracts were not negotiated and executed to allow different payments for scheduled versus actual energy. Further, this interpretation can inadvertently encourage utilities to overschedule, which can easily clog-up valuable transmission capacity.

Therefore, the LADWP asks the CEC to classify these electricity products under PCC 1, as these excess electricity products would still meet the interconnection and bundled product requirements of PCC 1.

i. Existing Hydroelectric Generating Units

LADWP would like to thank CEC staff for changing the eligibility date for small hydroelectric generating units with a nameplate capacity not exceeding 40 megawatts that is operated as part of a water supply or conveyance system (hydro units) to January 1, 2011. LADWP believes this change further brings the Eligibility Guidebook closer to being in alignment with the intent of SB 2 (1X).

i. Supplemental Documentation Not Required

LADWP is concerned with the additional documentation requirement added by the CEC for hydro units:

Additional documentation described below must be included with a complete application for RPS certification or precertification. An applicant must provide the following additional information to substantiate that the hydroelectric generation unit is operated as part of a water supply or conveyance system:

- Documentation showing the water supply and conveyance system was initially built solely for the distribution of water for agricultural, municipal, or industrial consumption and operated primarily for this purpose.⁵

This is a superfluous documentation requirement: The water supply permit will already illustrate to the CEC that the water supply or conveyance system was intended for the distribution of water. Further PUC Section 399.12 (e)(1)(a) does not require the utilities to prove that the water supply and conveyance system was *initially* built solely for the distribution of water for agricultural, municipal or industrial consumption: Statute only requires that the utility procure the resource as of December 31, 2005.

As such, LADWP recommends that the CEC remove this requirement from the Eligibility Guidebook requirements, as this is a superfluous requirement that is not supported by statute.

j. Energy Storage Systems

LADWP appreciates the CEC's effort to tee-up the issue of energy storage systems in this edition of the guidebook. Energy storage systems will become

^{5 5} Staff Draft Renewables Portfolio Standard Eligibility Guidebook, Seventh Edition. California Energy Commission, Efficiency and Renewable Energy Division. Section II.F.3: Existing Hydroelectric Generation Unit Operated as Part of a Water Supply or Conveyance System.

ever more important as more intermittent renewable resources are added to the grid. However, LADWP is concerned that unnecessary restrictions are being placed on facilities that offer cost-effective energy storage:

“Energy storage systems using pumped storage hydroelectric must meet the eligibility requirements for small hydroelectric facilities.”

LADWP disagrees with the above restriction. This restriction hinders the use of LADWP’s Castaic Pumped Storage Power Plant as a storage solution. The purpose of an energy storage system is to store energy already produced and deliver such energy at a different timeframe. If the energy input is from a renewable source, the output should also be considered renewable. The LADWP has invested hundreds of millions of dollars in developing renewable resources in the Mohave area and spent years developing a transmission line to bring renewable energy directly to the Castaic Pump Storage Power Plant. This transmission project is in the construction phase and this proposed provision will alter greatly the value of the ratepayer investments. It is recommended that as long as there is a mechanism in place to enable the renewable inputs to a pumped storage system are properly recorded and not double-counted; the RPS eligibility requirements should be satisfied.

k. Energy Commission Appeals

LADWP appreciates that the CEC has an appeals process in this Eligibility Guidebook. However, the 30-day documentation submittal requirement is onerous to utilities, especially given the complexity of the new Eligibility Guidebook rules. LADWP requests that the CEC change the 30-day requirement

to at least 90 days. This will provide ample time to gather supplemental supporting documentation for submittal.

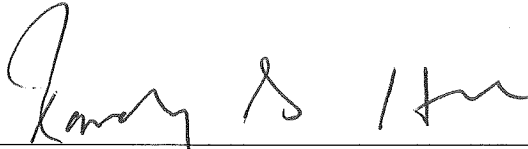
V. CONCLUSION

LADWP remains committed to reducing GHG emissions and transitioning to a greater usage of a renewable energy resource mix in a cost-effective manner while maintaining grid reliability. LADWP recommends that the CEC provide compliance certainty by grandfathering pre-June 1, 2010 contracts, avoid impacts to on-going in-state projects, and ensure that PCC criteria is applied appropriately to facilities. LADWP appreciates the opportunity to submit these comments and looks forward to working with CEC staff on this and other matter.

Dated March 25, 2013

Respectfully Submitted,

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