

**BEFORE THE CALIFORNIA ENERGY COMMISSION**

**In the matter of:  
Developing Regulations and Guidelines for  
the 33 Percent Renewables Portfolio  
Standard**

**Docket No. 11-RPS-01**

**NORTHERN CALIFORNIA POWER AGENCY COMMENTS ON THE SCOPE OF  
FUTURE EDITIONS OF THE RENEWABLES PORTFOLIO STANDARD  
ELIGIBILITY GUIDEBOOK**

The Northern California Power Agency (NCPA)<sup>1</sup> provides the following comments to the California Energy Commission (CEC or Commission) on the January 28, 2014 *RPS Guidebook Scoping Workshop*, pursuant to the direction set forth in the December 26, 2013 *Notice of Lead Commissioner Workshop to Scope a Future Edition of Renewables Portfolio Standard Eligibility Guidebook*.

The purpose of the workshop was to solicit comments from interested parties on topics for potential revisions to a future edition of the RPS Guidebook. NCPA supports this scoping process for determining issues to be taken up in future versions of the RPS Guidebook. Because of the evolving nature of the State's renewable portfolio standard (RPS) program, an annual review of issues implicated in the RPS Guidebook, and which can impact stakeholders and compliance entities, is warranted. NCPA submits these comments in response to matters raised during the January 28 Workshop in order to advise the scope of revisions that should be made to the RPS Guidebook this year.<sup>2</sup>

**Summary of Recommendations**

- The RPS Guidebook should be revised to clearly define procedures for the continued use of the Interim Tracking System under certain circumstances;

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<sup>1</sup> NCPA is a not-for-profit Joint Powers Agency, whose members include the cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, as well as the Bay Area Rapid Transit District, Port of Oakland, and the Truckee Donner Public Utility District, and whose Associate Member is the Plumas-Sierra Rural Electric Cooperative.

<sup>2</sup> NCPA does not address all of the issues discussed during the January 28 Workshop in these comments, but to the extent that issues not raised herein are included in the proposed Guidebook revisions, NCPA reserves the right to address them during the revision process.

- The RPS Guidebook should allow for a procedure to request retroactive creation of RECs through WREGIS;
- Changes in laws should NOT require recertification of RPS certified facilities;
- The RPS Guidebook should allow for all “hard copy” due dates to be determined by a “post mark,” rather than be received at the Commission;
- The RPS Guidebook should include an expanded definition of energy storage used for RPS compliance purposes.

**The RPS Guidebook Should Be Revised To Clearly Define Procedures For The Continued Use Of The Interim Tracking System Under Certain Circumstances.**

While the CEC is in the process of phasing-out the use of the Interim Tracking System (ITS) and using WREGIS for tracking all renewable energy credits (RECs), the current edition of the RPS Guidebook notes that POUs may use the ITS to report generation occurring through October 2012.<sup>3</sup> In order to transition from the ITS to WREGIS, POUs had to register their facilities with WREGIS. While this process should have been straightforward, especially since the facilities at issue were already RPS-certified by the Commission, some POUs encountered difficulties due to the extent to which third parties, counterparties, and balancing authority approvals and signatures were required as part of the process. Accordingly, between November 2012 and the present, there are a number of RECs that have not technically been “created” by WREGIS, since approval of the facility in the WREGIS system has been pending.

In order to avoid instances where the renewable energy certifications associated with these contracts and facilities are lost, the CEC should clarify that the ITS can be used to track this generation, until such time as the WREGIS approval is finalized and RECs are issued for the renewable generation. Failing to recognize the generation at issue creates an extreme hardship for the retail sellers who were not able to obtain the necessary WREGIS approvals prior to October 31, 2012 through no fault of their own. It is important to note that the use of the ITS would be consistent with the current tracking mechanisms, and would not require any additional forms or spreadsheets. This means that tracking the generation and confirming that the RECs are timely retired as required by law would not require new procedures. Furthermore, since the

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<sup>3</sup> RPS Guidebook, 7<sup>th</sup> Edition, p. 88.

facilities at issue are already RPS certified by the Commission, the Commission knows that the veracity of the generation is not disputed.

NCPA urges the Commission to include provisions in the RPS Guidebook that clarify that the ITS can be used beyond the October 2012 deadline set forth in the current RPS Guidebook. Making this change would not unduly burden the CEC, provides a fair and equitable solution for the adversely impacted entities, and ensures that the state is able to count and track all of the renewable energy credits.. This issue should be included in the scope of the RPS Guidebook revisions, and procedures for addressing these concerns should be clearly articulated in the next iteration of the RPS Guidebook. Given the magnitude of the potential adverse impacts associated with this issue, the RPS Guidebook should be revised as soon as practicable to include this issue.

### **The RPS Guidebook Should Allow for a Procedure to Request Retroactive Creation of RECs Through WREGIS**

As noted above, while going through the WREGIS registration process, some POU's encountered instances where approvals were delayed due to the need to obtain signatures and documentation from other parties. Despite the fact that the facilities that being registered in WREGIS were already RPS certified by this Commission, there was a great deal of additional paperwork and data that had to be provided to WREGIS. The result was a period of time during which no RECs were being created for renewable energy that was being generated. WREGIS has a process that allows the agency to go back and capture these RECs. Section 12.9 of the WREGIS Operating Rules provides:

#### **“12.9 Retroactive Creation of Certificates**

Retroactive creation of Certificates refers to the creation of Certificates for a past generation period for which WREGIS has no verified static data. This could occur when a Generating Unit registers in WREGIS in the middle of the year but is required to provide WREGIS Certificates for the entire year's production. It could also occur if a registered Generating Unit needs to provide Certificates for a generation period prior to the June 25, 2007 WREGIS Go Live date.

Automatic creation of retroactive Certificates is not part of the standard functionality of WREGIS. If creation of these Certificates is needed, this process will require action through the Change Control process. WREGIS will not have a time limit for which retroactive Certificate creation will be allowed, however, retroactive Certificate creation will only be allowed in WREGIS upon request from a state program or provincial program that requires retroactive Certificate creation. The length of time for which

retroactive Certificate creation will be allowed pursuant to such a state or provincial request will be dictated by the states or provinces that require it.

No Prior Period Adjustment will be allowed for the retroactive Certificates that were created, and retroactive Certificates cannot be created more than once for any single Generating Unit.”

This process would alleviate situations such as the one addressed above, but cannot be initiated by the facility owner, and therefore requires the Commission’s participation. The process requires the CEC – as the “state program” – to request the retroactive creation of the RECs. There are also fees and costs associated with the retroactive creation of RECs that must be reimbursed to WREGIS. NCPA believes that the scope of the next RPS Guidebook revision should include an analysis and discussion of the ways in which stakeholders can request that the Commission initiate the retroactive REC creation provisions for a California stakeholder, including ways in which the associated costs would be addressed.

### **Changes in Laws Should Not Require Recertification of RPS-Certified Facilities**

During the January 28 Workshop, Staff put forth several questions regarding the manner in which the Commission should treat already RPS-certified facilities in the event that there is a change in the state’s RPS laws or a revision to the RPS Guidebook. Specifically, the Commission asked the following:

1. Should the Energy Commission apply new RPS requirements retroactively to existing RPS-certified facilities and require them to recertify? Why or why not?
2. What would be the impacts on utilities and facility owners if RPS-certified facilities are required to recertify to meet new requirements?
3. If a facility’s eligibility is rescinded or revised due to a change in the RPS Guidebook or law, when should the change in the eligibility go into effect? When the law went into effect, upon adoption of the revised RPS Guidebook, or at some other time?
4. To implement such a requirement should RPS-certified facilities be required to periodically re-certify, or re-certify due to the adoption of a new guidebook or the close of an existing contract?

NCPA posits that the answer to the first question is an unequivocal “no” for several reasons, and that the Commission should look no further into when or how such a change would be implemented. Applying new standards to an already certified facility will adversely impact generators, delay the ability of retail sellers to achieve the mandated RPS levels, and cause

massive increases in the cost of renewable generation. First of all, the certification process itself can be lengthy. Regardless of the reasons for delays in certification, it results in renewable energy contracts commencing later than expected. Having to initiate a new certification process for a facility that has already been built and contracted-for based on a previously defined set of standards would likely result in a period of time during which the facility would not be delivering “eligible” electricity products while the new certification is pending. Such a result would adversely impact not only the contracting parties, but the retail seller’s electric ratepayers, as well.

Requiring recertification of facilities would also result in extensive market uncertainty – for both project developers and retail sellers. Project developers obtain financing to construct new facilities based on the ability of the facility to meet the then-current standards, and to provide the pre-defined eligible renewable products over a certain time period. Lenders will be leery of financing a project if there is uncertainty regarding how long that project may in fact retain its RPS-eligibility. Likewise, both the facility owner and the retail provider enter into power purchase agreements based on the ability of the facility to provide the agreed-upon renewable product. The current RPS structure that distinguishes between three different categories of renewable energy projects results in a vast price difference between Portfolio Content Category (PCC) 1 resources and PCC 3 resources. A power purchase agreement or contract to purchase from a facility that provides PPC 1 resources will be much more valuable; in the event that a change in the law makes that facility no longer PCC 1 eligible, the contract would be less valuable.

A change in the certification status of a facility would also have a deleterious impact on retail sellers’ resource planning. Compliance with the RPS minimum procurement requirements is based on planning for specified resources over an extended period of time. There must be certainty that long-term contracts from certified facilities will be able to deliver the specified resource for the duration of the contract. Concerns that the facility may have its certification revoked simply because a future whim determines that a different kind of resource or a more stringent requirement is favorable would undermine the certainty of the planning process. Even changes in certification requirements that do not impact the PCC of a renewable resource still

undermine the entire market by adding another layer of uncertainty that complicates compliance planning and increases the already significant cost of renewable energy contracts.

Renewable energy facilities that are already certified should be required to meet the standards under which they are certified for the life of the plant. After-the-fact changes in the law or RPS implementation protocols should not adversely impact these facilities. The RPS Guidebook should not include any revisions that would require re-certification of facilities based on changes in the law.

**The RPS Guidebook Should Allow for All “Hard Copy” Due Dates to be Determined by a “Post Mark,” Rather than be Received at the Commission.**

For all documents that must be submitted to the Commission in hard copy and via email, the RPS Guidebook should authorize timely receipt to be determined by the postmark on the document, rather than receipt of a hard-copy at the Commission’s offices. This should apply to all forms that require both email submission and a copy of the submission to be mailed to the Commission’s offices, as do many of the reporting forms referenced in Appendix B.<sup>4</sup> As long as an entity has emailed the required documents by the specified deadline, the Commission has timely received the necessary filings. Requiring that the hard-copy also be received by the due date reduces the amount of time that entities have to complete the forms without providing any real benefits to the Commission.

Making this change to the RPS Guidebook would not prejudice any other party or adversely impact the Commission. On the other hand, this change would allow reporting entities the full amount of time allotted to comply with the reporting requirements. NCPA encourages the Commission to include this change in the next RPS Guidebook revision, and to implement the change effective immediately.

**The RPS Guidebook Should Include An Expanded Definition Of Energy Storage Used For RPS Compliance Purposes.**

The current RPS Guidebook “recognizes the importance of storage technologies for renewable energy resources and recognizes that there are many different storage technologies

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<sup>4</sup> This revised deadline should apply to all the RPS compliance reports and forms, such as the CEC-RPS-1, CEC-RPS-2196, and CEC-RPS-Track.

and methods to store both renewable and nonrenewable energy.”<sup>5</sup> The RPS Guidebook also notes the broad range of energy storage technologies, and the fact that some of these technologies may be able to generate RPS eligible RECs.<sup>6</sup> NCPA supports the comments made during the January 28 Workshop by stakeholders that encouraged the Commission to look at more extensive ways to recognize energy storage technologies as RPS-eligible resources. Expanding the application of energy storage technologies in this manner will further accelerate the development of energy storage technologies that go beyond providing only GHG and grid management benefits, but also help to increase the implementation of RPS-energy and reduce the costs of those some resources. NCPA also supports the written comments submitted by the City of Redding regarding this issue.

### **Conclusion**

NCPA appreciates the opportunity to provide these comments to the Commission regarding the January 28 Workshop and the scope of potential revisions to the RPS Guidebook, and welcomes the opportunity to discuss any of the issues addressed herein directly with the CEC. Please do not hesitate to contact the undersigned or Scott Tomashefsky at 916-781-4291 or [scott.tomashefsky@ncpa.com](mailto:scott.tomashefsky@ncpa.com) with any questions.

Dated this 18<sup>th</sup> day of February, 2014.

Respectfully submitted,



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<sup>5</sup> RPS Guidebook, 7<sup>th</sup> Edition, p. 3.

<sup>6</sup> RPS Guidebook, 7<sup>th</sup> Edition, p. 64.