DOCKETED

Docket Number:	16-RPS-03
Project Title:	Amendments to Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities
TN #:	234566
Document Title:	SFPUC Comments on CEC 2nd 15-Day Comment Package
Description:	N/A
Filer:	System
Organization:	SFPUC/James Hendry
Submitter Role:	Public Agency
Submission Date:	9/2/2020 4:08:08 PM
Docketed Date:	9/2/2020

Comment Received From: James Hendry
Submitted On: 9/2/2020
Docket Number: 16-RPS-03

SFPUC Comments on CEC 2nd 15-Day Comment Package

Attached please find the comments of the San Francisco Public Utilities Commission on the CEC's 2nd 15-day comment package for the CEC's RPS rules for publicly-owned utilities.

In addition to the comments, there will be two attachments sent separately :
Attachment 1 -- LCFS Cost Benefit Analysis Table
Attachment 2 -- Recomended changes to Final Statement of Reasons

Additional submitted attachment is included below.

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September 2, 2020

California Energy Commission
Via e-mail

DOCKET: 16-RPS-03

Comments of the San Francisco Public Utilities Commission (SFPUC) on the California Energy Commission's (CEC's) 2nd 15-Day Comment Package for its Modification of Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities

RECOMMENDED CHANGE TO PROPOSED REGULATIONS: The CEC should clarify that a POU can participate in both the green tariff and LCFS programs without the need to "double retire" Renewable Energy Credits (RECs) and that this does not constitute a "monetization." Changes to the Final Statement of Reasons (FSOR) should be made as shown in Attachment 2.

Dear Sir/Madam:

The City and County of San Francisco (San Francisco), acting through the San Francisco Public Utilities Commission (SFPUC), remains strongly concerned over the continuing incorrect interpretation of the term "monetize" in the green tariff provisions of Public Utilities Code Section 399.30(c)(4). This incorrect interpretation "preclude[s] a POU from retiring RECs on behalf of the participating customer for both the RPS retail sales reduction and participation in CARB's Low Carbon Fuel Standard (LCFS) program.[1] According to the CEC staff's interpretation, in order for a customer of a publicly owned utility (POU) to participate in CARB's LCFS program, the POU would first have to retire Renewable Energy Credits (RECs) to meet the green tariff requirements and then retire a second REC to meet CARB's LCFS requirements. As discussed

[1] California Energy Commission Initial Statement of Reasons for the Modification of Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities, (hereinafter referred to as CEC RPS ISOR), p. 31.

extensively in the SFPUC's previous comments, this "double retirement" obligation";

- Is not supported by statute;
- Is inconsistently and arbitrarily applied by CEC staff compared to green tariff participation in other programs that provide comparable "monetization" of RECs., particularly voluntary participation in the CEC's Title 24 solar standards; and.
- Makes it uneconomic for customers to use a green tariff to participate in the California Air Resources Board's (CARB's) Low Carbon Fuel Standard (LCFS) program, which is inconsistent with CARB's recent 2018 rulemaking allowing green tariff participation to be used to document the provision GHG-free energy for electric transportation.

At risk under the CEC's proposed interpretation of Public Utilities Code Section 399.30(c)(4) is the ability of California to meet its GHG reduction goals from the transportation sector. The ability of a customer to voluntarily sign up and use a green tariff to fuel electric vehicles EVs and other transportation electrification as approved by CARB increases the amount of LCFS revenues they receive by about 40%[2]. This provides significant additional revenues to promote transportation electrification. CARB noted that this change "offers significant opportunity for Carbon Intensity reductions"[3], This increased revenue would be significantly reduced or perhaps even eliminated under the CEC staff's proposal.

As noted in previous SFPUC comments, a reduced incentive as proposed by the CEC staff will make it more difficult to achieve Governor Newsom's goal of putting five million electric vehicles (EVs) on the road by 2030,[4] as well as the CEC's own goals, identified in their Clean Transportation Program to help California eliminate its forecasted 81,000 shortfall in EV chargers[5], electrify California's mass transit buses,[6] and promote the development of hydrogen as a fuel source[7].

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[2] California Air Resources Board Initial Statement of Reasons for the Innovative Clean Transit Program (Appendix H – Low Carbon Fuel Standard Program and Examples.).

[3] CARB LCFS ISOR, p. EX-4.

[4] Governor's Executive Order B 48-18 to put 5 million EVs on the road by 2030 and 250,000 EV chargers to support them.

[5] California Energy Commission 2019-2020 Investment Plan Update for the Alternative and Renewable Fuel and Vehicle Technology (CEC-600-2018-005 CMF) adopted December 16, 2019, p. 48.

[6] CARB estimated that an electric bus would generate about $10,000/year in LCFS revenues, providing about 10% of the total lifetime cost of ownership. (Attachment B, Supplemental to

Each of the above points is discussed below.

The Proposed Definition of Monetization is not Supported by Statute

The relevant portion of Public Utilities Code Section 399.30(c)(4) regarding the green tariff provides that;

> Any renewable energy credits associated with electricity credited to a participating customer shall not be used for compliance with procurement requirements under this article, shall be retired on behalf of the participating customer, and shall not be further sold, transferred, or otherwise monetized for any purpose… (emphasis added)[8]

In reaching their conclusion that a green tariff customer's participation in the LCFS program is a "further monetization" the CEC staff misinterprets the statute in several ways.

As noted in our previous comments,

- Section 399.30(c)(4) states that RECs associated with a green tariff program are being "retired on behalf of the participating customer"[9]and "designated for the benefit of participating customers."[10] Thus this section clearly envisions that the customer is entitled to the corresponding benefits of green tariff participation such as use of the green tariff to participate in other programs such as the LCFS program, LEED certification, Title 24 solar standards, etc.
- This is consistent with the SFPUC's contention that it is the customer's participation in a green tariff program that provides financial value. The REC itself is not monetized, it only documents that the customer met the green tariff requirements.
- Even accepting the CEC's staff interpretation that the REC is being monetized, Section 399.30(c)(4) only prohibits RECs from being "otherwise" or "further" monetized".

Economic Impact Assessment in CARB's November 9, 2018 15-Day Comment packet for the Proposed Amendments to the Innovative Clean Transit Program.) These numbers appear conservative as they assume a LCFS credit price of $100, about ½ of 2019 prices. Providing an additional 40% LCFS benefit through use of a green tariff would further improve the economics of this conversion.

[7] The green tariff option would also be available for producing hydrogen as a transportation fuel.

[8] Public Utilities Code Section 399.30(c)(4).

[9] Public Utilities Code Section 399.30(c)(4)

[10] CEC Proposed Regulation Section 3204(b)(9)(b)(3).

- CEC staff has not identified what "initial" monetization of the REC has occurred, which is a necessary step in order for RECs to be "otherwise" or "further" monetized." [11] .
- A better interpretation of "further" or "otherwise monetized" is that a customer can use a green tariff to participate in only one other program, and that only any additional usage constitutes "double counting" (or "further monetization" as the CEC staff uses the term) and is prohibited, This is consistent with CARB's position in its LCFS rulemaking.[12]
- It is unclear if the prohibition against RECs being "further" or "otherwise" monetized is even applicable to the customer, but rather only applies to the POU. [13]

Based on the above analysis, the SFPUC can find no reason that green tariff participation in the LCFS program constitutes a "further monetization." This conclusion is further supported by the inability to clearly distinguish between the various types of economic benefits attributable to green tariff participation as discussed below.

The Proposed Regulation's Definition of "Monetized" Is Inconsistently and Arbitrarily Applied Between Customer Participation in Different Green Tariff Programs, Particularly the CEC's Title 24 Solar Standards;

As stated by the SFPUC in prior comments to the CEC in this rulemaking, and as supported by the CEC; s own regulations and reports;

> …There are significant financial benefits (i.e., monetization) available for a customer participating in a green tariff program. These include but are not limited to meeting new Title 24 building requirements, increased rents from buildings that are LEED certified, green marketing opportunities, and of course LCFS participation.
>
> …………
>
> Throughout this proceeding, the CEC has failed to distinguish why some of these activities (such as using a green tariff to meet Title 24

[12] CARB LCFS FSOR, p. 170. As the SFPUC noted; "Thus, a customer could use green tariff participation to meet either Title 24 standards or LCFS participation but not both.

[13] Comments of the City and County of San Francisco Public Utilities Commission (SFPUC) on the California Energy Commission's (CEC's) 15-Day Language Modification of Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities, p. 8.

> regulations) do not constitute monetization while others (such as LCFS participation) do. Underlying both programs are RECs that are being retired to support a green tariff program. There is neither documentation in the rulemaking nor statutory support to make these distinctions.
>
> Strictly applied, the CEC's interpretation would mean that all of these activities are not eligible, significantly hindering the fundamental goal of Section 399.30(c)(4) to increase green tariff participation.[14]

A review of the ISOR accompanying the proposed regulations fail to make these distinctions any clearer, and <u>actually support</u> the SFPUC's contention that green tariff participation in a LCFS program does not constitute "further monetization" as defined by the proposed regulations.

Among the myriad of programs that allow green tariff participants to receive monetary value, the ISOR only briefly discusses two of these programs – "the use of a community solar program pursuant to Title 24, Part 1, section 10-115, of the California Code of Regulations" and participation in the LCFS program, [15]

The ISOR then goes on to incorrectly conclude that the proposed definition of monetize "would not preclude participation in a community solar program" from being able to exclude these sales from calculation of its RPS obligation BUT DOES "preclude a POU from retiring RECs on behalf of the participating customer for both the RPS retail sales reduction and participation in CARB's Low Carbon Fuel Standard (LCFS) program…"[16]

A review of the ISOR's conclusions, however, show that both programs are substantially similar, and on the crux of the issue of monetization are almost identical in their outcomes.

First, participation in a green tariff for the LCFS program or a community solar program is voluntary.

Second, both programs meet the exclusion requirements of Public Utilities Code Section 399.30(c)(4). Although the term "green tariff" has been used generically throughout this proceeding, the actual language of this code section applies to "voluntary green pricing or shared renewable generation program[s]."

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[14] Ibid., p. 8.
[15] CEC POU RPS Isotropy. 31.
[16] CEC POU RPS ISOR, p. 31

Third, although both programs are voluntary, they can also be used as alternative means to meet an otherwise mandatory compliance obligation. This reduces cost thus providing financial value to the customer. Under the CEC's Title 24 requirements for new buildings, new residences must either install roof-top solar or as an alternative participate in a "community shared solar electric generation system."[17] For the LCFS program, use of a green tariff provides a similar voluntary option to meet the program requirements.

In an attempt to distinguish why community solar participation qualifies for the exclusion from retail sales under Public Utilities Code Section 399.30(c)(4) while the LCFS program does not, the ISOR offers the following differences, none of which are either convincing or unique solely to the community solar program,

First, the ISOR claims that "RECs retired for purposes of the current LCFS are used to substantiate claims of low-carbon electricity." However, an almost identical requirement exists for the Title 24 community solar program. In February, 2020 the CEC, in Resolution 20-0220-11[18] approved SMUD's "Neighborhood Solar Shares" program as meeting the Title 24 requirements for a shared solar program. One of the requirements of this approval was that;

> SMUD will track and retire bundled (Product Content Category 1) RECs associated with allocated generation on behalf of the participating home in specific WREGIS subaccounts…
>
> [and]
>
> Create PCC1 RECs for the program resources based on the metered data and transfer the bundled RECs that correspond to the total amount of annual Solar Shares generation allocated to participating homes, and transfer those RECs to a Neighborhood Solar Shares retirement account each year, thereby ensuring that the PCC1 RECs cannot be used for any other purpose. [19]

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[17] 2019 Energy Efficiency Building Standards (Title 24 Part 1, section 10-115, of the California Code of Regulations)

[18] RESOLUTION APPROVING REVISED APPLICATION FROM THE SACRAMENTO MUNICIPAL UTILITY DISTRICT (SMUD) TO ADMINISTER A COMMUNITY SHARED SOLAR ELECTRIC GENERATION SYSTEM PROGRAM adopted February 20, 2020.

[19] SMUD's Community Shared Solar Electric Generation System Application (Neighborhood Solar Shares Program) filed with the CEC in December, 2019, p. 23-24.

Second, the ISOR claims that for the LCFS program these sales "factor into the determination of LCFS credits…"[20]. This requirement is almost identical to the comparable Title 24 community solar requirement to document that;

> The community shared solar electric generation system…shall provide energy saving benefits directly to the building that would otherwise have been required to have an on-site solar electric generation system and/or battery storage system.[21]

Finally, the ISOR concludes that the for the LCFS program, but not for the community solar program, the above activities "have a monetary value accrued to a specific entity and represent a further monetization of retired RECs."[22]

Once again, there is no difference between the LCFS and Title 24 community solar programs. As noted above, for the community solar program the RECs are specifically retired into WREGIS accounts specifically designated to prove compliance. These retired RECs in turn provide "monetary value": to the community solar participant.

The proposed regulations define "monetized" as;

> …To earn revenue <u>or financial value</u> from the RECs that are retired in a WREGIS subaccount designated for the benefit of participating customers…[23]

As recognized by the CEC itself, a customer using a community solar program as an alternative to installing roof-top solar receives "financial value" in at least two different ways.

First, are the reduced costs and hence financial savings a customer receives by avoiding the cost of installing more expensive roof-top solar. As the CEC states;

> Importantly, the 2019 Standards allow community-scale PV as an alternative renewable resource to onsite PV systems, when approved by the Energy Commission. Community-scale PV systems can range

[20] CEC POU RPS ISOR, p. 31.
[21] 2019 Energy Efficiency Building Standards (Title 24 Part 1, section 10-115(a)(3) and (6), of the California Code of Regulations
[22] CEC POU RPS ISOR, p. 31.
[23] Proposed Section 3204(b)(9)(B)(3)(i).

> from a few kW to a few MW. The equipment costs for these systems are even lower than rooftop, in the $2-per-watt range."[24]

Secondly, and more importantly, in order for the CEC to approve any community solar program as an alternative to the installation of roof-top solar, the CEC must specifically find under the Title 24 requirements (as it did for SMUD's application)[25] that:

> The reduction in the building's energy bill resulting from A, B, or C above[26] shall be greater than the added cost to the building resulting from the building's share in the community shared solar or battery system.[27]

Once again this is a clear "financial value" that "accrues to a specific entity" In this case the homeowner.

In adopting SMUD's community solar program as meeting the Title 24 requirements, the CEC did not require SMUD to "double retire" RECs, once to meet the green tariff requirements and once more to meet the Title 24 requirements.[28] Instead the CEC specifically allowed SMUD to exclude the green tariff sales to support these programs from their otherwise applicable RPS requirement as allowed under Public Utilities Code Section 399.30(c)(4). The identical treatment should be available for LCFS participation as the ISOR fails to identify any substantive difference between the two programs.

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[24] CEC Frequently Asked Questions 2019 Building Energy Efficiency Standards, emphasis added.

[25] RESOLUTION APPROVING REVISED APPLICATION FROM THE SACRAMENTO MUNICIPAL UTILITY DISTRICT (SMUD) TO ADMINISTER A COMMUNITY SHARED SOLAR ELECTRIC GENERATION SYSTEM PROGRAM adopted February 20, 2020, p. 2

[26] These refer to the metrics used to determine savings (i.e. financial value) to the customer.

[27] 2019 Energy Efficiency Building Standards (Title 24 Part 1, section 10-115(a)(3) and (6), of the California Code of Regulations)

[28] As SMUD stated in its application approved by the CEC: "SMUD expects to subtract the Solar Shares generation allocated to participating homes in the Neighborhood Solar Shares program, to the extent that generation meets the requirements of Public Utilities Code Section 399.30(c)(4) and Commission RPS regulations, from SMUD's general retail sales prior to calculation of SMUD's obligation in the RPS program, to avoid double procurement of renewable generation."(SMUD's Community Shared Solar Electric Generation System Application p. 24 emphasis added.

<u>The CEC's proposed "Double Retirement" Requirement for LCFS Participation Makes the Program Uneconomic for Green Tariff Customers</u>

As previously noted by the SFPUC, the requirement that there be a "double retirement" of RECs for a green tariff customer to participate in the LCFS program is inconsistent with CARB's lengthy and recently completed 2018 rulemaking to encourage green tariff participation because it would make it uneconomic for a green tariff customer to participate in the LCFS program.

In order to document the economic effect of the CEC's proposed interpretation would have on LCFS participation by green tariff customers, SFPUC staff provided CEC staff with the following economic analysis of green tariff participation (Attachment A) and is submitting it here for inclusion into the record for this proceeding.

This analysis compares the cost and benefits of a customer using an assumed 100 MWh per year of energy to power an electric vehicle (EV) or other electric transportation usage under three different scenarios;[29]

- A "baseline" scenario where a customer does not use a green tariff program;
- A scenario where a customer can use a green tariff to participate in the LCFS program (this is the SFPUC's interpretation of Public Utilities Code Section 399.30(c)(4)); and
- A scenario using CEC staff's interpretation of the statute that a green tariff customer would need to "double retire" RECs, one for green tariff participation and a second REC for LCFS participation.

<u>The Baseline Scenario (Standard POU Tariff)</u>

Under CARB; s LCFS regulations, eligible customers can participate in the LCFS program using a POU's standard tariff available to all customers. Based on current conditions, a customer using 100 MWh of energy to power an electric vehicle (EV) or other electric transportation usage would receive about $5,000 in LCFS credits (25 credits @ $200) or about $50/MWh. For each 100 MWh of energy provided to the customer the POU would have to provide 33 MWh of RECs based on the CEC's 2020 "soft target" for RPS compliance. For purposes of this analysis this is the "baseline."

[29] As shown in Attachment 1, these scenarios use current prices for PCC1 RECs and LCFS credits. The amount of LCFS credit generation for the baseline and green tariff participation is based on SFPUC staff's experience with the LCFS program.

Use of a Green Tariff in the LCFS program (no double retirement)

In order to promote electric transportation, CARB determined in its 2018 rulemaking to allow customers to receive enhanced LCFS credit by using green tariff zero-GHG energy to power their EVs. This would increase the amount of LCFS credits customers receive by about 40%[30].. For the 100 MWh example used here, this would mean a customer would now receive 35 LCFS credits@ $200/each or $7,000. This is an incremental gain of $2,000 to the customer.

Offsetting this gain, however, would be the increased cost the customer would have to pay the POU for the POU's increased cost of providing a green tariff.

Under the SFPUC's interpretation of the green tariff provisions, and using the same logic applied by the CEC regarding shared solar programs under Title 24, a POU would have to provide 100 MWh of RECs to the customer, 67 MWh more than the otherwise applicable "soft target" of 33 RECs. At a current price of $15/MWh, the POU would have to charge the customer an additional $1,005[31] to meet this increased cost or about $10/MWh. This is comparable to the green tariff premium charged by many utilities.

Under this interpretation, there remains a $905 benefit to the customer from participating in the LCFS program even after the POU recovers the increased cost of the green tariff. There are also significant environmental benefits including;

- A cleaner electric grid: As participation in a green tariff program is voluntary, there are an additional 67 MWh of in-state/directly delivered renewable energy (PCC1) provided to the grid for each 100 MWh used. This displaces between 15 to 29 tons of GHG emissions (depending upon whether average or marginal emission rates are used.)[32]
- $905 in additional revenue to the customer which under CARB regulations must be re-invested into further electric transportation development.

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[30] California Air Resources Board Initial Statement of Reasons for the Innovative Clean Transit Program (Appendix H – Low Carbon Fuel Standard Program and Examples.).
[31] 67 RECs X $15 = $1,005.
[32] Using CARB's marginal GHG emission rate of 941 lb./MWh results in 28.7 metric tons of GHG being replaced from the electric system. Using an average emission rate (500 lb./MWh0 results in a 15 ton reduction.

Use of a Green Tariff in the LCFS program (double REC retirement) required per CEC staff interpretation of statute

In contrast, all of these benefits would be lost under the CEC staff's proposed double retirement obligation. Under CEC staff's proposed amendments, in order for a POU customer to use a green tariff to participate in the LCFS, a POU would now have to retire 200 RECs for each 100 MWh of green tariff energy. This would be 100 MWh of RECs to meet the green tariff obligation, and an additional 100 MWh of RECs to meet the LCFS obligation. This is 167 MWh of RECs above the otherwise applicable soft target of 33 MWh of RECs.

At a cost of $15 per REC, this means the POU would have to charge the customer an additional $2,505 for green tariff participation.[33], This is greater than the $2,000 in incremental revenue the customer would receive making it uneconomic for the customer to participate and eliminating all of the above environmental benefits.

Conclusion

It is vitally important that California achieve its electric transportation and GHG-reduction goals. The SFPUC is hopeful that the CEC can resolve its interpretations of Public Utilities Code Section 399.30(c)(4) so that California, the CEC, and the SFPUC achieve these goals.

Please feel free to contact me if necessary at jhendry@sfwater.org or at (415) 554-1526 [office] or more quickly at (415) 867-9596 [cell].

Thank you for your consideration.

Sincerely,

JAMES HENDRY

ATTACHMENT 1: LCFS Cost Benefit Analysis Table
ATTACHMENT 2 – SFPUC Recommended Changes to FSOR

[33] 167 RECs X $15 = $2,505