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*Comment Received From: Barbara Hale
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SFPUC Comments on last 15-day Package

Attached please find the comments of the San Francisco Public Utilities Commission in the CEC's POU RPS proceeding.

Additional submitted attachment is included below.



December 16, 2020

David Hochschild, Chair
 California Energy Commission
 Via e-mail

RE: Green Tariff Definition in Proposed RPS Regulations for Publicly Owned Utilities Will Hinder Achievement of California’s Electric Vehicle (EV) Goals

(December 22, 2020 Business Meeting, Docket 16-RPS-03)

Dear Commissioner Hochschild:

At your December 22nd Business Meeting, you will be considering the adoption of revised Renewable Portfolio Standard (RPS) regulations for California’s publicly-owned utilities (POUs). Unless changed, staff’s current interpretation of the green tariff provisions will significantly reduce the ability of EV customers to use a green tariff to document they are using greenhouse gas (GHG) free energy to power their EVs. This interpretation reduces by 40% the amount of Low Carbon Fuel Standard (LCFS) credits an EV customer can receive – a significant change for customers and POUs alike. This interpretation contradicts the California Air Resources Board’s goal to expand, not limit, the use of green tariffs to promote LCFS development, reduces the amount of funds available for developing EVs, and will make it harder to achieve Governor Newsom’s recent Executive Order N-79-20 to have 100 percent of new car sales be electric by 2035.

We are requesting that this interpretation of the green tariff be corrected in the Final Statement of Reasons (FSOR) accompanying the regulations and have attached proposed language to accomplish this. As this change would be made to the FSOR, and not the regulations themselves, the CEC plan to adopt the POU RPS regulations at its December 22nd meeting is not impacted.

At issue is the implementation of the green tariff provisions of Public Utilities (PU) Code Section 399.30(c)(4) that allow POUs to exclude green tariff sales from the calculation of their RPS compliance obligations.

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Effect of Proposed Green Tariff Language on EV Development

In its 2018 modifications to the LCFS program, the California Air Resources Board changed its regulations to incentivize EV customers to use green tariff participation as a simple and efficient way to document the use of GHG-free energy to power electric vehicles, increasing the amount of LCFS credit a customer can receive by 40 percent while also further reducing GHG emissions from the electric grid.

Unfortunately, CEC staff is now proposing that green tariff sales to a LCFS participant cannot be excluded from determining a POU's RPS obligation.¹ This means that in order to participate in a green tariff program, a LCFS participant would have to "double retire" renewable energy credits (RECs), one REC to meet LCFS requirements and a second REC to meet green tariff requirements.

This "double retirement" obligation was not envisioned when CARB developed its regulation and significantly increases both the cost of LCFS participation and reduces the amount of LCFS funding available for further electric transportation development.² For San Francisco's public transit system (MUNI) alone, it will reduce the benefits of LCFS participation by \$1 million/year on top of the already significant revenue reductions due to the pandemic.³

As noted in the CEC's 2020-2023 Investment Plan, CARB's LCFS program is a primary funding source for transportation-related GHG-reductions and frees up CEC funding for longer-term investments such as reducing the estimated 66,000 shortfall in electric vehicle (EV) chargers, school bus and mass transit electrification, and development of a hydrogen refueling infrastructure.⁴

Staff's interpretation that RECs must be "double retired" for LCFS participation in a green tariff is based on an incorrect interpretation of the phrase "otherwise monetized" in Public Utilities Code 399.30(c)(4). This interpretation is not supported by statute,⁵ and if strictly implemented would mean that a customer's use of green tariff participation for any program (such as LEED certification,

¹ Initial Statement of Reasons, p. 31.

² As noted in the SFPUC's Comments on the 2nd 15-Day Package (Sept. 2, 2020, Attachment 1) for a 100 MWh LCFS customer, the increased cost of "double retiring" RECs changes a green tariff customer's benefit of participating in the LCFS program from a net gain of \$9/MWh to a loss of \$5/MWh negating any incentive to participate.

³ 60,000 MWh multiplied by the incremental cost of \$15-17 per REC.

⁴ California Energy Commission 2020-2023 Investment Plan Update for the Clean Transportation Program, November 2020, p. 6. 28, 60.

⁵ Attachment 2 to this letter provides a summary of the comments filed by the SFPUC in this proceeding on the incorrect interpretation of this statute.

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Title 24 compliance, or green marketing) that provides “financial value”⁶ to the customer should also be prohibited.

Accordingly, we hope that you will ensure that the FSOR recognizes the importance of the green tariff in achieving California’s electric transportation goals.

We are happy to discuss this further with you. Please feel free to contact me at (415) 613-6341 or at bhale@sfwater.org.

Sincerely,



Barbara Hale
Assistant General Manager, Power

c: Commissioners
Natalie Lee, CEC Renewable Programs

ATTACHMENTS:

Necessary Changes to Initial Statement of Reasons
The Proposed Definition of Monetization is not Supported by Statute

⁶ The staff proposal states that any use of a green tariff provision that provides “financial value” constitutes a “monetization” of the REC used as part of the green tariff. (Proposed Section 3204(b)(9)(B)(3)(i)).

ATTACHMENT 1

NECESSARY CHANGES TO THE FINAL STATEMENT OF REASONS

Change page 31 of the Initial Statement of Reasons to read:

Section 3204 (b)(9)(B)(3)(i) – This subdivision was added to clarify the definition of “monetized” for purposes of this RPS retail sales reduction and is based on the plain meaning of “monetize.” This definition does not preclude the use of the RECs retired on behalf of participating customers in CARB’s Voluntary Renewable Electricity Program, as the program currently exists, to substantiate emissions reductions claims on behalf of those customers. This definition also would not preclude participation in either a community solar program pursuant to Title 24, Part 1, section 10-115, of the California Code of Regulations or the California Air Resources Board’s Low Carbon Fuel Standard program pursuant to Title 17, Division 3, Chapter 1, Subchapter 10, Article 4, Subarticle 7 of the California Code of Regulations as the regulations currently exist, assuming all other requirements are satisfied. ~~This definition would 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, as it currently exists. RECs retired for purposes of the current LCFS are used to substantiate claims of low-carbon electricity and factor into the determination of LCFS credits, which have a monetary value accrued to a specific entity and represent a further monetization of retired RECs.~~ This addition is necessary to clarify and provide guidance to POUs on how the CEC will interpret “monetized” when assessing a POU’s procurement actions to reduce its retail sales.

ATTACHMENT 2

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)

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.

- Section 399.30(c)(4) states that RECs associated with a green tariff program are "retired on behalf of the participating customer" and "designated for the benefit of participating customers." This section clearly envisions that the customer is entitled to the corresponding benefits of green tariff participation for use 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.
- 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.
- 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 a "further monetization" (as the CEC staff uses the term) and is prohibited. This is consistent with CARB's position in its LCFS rulemaking.
- 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.

Effect of Proposed Green Tariff Language on EV Development

- Strictly interpreted, use of a green tariff program to document a customer's renewable energy use for any other program (e.g. LEED certification, green marketing, Title 24 compliance) would be prohibited.