

DOCKETED	
Docket Number:	21-RPS-02
Project Title:	Renewables Portfolio Standard 10th Edition Guidebook Update
TN #:	261246
Document Title:	Joint CCA Comments on the Proposed Scope of the Draft RPS Eligibility Guidebook, 10th Edition
Description:	Joint Community Choice Aggregators (San Diego Community Power, Peninsula Clean Energy, Orange County Power Authority, Silicon Valley Clean Energy, the City of San José, administrator of San José Clean Energy, Clean Power Alliance, and Marin Clean Energy) comments on the Proposed Scope of the Draft Renewables Portfolio Standard Eligibility Guidebook, Tenth Edition.
Filer:	Stephen Gunther
Organization:	San Diego Community Power
Submitter Role:	Public Agency
Submission Date:	1/22/2025 4:24:55 PM
Docketed Date:	1/22/2025

January 22, 2025

California Energy Commission
Docket Unit, MS-4
Docket No. 21-RPS-02
715 P Street

Sacramento, California 95814

Submitted Electronically

**Subject: Joint Community Choice Aggregators Comments on the Proposed Scope of the
Draft Renewables Portfolio Standard Eligibility Guidebook, Tenth Edition**

Dear Commissioner Gallardo, Ms. Huber, and Staff,

The Joint CCAs¹ appreciate the opportunity to comment on the proposed scope of revisions to the California Renewables Portfolio Standard Guidebook (“RPS Guidebook”) for the 10th Edition. The Joint CCAs request that the revisions of the California Energy Commission’s (“Commission”) RPS Guidebook stay focused on the accounting and tracking procedures for renewable energy credits (“RECs”) for the Renewable Portfolio Standard (“RPS”) program. The Joint CCAs request the Commission decline to expand the scope of the revisions for the 10th Edition to include requirements from other programs or other definitions, specifically the request made in comments by the U.S. Environmental Protection Agency Green Power Partnership (“U.S. EPA”) submitted on November 1, 2024.

The Joint CCAs request that:

- 1) The Commission decline to expand the scope of this revision to encompass what does or does not constitute “voluntary” renewable energy procurement under other various state or federal programs, as this is not within the scope of the RPS program.
- 2) The Commission recognize that claims made by California Load Serving Entities (“LSEs”) are more appropriately considered in the Power Source Disclosure program, which is expressly designed for documenting the content and nature of California LSE energy procurement.

¹ San Diego Community Power, Peninsula Clean Energy, Orange County Power Authority, Silicon Valley Clean Energy, the City of San José, administrator of San José Clean Energy, Clean Power Alliance, and Marin Clean Energy.

1. Background

California's RPS program represents leadership on climate action through State policy choices.² In addition to State policy, many local city and county governments have adopted Community Choice Aggregation programs ("CCAs") to purchase electricity for their residents and businesses. Many CCA elected governing boards have leveraged CCA programs to pursue higher renewable standards than state requirements, including some with 100% renewable goals.³ Additionally, each of the Joint CCAs offers a 100% renewable energy product, which customers can opt for a premium price, or are defaulted to, in some cases.⁴ As public agencies local renewable energy targets, CCAs play a critical role in achieving California's decarbonization goals.

2. The Commission should decline to adopt a definition of "voluntary" renewable procurement as out of scope and procedurally improper.

- a. Incorporating a definition of "voluntary" renewable procurement from an entirely different federal program is out of scope for revision of guidance of California's RPS program.

The Commission should decline to adopt policies regarding the definition of "voluntary" renewable procurement in its RPS Guidebook revisions. In its November 1, 2024 comments, the U.S. EPA suggested the following changes to the RPS Guidebook:

- Adopt a policy that all RECs retired in an LSE's RPS subaccount are only for RPS compliance and are not a credible basis for voluntary claims.

² California Energy Commission, *Renewables Portfolio Standard – Verification and Compliance*, <https://www.energy.ca.gov/programs-and-topics/programs/renewables-portfolio-standard/renewables-portfolio-standard>.

³ Joint CCAs that have renewable targets above and beyond state policies: Peninsula Clean Energy, 100% renewable by 2030 (<https://www.peninsulacleanenergy.com/>), San Diego Community Power, 100% renewable by 2035 or sooner (<https://sdcommunitypower.org/>), San José Clean Energy, 62% renewable by 2026 (<https://sanjosecleanenergy.org/>), Marin Clean Energy 85% renewable by 2029 (<https://mcccleanenergy.org/energy-sources/>), Silicon Valley Clean Energy 75% by 2030 (<https://svcleanenergy.org>).

⁴ See, e.g. San Diego Community Power, Power 100, <https://sdcommunitypower.org/power100/>; Silicon Valley Clean Energy, Green Prime, <https://svcleanenergy.org/plans/>, Orange County Power Authority, 100% Renewable Energy Plan <https://www.ocpower.org/your-options/residential/residential-100/>; Peninsula Clean Energy, ECO100 product, <https://www.peninsulacleanenergy.com/energy-choices/>; Marin Clean Energy, Deep Green, <https://mcccleanenergy.org/opt-up/>; San José Clean Energy, TotalGreen product, <https://sanjosecleanenergy.org/totalgreen/>.

- Provide guidance that any retired RECs surplus to the RPS requirements should not be marketed to LSE customers in the same reporting period since those RECs would be banked for the future reporting period and marketed to LSE customers then.

Any new policy on the definition of “voluntary” renewable procurement in the RPS Guidebook revisions would be out of scope for the RPS program. “Voluntary” procurement is not a term that is relevant to the RPS program, because the statutes and regulations governing the RPS program do not include any definition of the term “voluntary,” nor is any definition needed to implement any aspect of the RPS program. Revisions to the RPS Guidebook should solely focus on compliance with the statutory and regulatory requirements of the RPS program and nothing more. In this respect the U.S. EPA’s request is misplaced. The U.S. EPA’s particular definition of “voluntary” procurement derives from its own unrelated Green Power Partnership program and has no relationship to the RPS program. Foisting a definition of a term from an unrelated program that includes only a few California LSEs onto a different program utilized by hundreds of entities makes little sense and could cause confusion. Thus, the Commission should decline to adopt the U.S. EPA’s recommendations as out of scope for the RPS program.

- b. Incorporating a new definition of “voluntary” renewable procurement from an entirely different federal program in a revision of a regulatory guidance would be procedurally improper.

Even if the definition of “voluntary” procurement were relevant to the RPS program, crafting a definition would be a significant policy determination that should not be made in revisions to a guidance document such as the RPS Guidebook. Guidance documents interpret existing statute, regulation, and policy, but do not create new policy, since they lack binding power on compliance. Instead, RPS policy decisions should be made in the relevant proceedings at the CPUC for CPUC jurisdictional entities or in an RPS policy docket at the Commission for non-CPUC jurisdictional entities. These forums would provide notice to stakeholders that the policy change is under consideration. Formal proceedings would then be the appropriate venue for orderly and robust stakeholder debate and analysis of the relevant facts and law. That critical stakeholder process would be short-circuited by a procedurally improper guidance document update.

In addition to being procedurally improper, adopting the U.S. EPA's proposed definition now in the Commission's RPS Guidebook revisions would be inappropriate, because the U.S. EPA itself is currently reviewing its own definition of "voluntary" for its Green Power Partnership program and has requested public comment on this definition.⁵ Incorporating the U.S. EPA's current definition in the 10th Edition now would be premature, and the reference would be quickly outdated if the U.S. EPA were to change its own definition. Thus, the Joint CCAs strongly recommend declining the U.S. EPA's suggestion. If the CPUC or Energy Commission decide that review of this issue is appropriate, either agency could convene an appropriate stakeholder process to evaluate and debate such changes.

3. U.S. EPA's recommendation misunderstands the relationship between the RPS program and documentation of renewable power procurement under the Power Source Disclosure Program.

U.S. EPA's recommendation to adopt a new definition of "voluntary" renewable energy procurement in the RPS Guidebook revision process misunderstands that California already has an entirely separate program which serves as the basis for reporting Greenhouse Gas ("GHG") emissions and renewable content to customers: the Power Source Disclosure ("PSD") program. Unlike the RPS program, the PSD program is expressly designed to document and communicate power content claims to customers. California LSEs disclose the sources of all energy and associated GHG emissions supplied to their customers within a given calendar year, such as fossil gas, solar, wind, or geothermal, and further subdivide by each individual product offered by an LSE. The power content and emissions disclosed in the PSD program are then reported to customers in a Power Content Label ("PCL").⁶ California law requires LSEs to use the PCL as the **sole** basis for claims about GHG emissions.⁷ Since the PCL is sent to customers as the only legal basis for claims about the GHG emissions, the PCL, and not the RPS program, is the *de facto* standard for California LSEs' claims about renewable content as well.

⁵ Proposed GPP Program updates, <https://www.epa.gov/greenpower/proposed-gpp-program-updates> (accessed December 20, 2024)("The GPP program proposes clarifying its position on state policy issues affecting Partners' ability to make credible voluntary claims about their green power procurement." https://www.epa.gov/system/files/documents/2024-11/proposed_gpp_program_updates.pdf at 6).

⁶ California Energy Commission, Power Source Disclosure Program, <https://www.energy.ca.gov/programs-and-topics/programs/power-source-disclosure-program>.

⁷ Pub. Util. Code § 398.4(k)(3), 20 Cal. Code Regs. § 1394.1(a)(2).

California's PSD program has several advantages for communicating the renewable energy content of LSE portfolios. First, the PSD program accounts for all renewable generation actually delivered to customers. This points to an alternative approach to defining "voluntary" renewable energy procurement by making a technically appropriate comparison of an LSE's overall renewable energy delivered in a given year to the RPS requirements in that year. Second, the PSD documents renewable energy generated on an annual basis, rather than on a three-year compliance period. Thus, the renewable content in a given year is not affected by renewable energy (over)procured in any other year, and banking does not occur. Last, the PSD program does not recognize unbundled Power Content Category 3 RECs, which would allow LSEs to claim fossil fuel generation as "renewable" under the RPS program, but not under the PSD program. Thus, the PSD program is arguably a more accurate reflection of renewable energy procurement by LSEs.

In addition, adopting the U.S. EPA's proposal would impose additional requirements on California LSEs and potentially raise costs for all ratepayers, even for customers of LSEs that do not participate in the U.S. EPA's programs. Currently, many LSEs retire more RECs into their RPS subaccounts than required to ensure that issues affecting individual RECs do not result in shortfalls that trigger compliance penalties and increase ratepayer costs. If implemented, the U.S. EPA's definition would force LSEs to choose between correctly reporting their excess procurement as voluntary renewable energy procurement or hedging against errors or regulatory issues, potentially exposing LSEs to compliance penalties. Moreover, retiring into two different subaccounts would require additional financial and risk analysis and add administrative complexity to RPS compliance, even for LSEs that do not participate in U.S. EPA's programs.

Furthermore, the U.S. EPA's proposed policy could create two separate official statements of LSE procurement above RPS requirements, creating policy conflict and potential customer confusion. If an LSE were to retire excess RECs into a RPS subaccount, it would be barred from claiming them as excess of RPS required percentages, while at the same time, the excess RECs would appear on the PCL as being above RPS requirements. Having two conflicting official reports from the Commission opens the door for customer confusion if LSEs or other organizations or persons point to one or another of the conflicting reports as the basis for claims as to what LSEs are, or are not, procuring.

In short, California’s PSD program already is expressly designed for the messaging purpose the U.S. EPA seeks to promote. Adopting a different methodology is unnecessary, would increase costs, and create customer confusion.

The Joint CCAs understand the concerns about banking expressed by the U.S. EPA for their own Green Power Partner and related programs, but those concerns should be addressed within the U.S. EPA’s programs, not California’s RPS program. Some of the Joint CCAs are either participating in the U.S. EPA program or have in the past. These participating LSEs would naturally need to adopt the practices required by the U.S. EPA as a condition of participating in that program, and nothing in the RPS program would preclude them from doing so. Should there be additional measures LSEs participating in the Green Power Partnership should take, the proper forum for that discussion is in the redesign of the U.S. EPA’s program.

4. Conclusion

The Joint CCAs are grateful for the opportunity to comment on the RPS Guidebook revision process and provide additional context on the questions raised. The Joint CCAs respect the U.S. EPA’s efforts to ensure the accuracy and robustness of renewable energy procurement claims and share its goal of fostering a more renewable future. Nonetheless, for all the foregoing reasons, the Joint CCAs request that the Commission not adopt policies regarding the definition of “voluntary” procurement in this RPS Guidebook revision.

The Joint CCAs welcome further conversation both with the U.S. EPA and Energy Commission Staff. Several of the Joint CCAs are also participating in comments on the U.S. EPA Green Power Partnership Program and look forward to having fruitful conversations with the U.S. EPA to address the concerns raised in its comments in that forum.

Respectfully submitted,

Doug Karpa

Managing Counsel of Regulatory Policy

Peninsula Clean Energy

2075 Woodside Ave.

Redwood City, CA 94061

dkarpa@peninsulacleanenergy.com

(650) 771-9093

Steven Halligan
Regulatory and Legislative Manager
Orange County Power Authority
15310 Barranca Parkway, Suite 250
Irvine, CA 92619
Shalligan@ocpower.org
(949) 767-8715

CC Song
Sr Director, Regulatory Affairs
Clean Power Alliance
801 S Grand Ave, Suite 100
Los Angeles, CA 90017
Csong@cleanpoweralliance.org
(213) 713-0363

Heather Dauler
Deputy Director of Regulatory Compliance and Policy
City of San José, administrator of San José Clean Energy
200 E. Santa Clara Street
San José, CA 95113
heather.dauler@sanjoseca.gov
(408) 972-2619

Sabrina Soldavini
Director of Policy
Marin Clean Energy
1125 Tamalpais Ave
San Rafael, CA 94901
Ssoldavini@mcecleanenergy.org
(415) 464-6670

Stephen Gunther
Regulatory Manager
San Diego Community Power
PO BOX 12716
San Diego, CA 92112-3716
Sgunther@sdcommunitypower.org
(619)-657-0419