

DOCKETED

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**BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA**

In the matter of:)	Docket No. 16-RPS-01
)	
Developing Guidelines for the 50 Percent)	STAFF WORKSHOP
Renewables Portfolio Standard (RPS))	RE: Renewables Portfolio
)	Standard Online System
_____)	

**COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) TO THE
CALIFORNIA ENERGY COMMISSION (CEC) STAFF WORKSHOP ON RENEWABLES PORTFOLIO
STANDARD (RPS) ONLINE SYSTEM**

Dated: November 04, 2016

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INTRODUCTION

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

LADWP appreciates the opportunity to partake in the testing of the California Energy Commission (CEC) Renewable Portfolio Standard (RPS) Online System and provide comments on how to improve the tool for certification and verification before adoption.

COMMENTS ON THE RPS ONLINE SYSTEM

LADWP appreciates the effort of the CEC to implement an RPS Online System that is intended to improve the current reporting process that involves the use of Excel spreadsheets. As a result, LADWP's focus during the testing exercise was looking for opportunities to make the Online System more user-friendly and yet aligns with the provisions in the RPS Guidebook. In cases where the Online System performed below the standards of the current reporting process, LADWP recommended measures to ensure the tool performs on par with the current reporting process.

I. The RPS Online System Should Be a Beta System until Major Errors are addressed.

LADWP respectfully requests that the CEC delay full implementation of the RPS online reporting system. The reporting mechanism to verify RPS compliance is critical to a successful state program. California is the leading state in the nation with a forward thinking progressive renewables program that other states will look to as a model for their programs. This is especially important as utilities throughout the region of the Western Electricity Coordinating Council (WECC) study regionalization, as states look for ways to reduce their greenhouse gases, and as publicly owned electric utilities, such as LADWP, look at the costs and benefits of their respective programs to consider support for even higher targets than the ones found in Senate Bill 350 (SB350).

LADWP appreciates the CEC efforts for improving the certification and verification process through an RPS online system. However, the RPS online system, in its current form, lacks the ability to accurately count generation from combined-cycle systems for units using biomethane. The RPS online system is only able to calculate renewable energy credits in a rudimentary form from single cycle generation systems. There is no ability to include economic dispatch, a system recognized by the utility industry, as can be seen by a report to the U.S. Congress in 2005 (see "The Value of Economic Dispatch, A Report to Congress Pursuant to

Section 1234 of the Energy Policy Act of 2005,” prepared by the United States Department of Energy, November 7, 2005). When comparing the less efficient single cycle system to a combined cycle system without the use of economic dispatch the loss of RECs could be as high as 35%. Translated to dollars for LADWP, this could amount to a loss of roughly up to \$25 million.

Therefore, the current RPS online system should remain in a Beta testing mode while the primary source of information should remain the current system in place. The transition to a new online system should occur when it can account for the same capacity and depth as the current system.

II. LADWP requests that the RPS online system is protected to at least the most current standards to protect Critical Energy Infrastructure information (CEII).

1. Customer’s Information Should Be Protected

Electrical Consumption Data is automatically confidential under current state law. “Electrical consumption data,” which includes a customer’s address is not to be disclosed without prior consent.¹ Furthermore, the California Public Records Act exempts disclosure of “utility usage data,” and “home addresses of utility customers.”² Moreover, the California Legislature has recognized that addresses are confidential. For example, in a Feed-in Tariff Program (FiT) the Legislature views addresses as “proprietary and confidential,” and requires utilities to redact address information from requests for tariff information.³ Another example of the legislature’s view of addresses as confidential information is found in the Vehicle Code where the home addresses of owners of electrical vehicles are confidential and only used for very limited purposes.⁴

¹ Public Utilities Code § 8381.

² Cal. Gov. Code §§ 6254.16, 6255.

³ Cal. Pub. Util. Code § 399.32(i).

⁴ Cal. Veh. Code § 1808.23

LADWP views customer utility usage data as confidential information and does not disclose usage data other than in aggregated forms, and does not disclose customer addresses, except in very limited circumstances, such as to collect non-payment of utilities. Also, the public interest in disclosure of customer utility usage data, such as customer addresses, is outweighed by non-disclosure under privacy and confidentiality concerns for its customers. These privacy and confidentiality concerns include public safety, where a drop in usage could mean customers are not home. Furthermore, providing the information to the CEC does not mean LADWP is waiving any privacy and confidentiality rights of its customer data.⁵ All Confidential Records should be used only for the purposes of reporting its RECs and LADWP's compliance with the California Renewable Energy Resources Act and SB350.

There is no assurance provided that the servers are being protected from market manipulators. There are no security protocols identified. What remedies are in place if a utility's secure information is compromised? LADWP takes efforts in protecting its "plant production data, and similar information relating to utility systems development" The information sought by the RPS online system includes plant production data, and similar information relating to utility systems development.

2. NERC e-Tag Data as Plant Production Data and Critical Energy Infrastructure Information

An exemption to the California Public Records Act is "plant production data, and similar information relating to utility systems development . . . obtained in confidence."⁶ The NERC e-Tag data "contain information about where the power is sourced and delivered; the responsible parties in the receipt, delivery and movement of the power; the timing; and the volumes and specified details regarding which transmission paths are used."⁷

Also, many energy transactions are governed by a trading agreement known as the Western System Power Pool Agreement ("WSPP"). Disclosure of NERC e-Tags along with the

⁵ Cal. Gov. Code §6254.5.

⁶ Cal. Gov. Code §6254 subd.(e)

⁷ Elec. Mkt. Transparency Provisions of Section 220 of the Fed. Power Act, 143 F.E.R.C. P61,054, 61 (FERC 2013) citing Order No. 768, FERC Stats. & Regs. P 31,336 at P 156.

wholesale electricity transactions made under the WSPP agreement for generating resources will allow other market participants to ascertain the extent to which LADWP and/or WSPP participants may rely on certain generating resources and anticipate wholesale sales in the year ahead for compliance with its Renewable Portfolio Standard (“RPS”) Program. Since most negotiations for the purchase or sale of power center around the availability of resources and the need for additional resources, releasing this information will put LADWP and/or WSPP participants at a disadvantage in the purchase and sale of renewable energy along with anticipating the ability to meet future RPS targets and portfolio balance requirements based on energy sales data. Furthermore, disclosure of energy sales data, including the counterparty and energy unit identification information may place LADWP in violation of the terms and conditions of its WSPP agreement.

Moreover, NERC e-Tag data falls under the federal definition for critical energy infrastructure information. “Critical energy infrastructure information means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (i) relates details about the production, generation, transportation, transmission, or distribution of energy....”⁸

Furthermore, the Federal Energy Regulatory Commission (FERC) views NERC e-Tag data as non-public information. In FERC’s Final Rule assessing its need to access e-Tag data it reasoned that “[t]he need to gain access to e-Tag data led the [FERC] Commission to issue a Notice of Proposed Rulemaking on April 21, 2011, proposing to require NERC to make the complete e-Tags used to schedule the transmission of electric power in wholesale markets available to Commission staff on an ongoing, non-public basis.”⁹ Moreover, “[n]o member, officer, or employee of the [FERC] Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the

⁸ 18 CFR 388.113 subd. (c)(1)

⁹ 141 FERC ¶ 61,235 (Issued Dec. 20, 2012) n.15 citing Availability of E-Tag Information to Commission Staff, Notice of Proposed Rulemaking, FERC Stats. & Regs. ¶ 32,675 (2011) (E-Tag NOPR).(emphasis added).

Commission or by a court of competent jurisdiction.”¹⁰ NERC e-Tags are specifically identified as a type of information subject to this confidentiality restriction.¹¹

In a recent Final Rule, FERC stated that “the Commission will deem all e-Tag information made available to the Commission pursuant to Order No. 771 as being submitted pursuant to a request for privileged and confidential treatment under 18 CFR 388.112.”¹² “For the purposes of the [FERC] Commission's filing requirements, information subject to an outstanding claim of exemption from disclosure under FOIA, including critical energy infrastructure information (CEII), will be referred to as privileged material.”¹³ The FERC Commission went on to state that it “will handle e-Tag information as privileged or confidential under section 388.112 of the [FERC] commission's regulations without the need for e-Tag Authors and Balancing Authorities to include certain markings required under section 388.112(b)(1) of the Commission's regulations. In other words, the Commission will deem e-Tags made available to the Commission under Order No. 771 as universally being provided subject to a request for confidential treatment and e-Tag Authors do not need to separately make a request for confidential treatment in each instance for this to apply.”¹⁴

This FERC position applies to “all e-Tags, including Intra-Balancing Authority e-Tags.”¹⁵ Consequently, not only is FERC treating all NERC e-Tag data as critical energy infrastructure information, which is not subject to disclosure under FOIA, but is automatically deeming all NERC e-Tag data as confidential. Hence, the CEC should treat all NERC e-Tag data as automatically confidential under state and federal laws and the energy sales data, such as pricing data, as automatically confidential under state laws.

¹⁰ 18 CFR 366.2 subd. (e).

¹¹ 18 CFR 366.2 subd. (d).

¹² 18 CFR Part 366 Availability of E-Tag Info., 142 F.E.R.C. P61,181, 61 (FERC 2013).

¹³ 18 CFR 388.112 subd. (a)

¹⁴ 78 FR ¶ 16133, 16137 (issued March 14, 2013)(citation omitted)(emphasis added).

¹⁵ Id.

By not having current security protocols in place, with industry recognized software and hardware in place to protect LADWP's information, the RPS online system is inadequate to safeguard LADWP's Plant Production Data and Critical Energy Infrastructure Information.

Furthermore, below are specific comments organized per tab of the CEC RPS Online System:

III. Global Home tab

1. Home | Facilities' Location Should Be Protected

A. Facility Locator

- Page 7 of the 'Help' document states, "The Facilities tab will show the location of facilities associated with the logged-in user's organization." To address concerns including, but not limited to, security, LADWP would like the CEC to clarify that this is the case and the location of the facilities will only be viewable to the associated logged-in user's organization and not to others.
- The geographic display defaults to different locations at different times.
- The facility boundary cannot be modified post submission of the pre-certification process. This will inhibit rectifying inadvertent inaccuracies.
- If it is optional to create a facility locator boundary, what is the criterion? Would existing certified facilities be assigned a boundary by the system? If not, would it still assist implementing the intended functionality of avoiding re-certifying an already certified facility?
- The drawn facility boundary is not displayed on the 'Pre-Certification Application Summary' review page, prior to submission.

2. Home / Organization Home



This is a redundant button. Clicking on the Home tab serves the same functionality.

One potential resolution is to delete the dropdown menu for Home tab (similar to the CEC website).

A. Facility Summary / Certification Application Summary

- For a selected application, the purpose of the 'Email' link on the Certification Application Summary tab is not clear, and it does not specify the recipient.
- The 'CC' functionality, shown below, does not work.

3. Home / Notifications

- All notifications should be classified as either incoming or outgoing in the dropdown selection. Currently, this is not the case.
- The notification page shows the email, referred to in Section 2A, was sent to the wrong recipient.

4. Home / Verification

A. CCP Report (Common Carrier Pipeline Report) / Biomethane Injection Point

The 'Add' button leads to an error.

Biomethane - View Injection Point

Instructions

Reporting Year: 2015

- Please input all injection data for each source certified under the biomethane contract.

	Source Name	Injection Point
No records found		

Add

Delete

Biomethane Injection Point

System error occurred. Please contact administrator.

Instructions

- Please enter Biomethane injection amount for each month for each source.
- If a month does not have injection data please input a zero.

Contract Name

Shell / LADWP

*Source Name

Please Select

▼

*Injection Point

B. Annual Summary Report

- 'Reporting Year' dropdown selection should auto-update the Annual Report Summary detail section underneath. There should not be a need to click 'Select' post dropdown item selection. This may cause reporting errors. A potential resolution would be to display the selected year in the details section.

Account Holder	Compliance Period	Reporting Year
Select Los Angeles Department of Water and Power	2011 - 2013	2011
Select Los Angeles Department of Water and Power	2014 - 2016	2016

Step	Status	Last Status Date
CCP Report	Gen Data In progress	11/2/2016 1:21:27 PM
WREGIS Report	In Progress	10/13/2016 4:14:45 PM
POU Contracts		
Annual Summary Report		

- More than one person is able to enter data concurrently, for the same reporting year. This may cause reporting errors as only the last person who clicks save will get that data recorded. A potential resolution would be to have an 'in-use' mechanism, notifying that another user from the same organization is currently working on that form.

IV. Global Applications Tab

1. Applications | Apply for Time Extension Request | Upload Supporting Documents

For a selected facility, uploading a document via the TER Upload Document tab does not work.

Upload Supporting Documents

One or more documents are required which are not uploaded

Application Process

Time Extension Request Info

Time Extension Explanation

Time Extension Financial Consequences

Time Extension Other Good Cause

TER Upload Document

Time Extension Summary Page

Instructions

A cover letter addressed to the Executive Director and signed by an applicant must be submitted. Please upload any documentation to support the information you provided in one document. If there are more than one document, please combine all documents into one file.

	Document	Upload Date
No records found		

Delete

*Time Extension Request - Cover Letter

C:\Documents\Test.docx

Browse...

Extra Documentation

Browse...

Extra Documentation #2

Browse...

Extra Documentation #3

Browse...

Extra Documentation #4

Browse...

Extra Documentation #5

Browse...

Previous

Save & Next

V. Logout Warning Message

Display a message warning the user that he / she will be logged off upon no activity for x minutes and display the countdown; currently, there is no such implementation.

LADWP respectfully requests that the CEC delay full implementation of the RPS online reporting system. The reporting mechanism to verify RPS compliance is just as important as the eligibility guidebook. LADWP supports CEC efforts in improving the certification and verification process through an RPS online system. However, the transition to a new online system should not be so sudden.

During the workshop held on October 20, 2016, LADWP identified a number of errors with the system including the CCP Verification - Biomethane Injection point - entry form leading to a system error. LADWP incorporates its first set of comments, dated October 19, 2016, with this additional set and notes that LADWP still awaits a response to its first set of comments.

CONCLUSION

In closing, LADWP appreciates the opportunity to provide input into improving the RPS Online System before adoption. California's 50% renewable goal is a nationwide model, so ensuring seamless implementation of this RPS Online Program should be a priority; however, it is inadequate in its ability to account for the depth of information needed, and inadequate to protect the security of information in its current form. LADWP looks forward to continue working with the CEC to address these concerns.

Respectfully Submitted,



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