

DOCKETED

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Project Title:	Amendments to Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities
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**on Second 15-Day Language Modifications to Proposed
Amendments to the RPS Regulations for POU's**

Additional submitted attachment is included below.



August 21, 2020

Chair David Hochschild
Commissioner Karen Douglas
Commissioner J. Andrew McAllister
Commissioner Janea A. Scott
Commissioner Patty Monahan

California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Dear Commissioners,

We the undersigned hold leadership positions with the California Municipal Utilities Association, Northern California Power Agency, and Southern California Public Power Authority, representing California's publicly owned electric utilities ("POUs"). As we actively work to help California reach its goal of achieving a 60% Renewables Portfolio Standard by 2030 to combat the effects of climate change – while also maintaining affordable and reliable electricity for our local communities – we also have a significant stake in ensuring that the rules are reasonable and provide regulatory certainty for governmental entities.

The Energy Commission is working to revise the RPS requirements for POUs and may adopt modifications to the existing regulation at a September 9, 2020, public hearing. A few days ago, we were alerted to significant concerns being raised from our respective staffs upon release of a "Second 15-Day Language" regulatory proposal. Although internal discussions are ongoing to better understand potential compliance impacts, we want to alert you about our significant concerns with the proposal.

Of particular concern is the newly proposed provision requiring Commission staff to make a determination on the long-term status of all POU contracts. Specifically, Commission staff is given complete discretion to make this determination based on staff's own interpretation of whether the contract provides a "long term commitment." Staff would be authorized to create new limitations on contract provisions relating to quantity, term, and delivery beyond any requirements specified in the Commission's RPS regulations, and could require POUs to provide information not related to the contract themselves, such as "information that demonstrates how the long-term contract supports the financing and development of new eligible renewable energy resources, major capital investments in existing eligible renewable energy resources, or long-term planning and market stability." We understand the importance of this statutory rule for stakeholders—including utilities—and want to work with the Commission to ensure that the regulatory implementation is ultimately workable. **Simply stated, the last-minute changes significantly expand the Commission's authority, improperly encroach on local decision-making, and do nothing to help promote the development of renewables in the POU community.**

The second 15-day changes raise significant legal questions given the ambiguity and scope the information sought, create extraordinary new reporting burdens, increase the cost of compliance reporting for both the CEC and for POUs, and ultimately compromise the ability of POUs to comply with the program when the rules are

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changed after contracts are signed. Furthermore, the latest proposal would only complicate contract negotiations and jeopardize the ongoing procurement of renewable resources. Under the proposal, it is also impossible to anticipate how (or when) Commission staff may decide upon long-term procurement compliance if the rules are vague and the review parameters undefined, creating considerable regulatory uncertainty and potentially increasing compliance costs. Including such a significant change at this late juncture is simply not warranted nor helpful in ensuring that the state reaches its clean energy objectives, and exceeds the level of authority that was contemplated by the Legislature when the RPS bill was being considered.

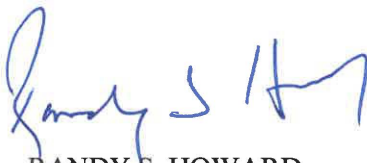
We strongly urge the Energy Commission to reconsider this proposal and work with us on a better path forward. Such a significant change this late in a years-long rulemaking process is troubling. The problematic provisions included in the proposal deserve the greatest transparency and opportunity for robust and meaningful stakeholder input that simply cannot happen before September 9. The RPS rules are too critically important to rush through such substantive changes without ensuring that they can work.

Thank you for your consideration and we look forward to working with you on this critically important rule.

Sincerely,



BARRY J. MOLINE
Executive Director, CMUA



RANDY S. HOWARD
General Manager, NCPA



MICHAEL S. WEBSTER
Executive Director, SCPPA