



**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

Implementation of Renewables Portfolio) Docket No. 03-RPS-1078
Standard Legislation (Public Utilities Code) RPS Proceeding
Sections 381, 383.5, 399.11 through 399.15,)
and 445; [SB 1038], [SB 1078]))

Implementation of Renewables Investment) Docket No. 02-REN-1038
Plan Legislation (Public Utilities Code) Renewable Energy Program
Sections 381, 383.5, and 445; [SB 1038])) Notice of Committee Workshop

**Comments of the Union of Concerned Scientists
on the Proposed Changes to the
Renewables Portfolio Standard Guidelines
and Procurement Verification Report**

The Union of Concerned Scientists (“UCS”) appreciates the opportunity to comment on the California Energy Commission’s (“CEC”) proposed changes to the Renewables Portfolio Standard guidebooks and the RPS Procurement Verification Report Staff Draft. The proposed changes bring the guidebooks up to date with respect to activity that has taken place in recent months in the RPS program on the part of the CEC, the Public Utilities Commission (“PUC”), and the investor-owned utilities, and facilitate continued renewables procurement activity. UCS recommends certain clarifications to the guidebooks to remove uncertainty over banking of excess renewables procurement and negotiation of out-of-state delivery points, and to clarify how final determinations of compliance are made.

I. The guidebook should be modified to eliminate concerns over the ability of retail sellers to bank forward excess renewables procurement.

UCS is concerned that the proposed changes related to the definition of incremental procurement could alter the ability of IOUs to bank over-procurement for use in subsequent compliance years. The troubling statement is located on page 6 of the RPS

Eligibility Guidebook, and page 4 of the draft Procurement Verification Report, under the heading, “dynamic information”:

“In the second and subsequent years, the procurement from that facility counts towards the retail seller’s baseline.”

This statement runs counter to the discussion of reporting the use of banked energy on page 37 of the RPS Eligibility Guidebook. Staff indicated in the workshop that this section would be revised to reflect the correct approach to banking.

II. The Commission should clarify whether the proposed guidebook changes allow or disallow a buyer and seller to negotiate an out-of-state delivery point.

UCS raised an issue regarding out-of-state delivery in the workshop that apparently has not been resolved by the proposed guidebook changes. A retail seller and a renewable bidder may negotiate a delivery location that is located out of state. If the energy output of the renewable facility is finally delivered into California, consistent with the NERC tag transactions identified in the guidebooks, it should be counted as eligible under the CEC eligibility guidelines. In other words, the CEC should allow the purchasing retail seller to assist in the process of providing adequate transmission from an out-of-state market hub to facilitate delivery into California. Staff responded to UCS’ concern that the proposed change to the section on out-of-state delivery effected no change from previous CEC policy. The CEC should explicitly state in the guidebook whether it believes the policy outcome just described is allowable, and how the proposed changes to this section validate or invalidate that outcome. Without such clarification, the utilities and bidders to their solicitations are likely to remain unclear as to the rules for out-of-state delivery.

III. The PUC, not the CEC, makes final determinations of compliance with RPS procurement targets.

In the CEC’s December 7 workshop, UCS raised a concern that final determinations of compliance by the IOUs should be made by the PUC. UCS appreciates staff clarifying during the December 7 workshop that the findings on annual procurement targets (“APT”) and incremental procurement targets (“IPT”) are intended to inform the

PUC's determination of IOU compliance. UCS believes the final guidebook language should reflect this relationship between the CEC and PUC.

In a minor correction to the RPS Eligibility Guidebook, the correct date for eligibility of distributed generation on page 17 is October 24, 2002, not 1982 as indicated in the draft.

UCS appreciates the opportunity to provide comments on the proposed changes to the Renewables Portfolio Standard Guidelines and Procurement Verification Report.

Respectfully submitted,

/s/
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