

CALIFORNIA ENERGY COMMISSION

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SACRAMENTO, CA 95814-5512
www.energy.ca.gov



03-RPS-1078

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

DOCKET	
02-REN-1038	
DATE	DEC 21 2006
RECD.	JAN 9 2006

Implementation of Renewables)	Docket No. 02-REN-1038
Investment Plan Legislation*)	Renewable Energy Program
and)	
Implementation of Renewables)	Docket No. 03-RPS-1078
Portfolio Standard Legislation**)	RPS Proceeding
)	
)	NOTICE OF COMMITTEE WORKSHOP
)	RE: Guideline Revisions for Renewable
)	Energy Program and RPS Implementation

**NOTICE OF COMMITTEE WORKSHOP ON GUIDELINE REVISIONS
FOR THE RENEWABLE ENERGY PROGRAM AND RPS IMPLEMENTATION**

The California Energy Commission (Energy Commission) developed guidelines to implement and administer its Renewable Energy Program and its responsibilities under California's Renewables Portfolio Standard (RPS) pursuant to Senate Bill 1038¹ and Senate Bill 1078.² These guidelines are set forth in several *Guidebooks* and are being revised to address changes in law as well as regulatory and market developments. The Energy Commission's Renewables Committee (Commissioner John L. Geesman, Presiding member and Chairman Jackalyne Pfannenstiel, Associate member) is holding a workshop to discuss proposed revisions to the following *Guidebooks*:

- *Renewables Portfolio Standard Eligibility Guidebook*
- *New Renewable Facilities Program Guidebook*
- *Overall Program Guidebook*
- *Consumer Education Program Guidebook*
- *Existing Renewable Facilities Program Guidebook*

WEDNESDAY, JANUARY 10, 2007

Beginning at 9:00 a.m.

CALIFORNIA ENERGY COMMISSION

First Floor, Hearing Room A

1516 Ninth Street

Sacramento, California

(Wheelchair Accessible)

The morning session (9:00 a.m. to noon) will cover:

- *Renewables Portfolio Standard Eligibility Guidebook*
- *New Renewable Facilities Program Guidebook*

The afternoon session (1:30 p.m. to close) will cover:

- *Overall Program Guidebook*
- *Consumer Education Program Guidebook*
- *Existing Renewable Facilities Program Guidebook*

Staff will provide a summary of the proposed changes in each *Guidebook*, after which the Renewables Committee will invite public comments on the staff draft *Guidebooks*.

Background

The Energy Commission's Renewable Energy Program provides funding to support existing, new, and emerging renewable energy resources with the goal of establishing a competitive, self-sustaining renewable energy supply for California while increasing the near-term quantity of renewable energy generated in-state. Funding is provided through program elements of the Renewable Energy Program, including the Existing Renewable Facilities Program, New Renewable Facilities Program, Emerging Renewables Program, and Consumer Education Program. The Energy Commission has provided this renewable funding since 2003 pursuant to SB 1038. This law, in conjunction with the Reliable Electric Service Investments Act,³ continues the collection of a non-bypassable system benefit charge initiated in 1998 under Assembly Bill (AB) 1890,⁴ and authorizes the Energy Commission to continue the expenditure of these funds to support existing, new, and emerging renewable resources.

In addition, the Energy Commission is charged with implementing California's RPS. The RPS was initiated under SB 1078 and required retail sellers of electricity to increase the amount of renewable energy they procure each year by at least 1 percent until 20 percent of their retail sales are served with renewable electricity by December 31, 2017. Recent legislation (Senate Bill 107⁵) accelerated this RPS goal to 2010. The Energy Commission is charged with certifying eligible renewable energy resources that satisfy RPS procurement requirements, developing an accounting system to verify retail sellers' compliance with the RPS, and awarding supplemental energy payments (SEPs) to cover the above market cost to procure new and repowered eligible renewable energy resources. Renewable energy resources eligible to satisfy RPS procurement requirements may also qualify for funding under other elements of the Renewable Energy Program.

Legislation passed in 2006 (Senate Bill 107, Senate Bill 1250⁶ and Assembly Bill 2189⁷) necessitated modifications to the Renewable Energy Program's funding eligibility and requirements. The proposed revisions to the *Guidebooks* reflect the changes in law and

other regulatory and market developments. Below is a short description of each *Guidebook* that will be discussed at the workshop:

- The *Renewables Portfolio Standard Eligibility Guidebook* describes the criteria and process for renewable facilities to become certified as RPS and RPS-SEP eligible and describes the Energy Commission's RPS tracking system.
- The *New Renewable Facilities Program Guidebook* describes the program requirements to apply for and receive SEPs.
- The *Existing Renewable Facilities Program Guidebook* describes the eligibility requirements and process to receive production incentive payments for eligible existing renewable resources that are not eligible for SEPs but may be eligible for the RPS.
- The *Overall Program Guidebook* describes how the Renewable Energy Program will be administered and includes general information and requirements that apply overall to the Renewable Energy Program and the program elements.
- The *Consumer Education Program Guidebook* describes the requirements for receiving funding under the Consumer Education Program element to promote renewable energy and help build a consumer market for renewable energy and emerging renewable technologies.

Guidelines for the remaining two elements of the Renewable Energy Program, the *Emerging Renewables Program* and *New Solar Homes Partnership Guidebooks*, will not be topics in this workshop.

Attachment A provides a summary of the proposed *Guidebooks* revisions and a list of questions to which the public is invited to respond. Draft *Guidebooks* are available on the Commission's Web site at www.energy.ca.gov/renewables/documents/index.html.

Public Comments

Interested members of the public are encouraged to review and comment on the staff draft *Guidebooks*. Members of the public may submit written or verbal comments at the workshop on January 10, 2007. Written comments submitted after the workshop must be submitted by January 15, 2007.

Those submitting written comments should provide an original and 11 copies to the Energy Commission's Docket Unit. Those interested in filing comments by e-mail immediately may send electronic documents to [\[docket@energy.state.ca.us\]](mailto:docket@energy.state.ca.us) but will need to follow up with an original copy by mail or delivery to the Docket Unit. If you are providing written comments at the workshop, please make an additional 30 copies available at the beginning of the workshops. Written materials filed with the Docket Unit

or provided at the workshop become part of the public record. Please send or deliver written materials to:

California Energy Commission
**Re: Docket No. 02-REN-1038
and Docket No. 03-RPS-1078**
Docket Unit, MS-4
1516 Ninth Street
Sacramento, CA 95814-5504

Assistance

The Commission's Public Adviser, Margret Kim, provides assistance regarding participation in Commission activities. Members of the public who would like information on how to participate in the workshops may contact the Public Adviser's Office by phone at (916) 654-4489 or toll free at (800) 822-6228, FAX at (916) 654-4493, or e-mail at [pao@energy.state.ca.us].

If you have a disability and need assistance to participate in the workshops, please contact Lourdes Quiroz at (916) 654-5146 at least five days before the workshops.

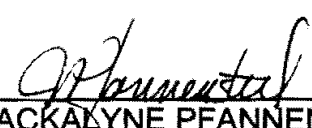
Members of the public who have technical questions regarding this notice may contact Heather Raitt, Technical Director of the Renewable Energy Office, by phone at (916) 654-4735 or by e-mail at [hrait@energy.state.ca.us]. News media should direct inquiries to Claudia Chandler, Assistant Director, at (916) 654-4989.

Dated: December 21, 2006

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



JOHN L. GEESMAN
Commissioner and Presiding Member
Renewables Committee



JACKALYNE PFANNENSTIEL
Chairman and Associate Member
Renewables Committee

Mass Mail Lists: 5503, 5504, 5506, 5507
Date Mailed: December 21, 2006

Endnotes

* Going forward, the title of this proceeding shall be known as "Implementation of Renewables Investment Plan Legislation" recognizing the fact that former Public Utilities Code Sections 381, 383.5 and 445 are no longer the applicable law and have been replaced with subsequent statutory authority.

** Going forward, the title of this proceeding shall be known as "Implementation of Renewables Portfolio Standard Legislation" recognizing the fact that former Public Utilities Code Sections 381, 383.5 and 445 are no longer the applicable law and have been replaced with subsequent statutory authority.

¹ SB 1038; Chapter 515, Statutes of 2002. The pertinent provisions of SB 1038 were formerly codified in Public Utilities Code Sections 383.5 and 445, but are now codified in Public Resources Code Sections 25740 through 25751 as a result of Senate Bill 183 (Chapter 666, Statutes of 2003).

² SB 1078; Chapter 516, Statutes of 2002. The pertinent provisions of SB 1078 are codified in Public Utilities Code Section 399.11 through 399.15. This law was subsequently amended to add Sections 399.16 and 399.17 pursuant to Senate Bill 67 (Chapter 731, Statutes of 2003) and Assembly Bill 200 (Chapter 5, Statutes of 2005), respectively.

³ Public Utilities Code Section 399, et seq., as enacted by Assembly Bill 995 (Chapter 1051, Statutes of 2000) and Senate Bill 1194 (Chapter 1050, Statutes of 2000).

⁴ AB 1890; Chapter 854, Statutes of 1996.

⁵ SB 107; Chapter 464, Statutes of 2006. SB 107 amends pertinent provisions in Public Resources Code Sections 25740 through 25751 and Public Utilities Code Sections 399.11 through 399.16.

⁶ S B 1250; Chapter 512, Statutes of 2006. SB 1250 amends pertinent provisions in Public Resources Code Sections 25740 through 25751.

⁷ AB 2189; Chapter 747, Statutes of 2006. AB 2189 adds Section 399.12.5 to the Public Utilities Code.

Note: California Energy Commission's formal name is State Energy Resources Conservation and Development Commission.

COMMITTEE WORKSHOP ON THE RENEWABLE ENERGY PROGRAM GUIDEBOOKS

ATTACHMENT A

A summary of the Energy Commission staff's proposed changes to the *Renewable Energy Program Guidebooks* as a result of statutory, regulatory, and market developments is provided below. Following the summary of proposed changes is a list of questions for public input.

Renewables Portfolio Standard Eligibility Guidebook

This *Guidebook* describes the requirements and process for certifying eligible renewable energy resources for the RPS and for SEP funding, and describes how the Energy Commission will track and verify compliance with the RPS. Changes to this *Guidebook* include the following:

- Establishes the RPS requirement that retail sellers must annually increase their renewable procurement by at least 1 percent of retail sales per year so that 20 percent of their retail sales are procured from RPS-eligible resources not later than December 31, 2010.
- Provides a definition of a Renewable Energy Credit (REC) for purposes of California's RPS and specifies that no electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels beyond a de minimus quantity (as defined by the Energy Commission) shall result in the creation of a REC.
- Notes that although RECs sold separately from energy are not currently eligible towards California RPS procurement, the use of 'tradable RECs' associated with energy produced from RPS-eligible resources may be authorized to qualify towards RPS procurement requirements once certain conditions have been met.
- Limits eligibility for Qualifying Small Power Production Facilities (QFs) under the federal Public Utilities Regulatory Policies Act (PURPA) as being eligible for the tradable RECs in only specific circumstances; however, if a QF is not eligible for RECs, its electricity production can still qualify for the RPS.
- Includes electric service providers and community choice aggregators in the definition of 'retail sellers.'
- Adds that the first year electric service providers are subject to an Annual Procurement Target (APT) is 2006.
- Removes the provision that procurement eligible towards the APT includes 'baseline' procurement and 'incremental' procurement, and adds the provision that any RPS-eligible procurement may be used to satisfy any portion of the APT, and any RPS-eligible procurement may be used to satisfy the incremental procurement target (IPT).
- Removes provisions related to 'incremental geothermal.'
- Modifies RPS eligibility for biomass, geothermal, small hydroelectric and municipal solid waste facilities.

- Adds RPS eligibility requirements for small hydroelectric conduit projects.
- Adds RPS eligibility requirements for electricity production from RPS-eligible fuel that is injected into a natural gas transmission pipeline and designated for use at a specific facility.
- For SEP eligibility, changes the date for 'new' facilities to mean the date the facility first commences commercial operations on or after January 1, 2005.
- Modifies the RPS-eligibility requirements for out-of-state facilities such that criteria which formally only applied to SEP eligibility now also applies to applicants seeking RPS-eligibility.
- Defines electricity delivery for renewable resources participating in the RPS such that "...electricity shall be deemed delivered if it is either generated at a location within the state, or is scheduled for consumption by California end-use retail customers."
- Modifies the delivery requirements for out-of-state facilities to allow North American Electric Reliability Council (NERC) tags to document delivery from a balancing authority of the RPS-eligible facility. The annual procurement from the facility will be compared with annual deliveries into the state and the lesser of the two amounts may qualify as RPS-eligible procurement.
- Adds a section on RPS requirements for publicly-owned utilities (POUs), requiring among other things that these utilities report information to both their customers and the Energy Commission, including their status in implementing an RPS, and provides a new form for such reports.
- Add provisions requiring the Energy Commission to certify any tradable RECs sold by POUs to retail sellers.

New Renewable Facilities Program Guidebook

This *Guidebook* describes the requirements to qualify for and receive production incentives, referred to as supplemental energy payments (SEPs), from the New Renewable Facilities Program (NRFP). Proposed changes to this *Guidebook* include the following:

- Limits SEPs made to out-of-state facilities to not exceed 10 percent of the SEP funds available.
- Clarifies that Energy Service Providers (ESPs) and Community Choice Aggregators (CCAs) to the retail sellers are eligible for SEP funding. SEPs are limited to projects selected by a process consistent with a least-cost and best-fit process.
- Adds the provision that a facility selected for a contract by a procurement entity may be eligible for SEP funding if the facility meets all other eligibility criteria.
- For SEP eligibility, requires that facilities begin commercial operations or be repowered on or after January 1, 2005.
- Requires a contract term of at least ten years for the project to qualify for SEPs.

- Specifies that SEPs would equal the cumulative above-market costs over the duration of the contract, but would be paid over a period of no more than 10 years, subject to any Energy Commission-established caps.
- Specifies that no SEP funding will be awarded for renewable energy credits (RECs).
- For award determinations, adds a requirement that specific information be submitted to the Energy Commission for an applicant selected by an ESP or CCA.
- Revises the terminology to replace 'contract price' with 'final bid price.' Final bid price becomes two payment streams: 1) the contract price between the retail seller and the facility/procurement entity and 2) the SEPs from the Energy Commission.

Overall Program Guidebook

This *Guidebook* describes how the Renewable Energy Program will be administered, and includes information and requirements that apply overall to the Renewable Energy Program and its program elements. Proposed changes to this *Guidebook* include the following:

- Allows the Energy Commission to use funds deposited into the Renewable Resource Trust Fund (RRTF) for expenditures associated with the accounting system established by the Energy Commission to help verify RPS claims by retail sellers, and for administration of the Renewable Energy Program, to the extent appropriated by the Legislature in the annual Budget Act and as authorized by the California Department of Finance. Further, allows the Energy Commission to use interest earned on the RRTF monies for administration of the Renewable Energy Program.
- Changes the funding allocation for the Existing Renewable Facilities Program from 20 percent to 10 percent.
- Removes the funding allocation for the Customer Credit Program, which the Energy Commission has discontinued.
- Changes the funding allocation for the Emerging Renewables Program from 17.5 percent to 37.5 percent, and incorporates the New Solar Homes Partnership into the Emerging Renewables Program.
- Modifies or removes certain definitions including 'conventional power source,' 'eligible renewable resource,' 'incremental geothermal,' 'procurement,' 'renewable energy credits,' 'renewables portfolio standard,' 'retail seller,' 'small hydro,' and 'supplemental energy payments.'

Consumer Education Program Guidebook

This *Guidebook* describes eligibility requirements for funding activities that promote renewable energy and help build a consumer market for renewable energy and

emerging renewable technologies. Proposed changes to this *Guidebook* include the following:

- Applies limitations to the use of Consumer Education Program funds for a regional accounting system to verify compliance with the state's Renewables Portfolio Standard.

Existing Renewable Facilities Program Guidebook

This *Guidebook* describes how the Existing Renewable Facilities Program (ERFP) provides funding in the form of production incentives to eligible renewable facilities for each kilowatt-hour of eligible electricity generated. Proposed changes to this *Guidebook* include the following:

- Requires that applicants seeking funding must complete a new form, Application for ERFP Funding Eligibility form (CEC-1250E-1), be an RPS-certified facility, and submit specific financial information. Applicants must re-submit form CEC-1250E-1 annually by January 30 of each year to the Energy Commission so that it can make a determination of applicants' need for that calendar year.
- Removes the tier structure for funding eligible facilities, and provides funding for eligible existing biomass and solar thermal facilities while reserving the right to allocate funding for existing wind generating facilities in the future if market conditions change in such a manner that would warrant such incentive payments.
- Removes the provision that eligible biomass facilities are permitted to use up to 25 percent fossil fuel annually on a total energy input basis.
- Requires biomass facilities to annually report the types and quantity of biomass fuel used and provides a new reporting form (CEC-1250E-4).
- Changes how the Energy Commission sets target prices for eligible facilities by requiring that each facility annually submit specific information so that the Energy Commission can assign an annual target price that will account for both energy and capacity prices received by each facility.
- Adds a determination of an annual average capacity price component that will be based on an annual average of the capacity payments received by each facility on a cents per kilowatt-hour (cents/kWh) basis.
- Changes how the Energy Commission determines the market price. The market price for each facility will consist of the sum of the following two average prices: 1) the monthly average energy price received by the facility and 2) the annual average capacity price received by the facility. For facilities receiving an "All-In" price that includes both energy and capacity in cents/kWh, the market price will be the "all-in" price specified in the facilities' contracts.
- Requires that facility owners who receive production incentives be subject to the state prevailing wage law with respect to certain types of work performed on the facility.

Questions for Public Input

The public is invited to comment on any and all proposed changes in the staff draft guidebooks. Below are questions raised by staff to address particular issues in the *Renewables Portfolio Standard Eligibility Guidebook* and the *Existing Renewable Facilities Program Guidebook*.

Renewables Portfolio Standard Eligibility Guidebook

1. New facilities seeking RPS and SEP eligibility may not require a 'new or increased appropriation of water' under Water Code Section 1200 et seq. New facilities seeking RPS eligibility may not require a 'new or increased appropriation or diversion of water from a water course.' Given the difference in statutory language, the terms 'appropriation' and 'diversion' for RPS eligibility may be defined consistent with Water Code Section 1200 et seq., or may be defined differently.
 - a. Should the terms 'appropriation' and 'diversion' of water be defined the same or differently for new facilities seeking RPS eligibility versus new facilities seeking RPS and SEP eligibility?
 - b. If these terms should be defined differently for RPS eligibility, how should they be defined?
2. Regarding RPS-eligible gas injection into the gas transmission pipeline:
 - a. The draft guidebook proposes that biogas injected into the gas transmission pipeline and converted into electricity be RPS-eligible? Is the proposed methodology for this appropriate?
 - b. What published data are available to determine an annual average heat rate for a facility?
 - c. What, if any, additional information should the facility operator be required to report on a monthly or annual basis to ensure the facility is only credited for that portion of the generation associated with RPS-eligible fuel?
 - d. Should the facility operator be required to report the monthly volume of RPS-eligible fuel supplied to the gas transmission pipeline and the monthly volume of natural gas used at the facility?
 - e. What information should the fuel supplier be required to report to the Energy Commission to verify the eligibility of the fuel?
3. The draft Guidebook establishes a process for the Energy Commission to certify tradable RECs as a prerequisite for retail sellers interested in procuring RECs from publicly owned utilities, in the event that tradable RECs are allowed for RPS compliance. The *Guidebook* does not address the possible sale of RECs and electricity bundled together for sale to retail sellers from POUs. However, if POUs sell bundled RECs that they otherwise need to satisfy their RPS, then the state would make no net gain in its RPS-eligible retail sales.

- a. Should the process for the Energy Commission's certification of RECs sold by a POU to a retail seller to satisfy a retail seller's RPS targets be expanded to include certification of bundled RECs?

Existing Renewable Facilities Program Guidebook

1. A facility must not sell its generation under a power purchase contract with an electrical corporation originally entered into prior to September 24, 1996, whether amended or restated thereafter, with certain exceptions (the pertinent legal code is in the Eligibility Requirements of the *Existing Renewable Facilities Guidebook*).
 - a. How many prospective ERFP applicants, if any, satisfy the provisions of Section 25740.5, subdivision (e), paragraph (1)(C)?
 - b. What information and records should the Energy Commission require of prospective ERFP applicants to ensure compliance?
2. Interested parties are encouraged to comment on whether any of the information below, requested for purposes of determining target prices, should or should not be confidential and the rationale for the recommendation.
 - a. The cumulative amount of funds the facility has previously received from the Energy Commission and other state sources.
 - b. The value of any past and current federal or state tax credits.
 - c. The facility's contract price for energy and capacity.
 - d. The market value of the facility.
 - e. An estimate of the incentive payment needed (in cents/kWh) above the energy and capacity payments the facility will receive during the calendar year for which the applicant is applying.
 - f. An explanation of how the incentive payments from the ERFP will allow the facility to become cost-competitive by the end of 2011.
3. The average capacity price component will be based on an annual average of the capacity payments received by each facility on a cents/kWh basis. This annual average capacity price component will be determined at the beginning of each year with the determination of the facility's specific target prices. Public input is invited on how to craft a methodology to determine the annual average capacity price component for each facility.
4. All applicants are required to submit information on the 'market value' of the facility as part of the application process.
 - a. How should the 'market value' of a facility be defined?
 - b. What information and/or records should be submitted to the Energy Commission to verify a facility's market value?