

BEFORE THE CALIFORNIA ENERGY COMMISSION

**In the matter of:
Implementation of Renewables
Portfolio Standard Legislation**

and

**Implementation of Renewables
Investment Plan Legislation**

Docket No. 03-RPS-1078

Docket No. 02-REN-1038

**COMMENTS ON THE NORTHERN CALIFORNIA POWER AGENCY
ON THE PROPOSED CHANGES TO THE RENEWABLES PORTFOLIO STANDARD
ELIGIBILITY GUIDEBOOK AND THE OVERALL PROGRAM GUIDEBOOK FOR
THE RENEWABLE ENERGY PROGRAM**

The Northern California Power Agency¹ (NCPA) is pleased to provide the following comments to the California Energy Commission (CEC) on the *CEC Staff Report, Renewable Portfolio Standard (RPS) Eligibility, Draft Staff Guidebook, Fourth Edition* (RPS Eligibility Guidebook) and the *California Energy Commission Staff Report, Renewable Energy Program Overall Program Guidebook, Staff Draft Guidebook, Third Edition* (Overall Program Guidebook).

Introduction

NCPA appreciates the considerable effort that the CEC staff has put into devising proposed revisions to the two RPS Guidebook documents. While many provisions of the Guidebooks do not directly apply to publicly owned utilities (POUs), they are clearly relevant to

¹ NCPA members include the cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, as well as the Bay Area Rapid Transit District, Port of Oakland, the Truckee Donner Public Utility District, and the Turlock Irrigation District, and Associate Members Plumas-Sierra Rural Electric Cooperative and Placer County Water Agency.

statewide renewable program objectives and therefore important to have a public power perspective.

At this point, NCPA has concerns about the CEC moving forward with changes to the Guidebooks in advance of key renewable policy decisions pending both at the California Air Resources Board (CARB) and the California Public Utilities Commission (CPUC), as well as the policy uncertainties surrounding the election of a new governor. At a minimum, comments regarding the various aspects of the Western Renewable Energy Generation Information System (WREGIS) interaction with CEC would be better informed once; (1) CARB acts on its proposed Renewable Electricity Standard (RES) Regulation that is currently on the agenda for that agency's September 23 meeting and (2) the CPUC acts on several petitions to modify Decision 10-03-021 and the Stay on various RPS related activities imposed by Decision 10-05-018.

Beyond these two key regulatory actions, changes to the Guidebook should also consider discussions regarding deliverability requirements, which the August 16th Workshop Notice states will be the subject of a future multi-agency workshop with the CEC, CPUC, and CARB. If, however, the CEC moves forward with revisions to the Guidebooks at this time, NCPA offers consideration of the following suggestions.

A June 1 Deadline for Publicly Owned Utility Reporting is Appropriate

The RPS Eligibility Guidebook proposes that POUs submit information regarding their RPS programs to the CEC by June 1, rather than May 1 of each year. (RPS Eligibility Guidebook, p. 76) NCPA supports this proposed revision and notes that the timeline better fits with the coordination of various public power renewable resources reports submitted to the CEC each year. Such coordination has been endorsed within the CEC, and continues the longer-term objective of eliminating costly and duplicative reporting efforts within the public power community.

Revised Eligibility Provisions for Small Hydroelectric Appropriately Include Public Power

NCPA supports the inclusion of additional language in Section 5(a) of the RPS Eligibility Guidebook that clarifies the RPS eligibility of small hydroelectric facilities under contract or owned by local publicly owned utilities prior to January 1, 2006. (RPS Eligibility Guidebook, pp. 22-23)

CEC Should Allow Retroactive Renewable Energy Credits for RPS Compliance

Staff asked for stakeholder input on the use of retroactive renewable energy credits in WREGIS. Specifically, Staff notes that WREGIS is considering whether to allow previous generation to be uploaded to the WREGIS system after the current 75-day REC creation period has closed, essentially allowing for the creation of retroactive RECs. (Workshop Notice, Attachment B, p. 5) Valuable renewable energy resources may exist that can be used to meet California's renewable energy objectives, that have not been – for whatever reasons – previously registered with WREGIS. Due to ever increasing mandates in the total amount of energy that retail providers will be required to procure from renewable generation, it is in the State's best interest to ensure that all valid and viable resources are registered with WREGIS and that the RECs from those facilities are allowed for RPS compliance. Accordingly, NCPA supports the creation and use of retroactive renewable energy credits for RPS compliance. Further, NCPA believes that the rules authorizing such a program are already in place through WREGIS (WREGIS Operating Rules §12.9), and can be easily implemented into both WREGIS and CEC operational guidelines. NCPA supports the CEC's treatment of test energy, but does not believe that the use of retroactive RECs should be limited only to instance involving test energy beyond the month of commercial operation for renewable facilities. WREGIS has a rigorous tracking system, which ensures the integrity of the program, even with the use of retroactive RECs.

Several changes in the RPS Eligibility guidebook and recent legislation support the creation of retroactive RECs in WREGIS. For example, proposed revisions allow the CEC to count pre-2008 generation toward a party's RPS obligation if the facility was RPS certified at the time of procurement, or if the CEC receives an application for certification prior to January 1, 2011. (RPS Eligibility Guidebook, pp. 43-44) However, even with this expanded eligibility requirement, if the facility was operational, but not certified, even with CEC approval, the party would be unable to use its RPS eligible resource in WREGIS to record RPS compliance. Proposed revisions further contemplate small hydro facilities qualifying for RPS treatment as far back as 2006 under certain conditions. (RPS Eligibility Guidebook, pp. 22-23) By extending the period of time beyond which resources may be retroactively certified, parties will have a greater incentive to seek RPS certification of resources. The policy position which allows

retroactive RPS eligibility must be supported by CEC procedures that allow parties to record RPS eligibility in the WREGIS system.

The current 75-day period for retroactive renewable energy credits is insufficient to capture the true value added by the RPS eligible resources in the event that a legitimate renewable resource was not previously registered with WREGIS for some reason. NCPA believes that the two year limitation set forth in WREGIS is reasonable, but not necessary. As long as the resource is traceable and there is no opportunity for “double counting” of the underlying RECs, then a limitation on the retroactivity would be arbitrary at best.

The Proposed Inclusion of a Definition for “Nonrenewable Energy Resource” Should be Stricken

The proposed definition of “nonrenewable energy resources” in the Overall Program Guidebook adds nothing to the clarity of either the RPS program itself or eligible resources. (Renewable Energy Program Overall Program Guidebook, *Glossary of Terms*, page 24). This new definition is not used anywhere else in the Guidebook and could create an unintended precedent; accordingly, NCPA recommends that this proposed addition not be adopted. The Guidebook properly includes a definition of “renewable.” For purposes of identifying which resources are not considered “renewable”, referencing the definition of “renewable resources” (which includes everything but “conventional power sources”) is sufficient, inasmuch as that definition includes an explanation of excluded resources – those deemed “conventional power sources - power derived from nuclear energy or the operation of a hydropower facility greater than 30 megawatts or the combustion of fossil fuels, unless cogeneration technology, as defined in Section 25134 of the Public Resources Code, is employed in the production of such power.” (Overall Program Guidebook, *Glossary of Terms*, p. 27)

To specifically define certain resources as “nonrenewable” simply because they come from conventional power sources ignores certain types of non-RPS eligible resources that *are in fact* renewable, such as hydroelectric facilities over 30 MW. Resources that are deemed conventional – such as large hydroelectric generation – are not necessarily nor properly termed “nonrenewable,” despite the fact that they are treated differently under the RPS program. Striking this proposed definition would also allow the CEC the necessary flexibility to adapt to the development of new technologies and resources that may ultimately be deemed “renewable”

even if they are not born of a classically renewable resource, e.g. energy storage. Those facilities not deemed “renewable” are already addressed in the guidebook as “conventional power source.”

Furthermore, the inclusion of a new definition for “nonrenewable resources” will confuse and frustrate the ability of parties to meet their RPS compliance obligations using various programs set forth in the Guidebook, as this new definition excludes every resource that is not defined as “Renewable.” For example, the RPS Eligibility Guidebook specifically provides that *“the incremental generation from eligible efficiency improvements to a hydroelectric facility of any generating capacity may qualify for the RPS, although the generation net of the incremental increase does not qualify.”* (RPS Eligibility Guidebook, p. 22) The proposed new definition of nonrenewable resources in the Overall Guidebook and the example set forth in the RPS Eligibility Guidebook cannot be reconciled. In the RPS Eligibility Guidebook, the example of incremental generation cites a 5 MW increase in capacity of a 50 MW hydroelectric facility to qualify for RPS even though the 50 MW hydroelectric facility will not qualify for RPS. Since deeming the underlying resource a “nonrenewable energy resource” could confuse the eligibility of the incremental increase, the proposed new definition in the Overall Program Guidebook should be removed from the program guidebook to avoid such confusion.

Eligibility of Pre-Certified Facilities Must be Ensured

The proposed revisions to the certification process will require certification of some facilities that may already be pre-certified. It is imperative that this certification process not impact resource eligibility during the process and that resources continue to be available while the CEC is considering the RPS certification process. It is important that the certification process not interfere with the ability of these pre-certified facilities to continue to operate as RPS eligible facilities. Further, the CEC must ensure that the certification process utilize – to the greatest extent possible – information and materials already submitted to the agency, rather than requiring the submission of extensive and duplicative data. Further, NCPA urges the CEC to ensure that the certification process remains as low cost as possible, and that additional fees not be required for certification of facilities that are already pre-certified.

Out-of-State Facilities Clarification

The proposed revisions to the RPS Eligibility Guidebook specifically note that facilities with a first point of interconnection in the Western Electricity Coordinating Council (WECC) transmission system within the state are considered to be in-state facilities. (RPS Eligibility Guidebook, p. 34) The Guidebook’s treatment of in-state resources must not be made contingent solely upon the first point of interconnection. This issue is of particular importance to NCPA members that have resources that are physically located in California but not necessarily served by the traditional California grid. Due to the configuration of the transmission system, even though the facility is located in California, the first point of interconnection may not always be a balancing authority located in the state. Clearly, the provisions regarding out-of-state facilities should not apply to facilities located within the state, regardless of their initial point of interconnection. In order to repair any ambiguities that may result from the language set forth above, NCPA proposes that the first sentence of Section C on page 34 be revised to read: “Facilities that are physically located in California, or that have their first point of interconnection . . .”

Reference to Ice Storage Should be Included

The RPS Eligibility Guidebook properly addresses the importance of emerging storage technologies. NCPA proposes that the reference to the types and kinds of new technologies that may be developed include a reference to ice storage, as this technology has already yielded promising results in several tests. The following language should be added to Section 3 on page 9 “. . . and anticipates that new issues may arise or new technologies may develop (such as compressed air storage, ice storage, and others) that will need to be addressed . . .”.

Conclusion

The Guidebooks are an important element of the RPS program, and revisions to these documents are both necessary and warranted. However, as noted above, the overall process for revising the Guidebooks would benefit from more time, in order to incorporate the various RPS and RES related matters that are currently pending before various state agencies.

NCPA appreciates the opportunity to provide these comments to CARB regarding the proposed revisions to the renewable energy Guidebooks, and welcomes the opportunity to discuss any of the addressed herein directly with the CEC. If you have any questions, please do not hesitate to contact the undersigned or Scott Tomashefsky at 916-781-4291 or scott.tomashefsky@ncpa.com.

Dated this 10th day of September 2010.

Respectfully submitted,



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