

DOCKET**03-RPS-1078**DATE SEP 13 2010RECD. SEP 13 2010

September 13, 2010

California Energy Commission
Docket Office, MS-4
RPS Proceeding
1516 Ninth Street
Sacramento, CA 95814

Re: Docket No. 03-RPS-1078 and Docket No. 02-REN-1038

Docket Office:

Please find the enclosed comments from the Union of Concerned Scientists regarding the August 30, 2010 staff workshop on proposed changes to the Renewables Portfolio Standard Eligibility Guidebook and the Overall Program Guidebook.

If you have any trouble viewing this material, please contact me using the information listed below.

Sincerely,



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COMMENTS OF THE UNION OF CONCERNED SCIENTISTS ON PROPOSED CHANGES TO THE RPS GUIDEBOOK AND THE OVERALL PROGRAM GUIDEBOOK

The Union of Concerned Scientists (UCS) appreciates this opportunity to submit comments following the Energy Commission's August 30, 2010 workshop to discuss proposed changes to the Renewables Portfolio Standard Eligibility Guidebook (RPS Guidebook) and the Overall Program Guidebook for the Renewable Energy Program (Overall Guidebook). UCS is the leading science-based nonprofit working for a healthy environment and a safer world. UCS combines independent scientific research and citizen action to develop innovative, practical solutions and to secure responsible changes in government policy, corporate practices, and consumer choices.

UCS's comments are focused on the Commission's outstanding questions regarding the appropriate de minimis quantity of nonrenewable fuel used in an RPS-eligible facility, and the treatment of municipal solid waste in the RPS program.

Multi-Fuel Facilities and the De Minimis Quantity of Nonrenewable Fuels

The Commission has set the de minimis quantity of nonrenewable fuel that a generation facility may use, while counting 100% of the generation as RPS-eligible, at 2% of the total fuel input. The Commission has asked whether it should reconsider its approach to determining the de minimis quantity of nonrenewable fuel for new RPS-eligible facilities, and requests stakeholder responses to the following questions:

- *What uses of nonrenewable fuels should be counted as contributing to the electric generation?*

UCS believes that the only nonrenewable fuels that should be considered de minimis in the context of RPS-eligible generation should be natural gas or hydrogen derived by reformation of a fossil fuel.

- *What amount of nonrenewable fuel used at a facility should constitute a "de minimis amount" and be eligible as renewable in California's RPS?*

UCS supports the Commission's current definition of a de minimis quantity of nonrenewable fuel, which is 2% of the facility's fuel input. However, if the de minimis quantity of nonrenewable fuel is to be revised, UCS directs the Commission to AB 1954 (Skinner), a bill that passed the legislature this session and dealt with this issue. AB 1954, which was supported by UCS, would authorize the Commission to adjust the de minimis quantity for an individual facility, up to a maximum of 5%, if it finds that all of the conditions have been met:

- The facility demonstrates that the higher quantity of nonrenewable fuels will lead to an increase in generation from the eligible renewable energy facility that is significantly greater than generation from the nonrenewable fuel alone.

- The facility demonstrates that the higher quantity of nonrenewable fuels will reduce the variability of its electrical output in a manner that results in net environmental benefits to the state.
- The higher quantity of nonrenewable fuel is limited to either natural gas or hydrogen derived by reformation of a fossil fuel.

UCS does not support automatically increasing the de minimis quantity of nonrenewable fuels for all RPS-eligible facilities because it's possible that facilities may increase their nonrenewable fuel input even if such increases are not necessary. UCS believes that individual facilities must make their case that increasing the nonrenewable fuel input above 2% is necessary, since an increase in nonrenewable fuel will lower the amount of total electricity generated from renewable sources. Furthermore, it is important to ensure that raising the de minimis quantity of nonrenewable fuel in a RPS-eligible facility is not justified simply because it will increase generation output from the facility. Rather, raising the percentage of nonrenewable fuel combusted in an RPS facility should only be justified if doing so results in efficiency gains that yield more generation than what would have occurred had the renewable fuel and the nonrenewable fuel been used to generate electricity separately. In other words, adding more nonrenewable fuel to the RPS facility must result in significantly greater output, relative to the nonrenewable fuel input. In addition, the increased amount de minimis nonrenewable fuel should only be allowed if it reduces the environmental (air quality) impacts of regulating and balancing renewable energy generation with flexible resources from the grid. For these reasons, UCS urges the Commission to adopt the criteria contained in AB 1954, and described in the bullet points above, to accompany any decision to raise the de minimis quantity of nonrenewable fuel up to a maximum of 5% of the total fuel input.

Proposed Revision to the Definition of Municipal Solid Waste Conversion

The Commission proposes to amend the RPS Eligibility Guidebook by clarifying that the only part of a RPS-eligible MSW conversion facility that must meet the requirements of Public Resources Code Section 25741, Subdivision b(3) is the "conversion process." The Commission provides no explanation for the change or its intended effect. UCS assumes that the purpose of making this change is to clarify that other parts of a MSW conversion facility are exempt from the Public Resources Code requirements, which include a stipulation that "The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 42801.1 of the Health and Safety Code."

It is clear that today's RPS eligibility requirements for MSW conversion in the Public Resources Code are extremely stringent. UCS is not aware of any discussion at the August 30, 2010 workshop to clarify whether the change the Commission proposes would materially expand the definition of RPS-eligible MSW conversion facilities, or whether this revision is simply a technical clarification. Changing how the Commission interprets the requirements of the Public Resources Code to only hold accountable one of the multiple parts of an MSW conversion facility could result in a significant expansion of RPS-eligible MSW facilities that is beyond the legislature's intent in the original statutory definition. Since there is significant uncertainty

regarding the intent of the proposed revision and how it would impact the actual number of MSW conversion facilities that could qualify for RPS credit, UCS requests additional explanation and discussion to resolve these questions before moving forward with such a revision to the RPS Guidebook.

Municipal Solid Waste as an Eligible Biomass Feedstock

Currently, the Commission does not consider MSW an RPS-eligible biomass feedstock because it contains inorganic and fossil-derived materials. During the workshop and in Attachment B of the Notice of Staff Workshop, the Commission asked whether MSW should be considered biomass and eligible for the RPS program if CalRecycle determines that it has been pre-processed and handled in a way so that it is no longer considered solid waste.

UCS considers biomass any plant or animal-based material that is converted into a fuel. The Commission is either suggesting that MSW can be processed to satisfactorily remove the non-plant and non-animal contents, or that the definition of biomass can be expanded to include inorganic or fossil-based materials. UCS believes that once trash has been separated at the curb into MSW, recyclables, and compostables, it is impossible to further sort out and separate the inorganic and fossil-based MSW from the remaining organic materials. UCS emphasizes that it does not believe the existence of a composting or recycling program constitutes an adequate removal of compostables and recyclables so that MSW can be considered RPS-eligible biomass. In addition, UCS opposes expanding the definition of biomass to include materials that contain inorganic and fossil-based components. For these reasons, UCS opposes treating any form of MSW as RPS-eligible biomass.

Respectfully submitted,



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