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| DOCKET |
| 03-RPS-1078 |
| DATE <u>July 08 2011</u> |
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July 8, 2011

California Energy Commission
Docket Office, MS-4
Re: Docket No. 03-RPS-1078
1516 Ninth Street
Sacramento, CA 95814-5512

To Whom It May Concern:

Subject: California Energy Commission Docket No. 03-RPS-1078: Comments from the Los Angeles Department of Water and Power Related to the Staff Workshop on the 33 Percent Renewable Portfolio Standard Regulations for Publicly Owned Utilities, Dated June 17, 2011

On June 17, 2011, the California Energy Commission (CEC) held a Staff Workshop on the 33 Percent Renewable Portfolio Standard (RPS) Regulations for Publicly Owned Utilities (POU) (Workshop). The Los Angeles Department of Water and Power (LADWP) participated in this Workshop and offer the following comments:

The City of Los Angeles has supported renewable energy development to serve our long-term resource goals. As LADWP looks into the future, most of the issues influencing strategic and resource planning are based on the critical issues that LADWP is facing in the areas to address greenhouse gas emissions, Once-Through Cooling, and the integration of increased amounts of renewable resources.

The LADWP looks forward to actively participating in the 33 percent RPS implementation and continuing to work with CEC staff and stakeholders to develop rules and regulations that are workable. The rules and regulations need to reflect the intent of the legislation to recognize the prominent role that the POU governing boards have in terms of the development of their renewable energy resources procurement plans and the achievement of a cost-effective implementation of such renewable energy goals.

Water and Power Conservation ... a way of life

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An electronic file was also submitted to docket@energy.state.ca.us on July 8, 2011.

If additional information is necessary concerning this matter, please contact Mr. Oscar Alvarez at (213) 367-0677, or Mr. Oscar Herrera at (213) 367-4880.

Sincerely,

A handwritten signature in blue ink that reads "Randy S. Howard" followed by a slanted line and the initials "RSH".

Randy S. Howard
Director, Power System Regulatory Compliance
and System Planning and Development

OH:rls

Enclosures

c: Mr. Oscar Alvarez

Mr. Oscar Herrera

**BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA**

In the Matter of:)
Renewable Portfolio Standard) Docket No. 03-RPS-1078
_____)

**COMMENTS OF THE LOS ANGELES DEPARTMENT OF WATER AND
POWER TO THE CALIFORNIA ENERGY COMMISSION'S STAFF
WORKSHOP ON: 33 PERCENT RENEWABLES PORTFOLIO STANDARD
REGULATIONS FOR PUBLICLY OWNED ELECTRIC UTILITIES**

Pursuant to the procedures established by the California Energy Commission (CEC) by written notice issued June 7, 2011, as amended at the Staff Workshop held June 17, 2011, the Los Angeles Department of Water and Power (LADWP) respectfully submits these Comments on the scope and schedule for renewable portfolio standard (RPS) regulations applicable to local publicly-owned electric utilities (POUs).

The City of Los Angeles is a municipal corporation and charter city organized under the provisions of the California Constitution. LADWP is a proprietary department of the City of Los Angeles that supplies water and power to Los Angeles' inhabitants pursuant to the Los Angeles City Charter. LADWP is a vertically integrated utility that owns generation, transmission and distribution facilities. LADWP provides safe and reliable retail electrical energy to its approximately 1.4 million customers.

I. INTRODUCTION

The City of Los Angeles has supported renewable energy development to serve our long-term resource goals. As LADWP looks into the future, most of the issues influencing strategic and resource planning are based on the critical issues that LADWP is facing to address greenhouse gas emissions, once-through cooling, and the integration of increasing amounts of renewable resources.

LADWP provides these comments to state its intent to actively participate in this proceeding and to work with the CEC to develop workable and flexible regulations that reflect the reality of various challenges being faced by POUs, in particular, LADWP. Also, LADWP fully supports the comments being filed concurrently by the California Municipal Utilities Association (CMUA).

II. COMMENTS TO THE WORKSHOP

A. Several Competing State Mandates Require Flexibility For POUs to Implement California's Renewable Energy Resources Act

LADWP is going through one of the most significant transformations in its 100-year history. LADWP has been making major investments to improve the efficiency and reduce emissions from its generating resources as well as meeting its own 20% by 2010 renewables portfolio standard. The year 2020 is presenting utilities across the state, but particularly LADWP, with a deadline to meet several mandates simultaneously. Over the next 9 years, LADWP will be making significant investments to eliminate Once-Through Cooling (OTC), replace base load coal resources, comply with Cap-and-Trade regulations under AB 32, and increase its renewables portfolio standard to at least 33%. Each mandate is an

extraordinary challenge in and of itself, and imposing them all at once is truly a monumental undertaking. In order to minimize the cost impacts and retain reliability of the power grid, LADWP will need to carefully integrate and sequence these complex activities.

LADWP recognizes the importance and benefits of these state mandates. Therefore, while being cognizant of these state mandates, LADWP asks that the CEC provide the greatest flexibility possible when promulgating rules and regulations pursuant to the California Renewable Energy Resources Act.

B. California's Renewable Energy Resources Act Permits Publicly-Owned Utilities to Maintain Exclusive Control over Its Procurement Activities as a Means to Reflect POU's Financial and Operational Models.

LADWP, along with several POU's, have procured renewable energy with pre-paid Power Purchase Agreements (PPAs), providing for near-term ownership. This is not a model generally used by Investor-Owned Utilities (IOUs). Specifically, LADWP ratepayers have strategically invested in pre-paid PPA facilities (including wind facilities) up front, but paying a monthly debt service whether the wind blows or not. Furthermore, many of these contracts have make-up provisions that do not directly align with procurement periods (or portfolio content categories) drafted into law because they were executed prior to such statutes.

Also, POU's are devoted to community engagement in these important procurement decisions, and not just to POU ratepayers who ultimately pay for the RPS programs, but to the whole community. For example, in developing the LADWP 2010 Integrated Resource Plan (IRP) (which includes the RPS), the

LADWP held numerous community and neighborhood meetings to gather input on the timing and the mix of these important renewable resources and activities.

LADWP would like to emphasize that POU ratepayers ultimately pay for the projects developed to comply with RPS programs and thus, the POU governing boards, as representatives of the customers, should have the authority and flexibility to reasonably interpret the portfolio content categories identified in Section 399.16 of the Public Utility Code. This would align with the POU governing boards' ability to have the discretion and ability to make important decisions on rate impacts to the customers, including setting cost-limiting rules for procurement expenditures based on the financial challenges faced by the POU.

LADWP asks that the CEC carefully review and understand these key differences, and not just attempt to cut-and-paste regulations from the CPUC proceeding, but provide POU with flexible approaches for compliance with state mandates, within the statute limitations.

C. Portfolio Content Category Definitions

It is key for the CEC to clearly define the portfolio content category definitions in alignment with Section 399.16 before POU adopt (or even further develop) their procurement plans. Additional guidance on these definitions before LADWP adopts its procurement plans is important to ensure the most cost-effective arrangements are pursued consistent with statutory requirements.

D. Data Collection Requirements – Existing Reporting Requirements Are Robust and Generally Meet the Demands of California’s Renewable Energy Resources Act

LADWP contends that Section 399.30 (g) requirements of the newly enacted Public Utilities Code are generally met by the Integrated Energy Policy Report (IEPR) data collection efforts, Power Source Disclosure Forms, Power Content Label, and the Application for Certification. These existing forms and processes are already efficient and transparent. For example, the table below indicates data that the CEC already collects which is consistent with SB2 (1X) requirements.

| Data Collection - Existing Submittals | | | | |
|--|-----------------------------|--------------------------------------|----------------------------|--------------------------------------|
| SB2 (1X) | IEPR Data Collection | Power Source Disclosure Forms | Power Content Label | Application for Certification |
| § 399.30 (g)(1) | S1, S2, S4, S5 | Schedule 1 | - | Applicable |
| § 399.30 (g)(2) | S2, S5 | Schedule 4 | Annual Report | - |
| § 399.30 (g)(3) | S2, S5 | Schedule 1 | Annual Report | - |

We ask the CEC to use its existing forms for compliance with §399.30 (g), and to only create reporting requirements for elements that are not captured through existing submittals.

E. “Consistent with” Does not Imply “Identical to” CPUC Regulations

SB2 (1X) Section 399.30(b) (3) directs the POUs to adopt procurement content requirements “consistent“ with Section 399.16. This does not imply that POUs have to adopt their program elements “identical” to the regulations adopted by the CPUC for CPUC-jurisdictional entities. That being said, the POUs governing boards have the same level of discretion to adopt program elements

that the CPUC adopts, which in turn allows POUs to tailor their programs to the conditions and operating structure of their utility.

LADWP's procurement plans are continuously being shaped as community engagement processes take place. Further, the POUs resource procurement and ratemaking process is different from the IOUs, as they are consolidated within the POU and costs are recovered from the POUs customers-owners. It is paramount that POUs maintain discretion over reasonable costs incurred for eligible renewable resources, and thus some program elements adopted by LADWP *may* differ from those adopted by the CPUC.

While some level of coordination between the CEC and the CPUC in the CPUC's RPS proceeding is appropriate, the regulations adopted by the CPUC for the RPS will ultimately be developed specifically for IOUs; therefore the CPUC's regulations should not dictate the ultimate regulations adopted by the CEC.

F. Conflicting Adoption Dates

POU governing bodies will be required to adopt "[a] program for the enforcement of this article" by January 1, 2012. PUC §399.30 (e). The CEC has given itself an extension of time to promulgate its regulations by June 30, 2012, seemingly anticipating the enactment of SB 23 (Simitian). There is no such extension for POUs. POUs will be adopting their RPS programs a half a year before the CEC adopts its RPS regulations. Consequently, POUs' initial programs could become inconsistent with the CEC's subsequently adopted regulations.

Therefore, LADWP requests that the CEC allow for POUs to modify their adopted programs both after January 1, 2012 and also after the CEC's regulations are established.

G. Date Conflicts between the CEC and the California Air Resources Board (CARB), Highlights the Need for the CEC to Provide POUs with Greater Flexibility to Comply with California's Renewable Energy Resources Act

The implementation of AB 32 is an example of the extraordinary mandatory challenges LADWP faces within the same time frame as the demands of California's Renewable Energy Resources Act. As the implementation of AB 32 regulations move forward, it is important to keep track of several moving parts of this landmark legislation.

Part of the AB 32 regulations requires utilities to report their emissions to the California Air Resources Board (CARB), which can potentially lead to penalties for incomplete and/or inaccurate reports. As of now, June 1, 2012 is the deadline for submitting entity-level emission reports. This date will come in conflict with renewable energy transactions, which may not have gone through settlement by that date. The June 1, 2012 report may not meet the standard for being complete and accurate. This would subject utilities to penalties if there are changes to their emissions reports.

CARB is considering making a limited exception for this specific situation (related to renewables), but it is still unknown as to when the renewable energy transaction settlements are expected to be completed. CARB is also proposing to move the emissions verification deadline up to September 1st, which would mean that any corrections as a result of the settlement would have been completed in

August. LADWP has requested CARB to keep the deadline to October 1st (which is also the CEC's deadline of submitting the Annual Power Content Label) in order to give POUs more time to finish the settlement process for renewable energy purchases.

The CEC needs to be aware of CARB's activities, since the 33% RPS is a key measure for the electric utilities under AB 32. As stated above, while being cognizant of the dynamic nature of AB 32 regulations, LADWP asks that the CEC provide the greatest flexibility possible when promulgating rules and regulations for the California Renewable Energy Resources Act.

III. CONCLUSION

LADWP appreciates the opportunity to submit these opening comments and looks forward to cooperating with the CEC in this effort.

Dated: July 8, 2011

Respectfully Submitted,

By: 

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