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California Energy Commission
Dockets Office, MS-4
Docket No. 11-RPS-01 and Docket No. 02-REN-1038
1516 Ninth Street
Sacramento, CA 95814-5512

Re: CMUA Comments on the CEC Workshop - Proposed Changes to the Renewables Portfolio Standard Eligibility Guidebook and the Overall Program Guidebook for the Renewable Energy Program

The California Municipal Utilities Association (CMUA) would like to thank the California Energy Commission (CEC) for the opportunity to provide comments on the draft Fifth Edition of the Renewables Portfolio Standard Eligibility Guidebook (Draft Eligibility Guidebook) and the draft Fourth Edition of the Overall Program Guidebook for the Renewable Energy Program (Draft Overall Guidebook) released by the CEC on October 14, 2011.

As you know, CMUA represents the interests of virtually all the State's publically-owned electric utilities (POUs), and many municipal water agencies as well. Our members provide electricity to over one-fourth of California's citizens.

POUs are units of local government, and as such have no profit motive. They have governing boards that are either elected, like a city council, or appointed by elected officials. Decisions of the governing boards are made in public, as required by law, with opportunity for public comment.

The CEC's renewable portfolio standard (RPS) guidebooks are a vital element of California's RPS goals. The following sections provide CMUA's comments on the draft guidebooks. In addition to CMUA's comments, several of CMUA's members intend to provide comments on the proposed changes to the guidebooks.

- **Biomethane as a Renewable Resource**

  CMUA supports the use of Biomethane as a renewable resource to help meet California's RPS goals. The Draft Eligibility Guidebook continues to treat Biomethane as an eligible renewable fuel. SB1X 2 does not provide any additional limitation on the use of biomethane. CMUA believes that the CEC should continue to treat biomethane as an RPS resource.

  As CMUA has previously commented, the benefits of biomethane are significant. Biomethane is cost-effective, supports the goal of fuel diversity, and helps to support the integration of intermittent renewables. These characteristics make biomethane particularly valuable as California implements its RPS requirements. In light of the upward pressure that increased renewable requirements will put on rates, it is necessary to utilize any low-cost renewable resources to the fullest extent possible. Additionally, there will be a significant increase in the number of intermittent renewable resources integrated into the grid over coming years. In order to maintain grid reliability, California will need generating resources with the ramping capabilities that can support this integration. The added value provided by biomethane to natural gas generating facilities will assist these facilities in staying economically viable, and therefore, able to operate for a longer period of time.

  A policy change in the treatment of biomethane under the RPS Guidebook could result in significant financial loss and additional expense for utilities to replace the planned renewable resource, not to mention the likelihood of rate increases for those entities that have already entered into contracts. Furthermore; the lack of certainty surrounding this issue has, and will continue to have a detrimental impact on on-going negotiations and development of biomethane resources. Any change that the CEC does make to the eligibility of biomethane should only apply to future transactions. California POUs have entered into multi-million dollar, long-term contracts for biomethane and invested in developing new biomethane production projects in direct reliance on the longstanding RPS statutory language, and the CEC's published guidelines. Existing agreements/contracts for biomethane should continue to be eligible under the current rules, including all pending certifications/agreements that have not yet been reviewed for approval or final approval by the CEC.

  Beyond the issue of RPS-eligibility, CMUA believes that an in-state natural gas power plant using biomethane should qualify for portfolio content category 1 treatment even if the underlying fuel is injected into the natural gas pipeline system outside of California. There is no statutory requirement for biomethane to

be injected in state. The portfolio content category requirements of SB1X 2 have a significant impact on the value of RPS-eligible resources. Treating biomethane as a portfolio content category 3 resource would have a substantial impact on the utilization of this resource. There are significant GHG savings associated with the use of biomethane. The CEC should not support an interpretation that would discourage the use of these resources.

The Comments filed by the Southern California Public Power Authority (SCPPA) provide a detailed description of recommended revisions to the Draft Eligibility Guidebook that would facilitate the use of biomethane. CMUA supports the comments of SCPPA, specifically in regards to the use of CPUC-approved gas tariffs for tracking and accounting for the biomethane transportation and biomethane imbalances.

- **Distributed Generation**

  CMUA and its members are committed to achieving California's goal of 33% renewables by 2020. However, for many utilities, achieving this goal will prove difficult. The CEC should exercise its regulatory discretion in a manner that does not unnecessarily inhibit a utility's ability to achieve its RPS goals. Fully utilizing distributed generation resources is one method that will assist electric utilities in meeting their RPS goals. CMUA supports the Draft Eligibility Guidebook's treatment of distributed generation as generating RECs, even if that resource received other incentives.

  Further, distributed generation should be treated as a portfolio content category 1 resource. These resources clearly meet all of the requirements of section 399.16(b)(1) because in-state distributed generation resources will have a first point of interconnection with a California Balancing Authority. They also provide significant benefits because of their location in relation to load.

- **WREGIS Registration**

  CMUA believes that, in general, the proposed requirement for all POUs to use WREGIS for tracking and reporting starting with compliance year 2013, is a reasonable requirement. However, the CEC should recognize that, to some extent, this registration process is outside the control of the individual POUs. The Draft Eligibility Guidebook should treat a POU as being in compliance with this requirement as long as the POU has submitted the required applications to WREGIS by the end of 2012.

- **Description of SB1X-2**

  CMUA believes that any description of the requirements of SB1X 2 contained in the Draft Eligibility Guidebook should be limited to citations to the statutory language. While CMUA would recommend several changes to the characterization of the POU obligations under SB1X 2, this information is not essential to either of the guidebooks. Further, the requirements for POUs under

  SB1X 2 is currently the focus of an ongoing CEC proceeding, which is developing procedures for the enforcement of the POU RPS requirements. The CEC should not insert descriptions of requirements into the guidebooks that are still being discussed and developed in a separate proceeding.

  One key error that must be removed or amended is the following statement: "The law requires the governing board of each POU, no later than January 1, 2012, to adopt and implement a ***procurement plan*** that requires the utility to procure a minimum quantity of electricity products from eligible renewable energy resources for each compliance period."[1] This statement is incorrect. SB1X 2 requires only that the governing board of a POU adopt a "program for the enforcement of this article on or before January 1, 2012."[2] "Article" in this statutory section, refers to the entire RPS section of the Public Utilities Code.[3] The obligation to adopt a "renewable energy resources procurement plan" is an obligation separate and distinct from the obligation to adopt a "program for enforcement." There is no statutorily imposed deadline for a POU to adopt a "renewable energy resources procurement plan." Accordingly, the Draft Eligibility Guidebook should be amended.

- **Pre-Certification**

  CMUA supports the comments filed today by SCPPA, which recommend that the pre-certification process should be maintained only if provides greater certainty that the resource will be certified. SCPPA recommends that a facility should be automatically certified if: (1) it has been pre-certified; (2) the application for certification is received within a set period of time after the facilities is pre-certified; and (3) the facility has not changed significantly since the pre-certification.

[1] Draft Eligibility Guidebook at 17 (emphasis added).
[2] Cal. Pub. Util. Code § 399.30(e).
[3] Cal. Pub. Util. Code §§ 399.11-399.31.

- **Test Energy**

  CMUA believes that test energy from an RPS-eligible resource should be counted towards the RPS requirements of a POU or retail seller. Some types of renewable generation can have multiple years pass between the date when test energy begins being delivered to the grid and the formal commencement of commercial operation. Not counting this energy for RPS purposes could be a significant impediment for the development of certain types of renewable resources. Therefore, the Draft Eligibility Guidebook should be amended to permit test energy to count for RPS purposes.

- **Small Hydroelectric Power**

  As identified in the comments filed today by the Los Angeles Department of Water and Power (LADWP), the Draft Eligibility Guidebook inaccurately defines the capacity limit of a small hydroelectric as "of 40 MW or less." However, the text of Public Utilities Code section 399.12(e)(1)(A) refers specifically to nameplate capacity: "Generation unit with a nameplate capacity not exceeding 40 megawatts." The Draft Eligibility Guidebook should be amended to reflect the statutory distinction that the relevant capacity limit for determining RPS-eligibility is the nameplate capacity of the facility and not the total capacity of the facility.

CMUA appreciates this opportunity to provide these comments to the CEC, and looks forward to working with CEC staff in order to meet the statewide renewable power goals.

Sincerely,

David L. Modisette
Executive Director