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November 2, 2011

**RE: Docket No. 11-RPS-01 and Docket No. 02-REN-1038**  
**RPS Proceeding**

**Comments of the San Francisco Public Utilities Commission (SFPUC) on**  
**the RPS Eligibility Staff Draft Guidebook – Fifth Edition**

### **Summary**

The San Francisco Public Utilities Commission (SFPUC) appreciates the efforts of the California Energy Commission (CEC) staff to update the RPS Eligibility Guidebook (Guidebook), particularly given the tight deadlines created as a result of the passage of Senate Bill 2 (SB2).

The SFPUC has two main concerns. First, the regulations in the Guidebook should parallel and match the statutory language in SB2 whenever possible, particularly in the regulations themselves. As drafted, in several instances the regulations are inconsistent with the statute, reducing the types and amount of qualifying renewable energy below what is allowed by the statute, and thereby hindering the state's ability to achieve its renewables goals.

Second, the SFPUC is pleased with the inclusion of distributed and behind-the-meter renewable generation as RPS-eligible, but we are concerned that provisions in the Guidebook may limit the amount of this type of generation that will qualify.

The following comments elaborate on the above points.

**Edwin M. Lee**  
 Mayor

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 President

**Art Torres**  
 Vice President

**Ann Moller Caen**  
 Commissioner

**Francesca Vietor**  
 Commissioner

**Vince Courtney**  
 Commissioner

**Ed Harrington**  
 General Manager



**The Guidebook should be consistent with the statutory language in SB2**

Since the Guidebook is implementing the provisions of SB2 (as well as other legislative requirements), the regulations should match the exact language of the statute where possible. As a utility that receives almost all of our power from hydroelectric energy sources, we have focused on the portions of the Guidebook related to hydroelectric generation, although this guidance is also applicable to other sections of the Guidebook.

In several portions pertaining to hydroelectric generation, the Guidebook's proposed language differs from what is contained in statute. The following are some examples.

- The Guidebook uses the term “nameplate capacity” for setting both the 30 MW cut-off point for small hydroelectric facilities and the 40 MW cut-off point for units used for water conveyance despite the statute specifying the use of nameplate capacity only for units used for water conveyance.<sup>1</sup> (Guidebook, p. 29).
- The definition of “small hydroelectric” includes the term “small hydroelectric facility” for units associated with water supply or conveyance systems while the statute uses the term “small hydroelectric generation unit.”<sup>2</sup> (Overall Program Guidebook, p. 31).
- As noted at the workshop, the inclusion of the phrase “that is not part of a water supply or conveyance system” after the term “conduit hydroelectric facilities” has the effect of excluding all conduit hydroelectric facilities<sup>3</sup> from RPS eligibility, including the SFPUC's Moccasin Low-head facility. (Guidebook, p. 28) which is inconsistent with the statute.<sup>4</sup>

Each of these has the effect of limiting and reducing the amount of RPS-eligible generation available for California to achieve its RPS goals.

Finally, the Guidebook (p. 28) appears to conclude that incremental upgrades to hydroelectric generation will not affect eligibility even if it results in the unit exceeding 30 MW (for small hydroelectric) or 40 MW (for units associated with water conveyance systems.) However, this change does not appear to be carried over to page 34 of the Guidebook.

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<sup>1</sup> Public Utilities Code Section 399.12(e)(1)(A) defines a small hydroelectric generating facility “of 30 MW or less” while a unit associated with a water conveyance facility must have a “nameplate capacity not exceeding 40 MW.”

<sup>2</sup> Public Utilities Code Section 399.12(e)(1)(A)

<sup>3</sup> These facilities are defined as being part of a “pipe, ditch, flume, siphon, tunnel, canal, or other man-made conduit” all of which are inherently part of a water supply or conveyance system (Guidebook, p. 30 fn 28; Overall Program Guidebook, p. 32).

<sup>4</sup> Public Utilities Code Section 399.12(e)(1)(B) concerning conduit hydroelectric facilities contains no language regarding a facility's relationship to a water supply or conveyance system.

**Background Information on SB2 should be moved to an accompanying cover memo**

The recommendation that the language in the Guidebook should utilize where possible the exact statutory language of SB2 should also apply to the narrative descriptions of SB2 contained in the Guidebook. In order to put the elements of the Guidebook in context, the Guidebook attempts to summarize the requirements of SB2 (Guidebook p. 1 and elsewhere). While this is helpful, the summaries often either simplify or inadvertently pre-judge many issues in SB2 that are still being determined through separate CEC and CPUC proceedings.

Examples include;

- The text on page 1 states that “all POU must procure 33% renewables by 2020”, rather citing to the actual language of the statute.
- At page 17, the Guidebook states that POUs must file a “procurement plan” by January 1, 2012 whereas in the statute, it is an Enforcement Program that POU governing boards are to adopt by that date.<sup>5</sup>
- In the case of the summary of Section 399.30(k) applicable to the SFPUC, the Guidebook (p. 18) inadvertently leaves out the use of renewable energy credits as a compliance option, leaves out that a POU must be in a city and county, and also switches the requirement that the hydroelectric resource not be otherwise eligible under Public Resources Code Section 25741 with not “RPS-eligible” as used in the Guidebook.

Almost all of this material is included in the Guidebook as background, and is not part of the Guidebook’s enforceable regulations. SFPUC recommends that this material be moved to a separate cover memo, thus providing context for the guidebook but not being part of it. If necessary, descriptions of SB2 requirements could be put back into the Guidebook at a later date

**CEC Certification of RECs sold by a POU to an IOU**

In one area of the Guidebook, however, it is unclear from its location in the text if the proposed language is being provided just as a description of SB2’s requirements or if this is the actual regulatory text the CEC is proposing. This occurs at page 16 of the Guidebook where it lists the criteria the CEC must consider, as required by PU Code 399.31, to determine if a POU has sufficient RECs and renewable energy procured so that it can sell “excess” RECs to an IOU. The status of this language should be clarified.

**Inclusion of Distributed and Behind-the-Meter Renewable Generation**

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<sup>5</sup> Public Utilities Code Section 399.30(e)

The SFPUC appreciates that the CEC's proposed rules will allow for both distributed and behind-the-meter renewable generation to qualify for RPS-eligibility, so that the full value of these resources can be recognized. The SFPUC has made significant investments in developing these resources, both through its own projects as well as providing additional incentives, through its GoSolarSF program, to supplement the incentives San Franciscans received under the California Solar Initiative (CSI).

The SFPUC is concerned, however, that the proposed rules may impose limitations that do not fully value the environmental benefits these resources provide.

As noted at the workshop, the requirement that distributed generation (DG) must use revenue-quality meters with an accuracy of +/-2% (Guidebook p. 66) will likely exclude substantial amounts of solar PV financed through the CSI program, most of which use non-revenue quality meters. One option to address this issue would be to allow these units to qualify without revenue quality meters but then discount the value of this generation (e.g. to 90%), for purposes of issuing RECs to compensate for the any inaccuracy of the meters. Current WREGIS functionality could accommodate this proposal by registering these facilities as multi-fuel, with 90% of monthly generation RPS-eligible. Another option would be to let these units qualify based on engineering benchmarks of their expected generation.

In order to avoid overwhelming both WREGIS and the RPS-certification process, the Guidebook correctly allows for the aggregation of a number of individual smaller units into a single "aggregated unit." for RPS certification. One potential concern, however (Guidebook, p. 76), is that the CEC will reject the entire application if only one of the units within the application does not qualify. While this is an appropriate criteria for final approval of an application, a single error in record keeping or incorrect representations by customers on the status of their systems could unintentionally penalize applicants (by rejecting their entire application) as they seek to aggregate a large number of distributed generation resources. A better approach may be for the CEC to identify incorrect units and allow the applicant an opportunity to correct any errors.

As noted at the workshop, much of the language within the Guidebook is focused on CPUC programs and their creation of "unbundled RECs" from distributed generation resources. CEC staff should ensure that resources developed under POU programs (either owned or created through incentive programs) are not inadvertently limited by this focus.

Finally, it appears that the CEC will not allow distributed and behind the meter resources to be counted as RPS-eligible until after the completion of the CEC's Fifth Guidebook (likely to occur in 2012) while all other Publicly Owned Utility (POU) resources may be counted as eligible from January 2011 (Guidebook, p. 74). DG and behind the meter resources should also be counted as eligible from January 2011.

**Conclusion**

The SFPUC looks forward to working with the CEC to continue to develop the fifth version of the RPS Eligibility Guidebook.

Sincerely,

/s/ Meg Meal

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Cc:

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