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California Energy Commission
1516 Ninth Street
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**RE: Renewables Portfolio Standards (RPS) Proceeding
Docket # 11-RPS-01 and 03-RPS-1078**

02-REN-1038	
DOCKET	
11-RPS-01	
DATE	Nov. 02 2011
RECD.	Nov. 03 2011

Dear Commissioners:

San Diego Gas & Electric Company ("SDG&E") appreciates this opportunity to provide to the California Energy Commission (the "Commission") its comments concerning the draft fifth edition of the *Renewables Portfolio Standard Eligibility Guidebook* (the "Guidebook"). The Guidebook describes, *inter alia*, requirements for retiring tradable renewable energy credits ("TRECs") and reporting RPS procurement using WREGIS, and addresses certification and pre-certification processes. As is discussed in more detail below, SDG&E proposes certain modifications to the draft Guidebook designed to (i) ensure that SDG&E receives credit for RPS compliance purposes of TRECs generated in 2009;^{1/} and (ii) clarify the discussion set forth in the draft Guidebook regarding the certification process. SDG&E also responds to questions regarding pre-certification of resources set forth in Attachment B to the draft Guidelines.

A. The Draft Guidebook Must be Adopted Prior to the End of 2011 or Modified in Order to Ensure that TRECs may be Counted for 2011 RPS Compliance

The currently effective version of the Guidebook (4th ed.) finds that TRECs are not RPS-eligible and, accordingly, provides no mechanism for retiring or reporting TRECs used for RPS compliance.^{2/} In response to the California Public Utilities Commission's ("CPUC's") adoption of D.10-03-021, *et seq.* (the "TREC Decision"), which approves the use of TRECs generated on or after January 1, 2008 for RPS compliance, the draft Guidebook removes the finding that TRECs are RPS-ineligible and establishes requirements for reporting RPS procurement using WREGIS, including instructions on retiring TRECs.

The draft Guidebook points out that TRECs may be used for RPS compliance beginning in the 2010 compliance year.^{3/} Acknowledging that the version of the Guidebook in effect in 2010, when retail sellers reported their 2008 RPS procurement, did not provide a process for reporting TRECs used for RPS compliance, the draft Guidebook establishes a procedure that may be used by retail sellers to report 2008 vintage TRECs, which pursuant to TREC rules must be retired by the end of 2010:

^{1/} The draft Guidebook notes that "the term 'tradable RECs' refers to a concept wherein the renewable attributes may be procured from the renewable generator as a separate commodity from the underlying energy and then can be subsequently sold to other buyers." Draft Guidebook, p. 68.
^{2/} See Renewables Portfolio Standard Eligibility Guidebook (4th ed.), CEC-300-2010-007-CMF, p. 6.
^{3/} Draft Guidebook, p. 69.

With the adoption of the fifth edition of this *RPS Eligibility Guidebook*, retail sellers may submit supplemental WREGIS reports for 2010 procurement, as appropriate, to report TRECs for 2010. Updated 2010 procurement reporting should be submitted to the Energy Commission within 30 days of the [adoption] of this fifth edition of the guidebook.^{4/}

SDG&E interprets this language to mean that in order to retire a 2008 vintage TREC, the retail seller must amend its 2008 WREGIS report, which was filed in 2010, to include such TRECs. SDG&E also assumes that this approach takes into account the requirement established in the TREC Decision to retire TRECs in WREGIS within three calendar years of the year the electricity associated with the TRECs was generated, inclusive of the year in which the TREC was generated.^{5/}

SDG&E notes that the draft Guidebook should outline a similar process for retiring such 2009 vintage TRECs. SDG&E proposes the following revisions to the draft Guidebook language quoted above in order to clarify the retirement process for 2008 TRECs and to add a similar process for 2009 TRECs:

With the adoption of the fifth edition of this *RPS Eligibility Guidebook*, retail sellers may submit **supplements to their 2008 supplemental WREGIS reports to reflect that any 2008 vintage TRECs were actually retired before the end of 2010.** ~~for 2010 procurement, as appropriate, to report TRECs for 2010.~~ **Similarly, retail sellers may submit supplements to their 2009 WREGIS reports to reflect that any 2009 vintage TRECs were actually retired before the end of 2011.** Updated **2008 and 2009 WREGIS reports** ~~2010 procurement reporting~~ should be submitted to the Energy Commission within 30 days of the [adoption] of this fifth edition of the guidebook.

It is not necessary to provide a special process for retiring 2010 vintage TRECs because such TRECs will not expire before the next scheduled WREGIS report is due in June 2012. Thus, 2010 vintage TRECs can be included in that retirement report.

SDG&E acknowledges that Senate Bill x1 2 (“SB 2”), which will become effective on December 10, 2011, requires that all TRECs be tracked in WREGIS and retired within 36 months of the month of generation of the associated RPS-eligible electricity, instead of within 3 calendar years as is required under current rules.^{6/} The new 36-month time limit would require 2009 vintage TRECs to be retired in 2012 (TRECs produced in January of 2009 must be retired by January of 2012; TRECs produced in February of 2009 must be retired by February of 2012, etc.). In order to avoid violating this statutory time limit, the draft Guidebook must be adopted before the end of 2011 to allow for retirement of TRECs so that retail sellers can retire their 2009 TRECs before the 36-month time limit has lapsed.

If the Commission does not adopt the draft Guidebook before the end of 2011, SDG&E proposes to nevertheless retire its 2009 TRECs for RPS compliance before the end of 2011. This will require an

^{4/} *Id.* at p. 109.

^{5/} D.10-03-021, *mimeo*, pp. 66-69; D.11-01-025, *mimeo*, Appendix B. In D.10-03-021, the CPUC noted that “an RPS-obligated LSE that wanted to use, for example, a REC associated with electricity generated in June 2008 for RPS compliance would need to commit the REC to RPS compliance by transferring it to the LSE’s WREGIS retirement sub-account for no later than the 2010 compliance year (the end of the third compliance year since the generation.” *Mimeo*, p. 67.

^{6/} See Senate Bill (SB) x1 2, §399.21(a)(6) (Stats. 2011, Ch. 1).

amendment to SDG&E's 2009 WREGIS Compliance Report (which was originally filed in April 2010) in order to include the 2009 TREC volumes. Taking this step on or before December 31, 2011 will ensure that SDG&E complies with the TREC Decision's 3-year retirement window, as well as §399.21(a)(6), thereby preserving its ability to use the 2009 TRECs for 2011 RPS compliance, pending adoption of the TREC retirement and reporting procedures proposed in the draft Guidebook.

B. The Commission Should Retain the Pre-Certification Requirement and the Draft Guidebook Should be Amended to Clarify the Discussion Set Forth in the Certification Process Section

SDG&E provides responses below to the questions set forth in Attachment B to the draft Guidebook regarding pre-certification of facilities. In addition, SDG&E notes the existence of a typographical error within the "Certification Process" section of the draft Guidebook that may have the unintended consequence of altering the significance of the discussion set forth in that section. Specifically, at p. 72 of the draft Guidebook, the phrase "retailer's of POU's" should be revised to read "retailers or POU's":

Procurement of RPS-eligible electricity may count toward a retailer's or of POU's RPS obligation if the generating facility was RPS-certified at the time of procurement or applied for RPS certification or precertification at the time of procurement.

SDG&E's provides the following responses to the questions regarding pre-certification set forth in Attachment B to the draft Guidebook:

1. The Energy Commission is considering eliminating the option of pre-certifying a facility that is in development and not yet online. Please discuss what value you believe pre-certification status provides to individual facilities, utilities, or other stakeholders, and provide examples.

SDG&E submits that pre-certification serves an important screening function. For RPS compliance purposes, SDG&E must ensure that it procures only from resources that are RPS eligible. CEC pre-certification process is a critical tool for evaluating RPS eligibility; whether a proposed or existing project has its CEC pre-certification provides helpful insight regarding whether a particular project technology is RPS-eligible and therefore usable for RPS procurement purposes. The Commission should retain this important evaluation tool.

2. If the Energy Commission maintains pre-certification as an option for developers, staff believes pre-certification should have greater value by being a more robust and responsive system.

- a) **If the Energy Commission keeps the option of pre-certification, is there a reasonable amount of time after a pre-certification is submitted that the facility should apply for certification and that the same RPS Eligibility Guidebook should apply to the facility's application - after which the pre-certification status would expire? Facilities would need to reapply for pre-certification and the RPS Eligibility Guidebook in place at that later time would apply. Please explain.**

SDG&E supports the proposal to require a resource to apply for certification within a reasonable period after pre-certification is received. SDG&E proposes a five-year window. This period should generally be adequate to allow a developer to deal with any permitting and/or interconnection issues

related to facility certification. If pre-certification expires, the resource should become subject to the then-current Guidebook, to the extent the resource re-applies for pre-certification. Adopting this requirement would reduce the number of projects in the queue that claim to have Commission pre-certification, but have made no tangible progress from a project perspective for an extended period of time.

- b) What milestone(s) should be met by a facility before an application for pre-certification will be accepted by the Energy Commission? For example, should an applicant be required to demonstrate that the facility has applied for permits or that permits have been approved, land or a loan for the land has been acquired, etc.? How should these milestones be demonstrated by the applicant?**

In order to control the backlog of pre-certification requests and improve the Commission's ability to respond in a timely manner, SDG&E agrees that it may be useful to require that certain milestones be met before an application for pre-certification will be accepted. Proof of site control, for example, would ensure that applicants have solidified a concept for their project before an application will be accepted. Site control can be demonstrated by providing documentation of:

- a. Direct ownership;
- b. A lease; or
- c. An option to lease or purchase upon PPA approval.

For the reasons set forth herein, SDG&E urges the Committee to revise the draft Eligibility Guidebook in accordance with the recommendations set forth above.

Yours sincerely,

A handwritten signature in cursive script that reads "Eugene Mitchell". The signature is written in black ink on a white background.