



City of Anaheim

## PUBLIC UTILITIES DEPARTMENT

Integrated Resources Division

**DOCKET**

**11-RPS-01**

DATE MAR 30 2012

RECD. MAR 30 2012

### **The City of Anaheim Comments to the California Energy Commission's 33 Percent Renewable Portfolio Standard Pre-Rulemaking Draft Regulations**

**CEC-300-2012-001-SD**

**March 30, 2012**

In response to the 33% Percent Renewable Portfolio Standard Pre-Rulemaking Draft Regulations (dated February 2012), the City of Anaheim (Anaheim) respectfully submits the following comments for review and consideration. Anaheim fully supports the comments currently being submitted by the California Municipal Utilities Association (CMUA). The comments submitted here highlight additional concerns for Anaheim.

#### **Treatment of Grandfathered Resources and Out-Of-State Repowered Facilities**

Anaheim requests clarification on the ability to grandfather an existing out-of-state resource contracted prior to June 1, 2010 that undergoes repowering, specifically when the nameplate capacity and the resource type remain the same. According to California PUC §399.16(d)(3), so long as the nameplate capacity and the renewable energy source do not change, the resource can continue to be grandfathered.

In order to protect the investment made by utility ratepayers to comply with the state's RPS goals, existing out-of-state resources that repower and continue to meet the statutory requirements for RPS eligibility, must continue to be considered grandfathered resources, and count in full towards the utility's RPS goals.

Additionally, further clarification is needed on whether or not the California Energy Commission's (CEC) repowering requirements apply to out-of-state facilities. The CEC RPS Guidebook states, "Applicants seeking to certify a facility as a repowered facility must submit documentation confirming the replacement of the facility's prime generating equipment and the capital investment made to repower the facility, as well as the value of those investments,

*Page 1 of 5*

*Anaheim Comments on 33% RPS Pre-Rulemaking Draft Regulations*

201 S. Anaheim Boulevard, Suite 802  
Anaheim, California 92805

TEL (714) 765-4250  
FAX (714) 765-4140

in addition to the appropriate application form(s) and any other required information necessary for the generating technology.”<sup>1</sup>

### **Confidentiality**

Anaheim is supportive of CMUA’s position that the CEC should release at least one more version of the draft regulations, followed by another opportunity for comments and discussion with CEC staff. Sections of the draft regulation that should be revisited are those requiring disclosure of confidential and proprietary information.

The passage of SBX1 2 significantly changes the energy policy for California, including how publicly owned utilities (POUs) participate and contribute to that policy. The CEC’s draft regulations mirror many of the California Public Utilities Commission (CPUC) requirements for investor owned utilities (IOUs); however, IOUs are afforded many protections with respect to disclosing information that may be considered confidential and proprietary. As such, Anaheim requests that certain data requested by the CEC be deemed confidential to prevent competitive disadvantage from disclosure of proprietary information. For example, Section 3205 outlining procurement plans and strategies, and as well as Section 3207 on compliance reporting will contain information that may include detailed contract terms and contract pricing. In instances where the contract or documentation includes information that is proprietary, Anaheim requests that the CEC deem that information confidential.

An option for confidentiality currently exists when listing details for the IEPR S-2 forms, and Anaheim requests the same confidentiality for any items the CEC may request for SBX1 2 compliance, including (but not limited to) enforcement programs and procurement plans.

### **Classification of Test Energy**

Anaheim requests additional clarification from the CEC, either through inclusion in the RPS Regulation or RPS Eligibility Guidebook on the treatment of test energy (including test energy from grandfathered resources), and its classification within the portfolio content categories. Currently, the rules regarding how renewable energy certificates (RECs) for test energy are created

---

<sup>1</sup> *Staff Draft, Renewables Portfolio Standard Eligibility Guidebook, Fifth Edition.* California Energy Commission, Efficiency and Renewable Energy Division. Publication Number: CEC-300-2011-004-SD, Page 49.

have not been finalized and approved by the Western Renewable Energy Generation Information System (WREGIS).

Anaheim is concerned with this issue because it has an existing contract that was signed before June 1, 2010 and includes provisions for the purchase of test energy. The commercial operation date of the resource may extend into fall; however, the test energy could flow as early as May 2012. For the RECs that would have been created, but for the delay in WREGIS functionality for creating such RECs, Anaheim is seeking clarification in the rules on how to count, report and categorize this renewable energy. One solution is to allow the POUs to include test energy on the CEC's Interim Tracking Sheet (ITS) for verification and compliance.

### **Annual Reporting Requirements Should Be Streamlined**

Anaheim respectfully suggests that the CEC streamlines the reporting and verification process, and that the CEC use readily available data previously reported (i.e., the IEPR and CEC 1305 Report). Additionally, Anaheim requests that the CEC work closely with POU's to develop a uniform template in an effort to streamline the process and ensure consistency with the data collection process.

Anaheim also requests that the verification provided as part of CARB's AB 32 GHG Reporting be sufficient verification of generation data for the CEC. Duplicative reporting requirements and verification requirements are costly and time consuming for both the POUs and the CEC. Combining the reporting requirements within the CEC and the CARB will make more efficient use of staff time on both accounts.

### **Update to the Enforcement Program**

Anaheim agrees with CMUA's position on adjustment of POU enforcement programs, and reiterates that position here. Section 399.30(e) does not require POUs to submit their enforcement programs to the Commission, and nor does it give the Commission the authority to set requirements for enforcement programs. Therefore the requirement for a POU to revise its enforcement program to comply with the regulations within 90 days should be removed from the draft regulation.

The language in section 3205(c)(1) of the draft regulations imposes a new burden on POUs that is not required in SBX1 2. If not deleted, section

3205(c)(1) of the draft regulations should be amended to provide that if a POU did not adopt an enforcement program by January 1, 2012, a POU should adopt an enforcement program within 90 days of the effective date of the regulations.

### **Treatment of Distributive Generation RECs and Behind the Meter RECs**

Anaheim fully supports CMUA's comments on this issue and wishes to convey to the CEC that legislative requirements for distributive generation are extensive. Many POU's have programs for solar, fuel cells and other RD&D projects that produce energy behind the meter. The RECs from these resources should count towards portfolio content category 1, as the resources are located in-state and produce RPS-certified RECs.

Anaheim currently spends millions of dollars, supplementing the installation of PV solar on rooftops in Anaheim through solar rebates. Additionally, Anaheim is providing funding for the installation of PV on the Anaheim Convention Center.

SBX1 2 makes reference to Section 25740.5 of the Resources Code, which states, "an additional objective of the program shall be to identify and support emerging renewable technologies in distributed generation applications that have the greatest near-term commercial promise and that merit targeted assistance." Additionally, Section 399.15(C)(5)(B)(iv) states, "taken reasonable measures, under the control of the retail seller, to procure cost effective distributive generation and allowance of unbundled renewable energy credits." CEC recommendation to count the RECs associated with these types of renewable energy installations as portfolio content category 3 diminishes the current and future economic value of these projects.

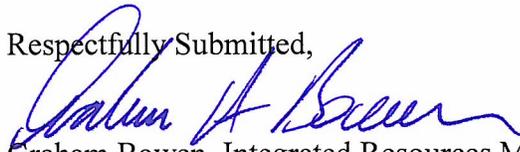
Lastly, SB1 requires utilities to provide customers incentives for solar installation. At the time many of the contracts between the utility and customers were negotiated; RECs were counted towards the RPS compliance requirements. With the passage of SBX1 2, this issue was complicated by the inclusion of portfolio content category requirements. At a very minimum, the CEC should consider that PV contracts negotiated before SBX1 2 was signed, be counted in full towards a POU's RPS compliance requirement. The limitation on portfolio category 3 RECs contradicts other California State Mandates requiring the installation of solar panels.

**Conclusion**

Anaheim appreciates the opportunity to submit comments on the 33% RPS Pre-Rulemaking Draft Regulations.

Should you have any questions, please contact me.

Respectfully Submitted,



Graham Bowen, Integrated Resources Manager  
City of Anaheim, Public Utilities Department  
gbowen@anaheim.net  
714.765.5261