

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

In the matter of:)	Docket No. 11-RPS-01
)	and
Developing Regulations and Guidelines)	02-REN-1038
For the 33 Percent Renewables)	
Portfolio Standard)	

**COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND
POWER TO THE CALIFORNIA ENERGY COMMISSION’S NOTICE TO
CONSIDER ADOPTION OF REVISIONS TO THE RENEWABLES PORTFOLIO
STANDARD ELIGIBILITY GUIDEBOOK AND OVERALL GUIDEBOOK FOR
THE RENEWABLE ENERGY PROGRAM**

Pursuant to the procedures established by the California Energy Commission (Energy Commission, or CEC), the Los Angeles Department of Water and Power (LADWP) respectfully submits these comments on the CEC’s Rulemaking (12-OIR-1) to consider adoption of revisions to the Renewables Portfolio Standard (RPS) Eligibility Guidebook (Guidebook) and the Overall Program Guidebook for the Renewable Energy Program.

I. INTRODUCTION

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, pursuant to the Los Angeles City Charter, whose governing structure includes the Mayor, 15-member City Council and five-member Board of Water and Power Commissioners. As the third largest electric utility in the state and the nation’s largest municipal utility serving a population of over four million people, LADWP is a vertically integrated utility,

both owning and operating the majority of its generation, transmission, and distribution systems.

As a result of combined regulatory mandates for increased renewable energy, emissions performance standard on fossil fuel generation, energy efficiency, solar roofs, reduction in greenhouse gas (GHG) emissions, and the elimination of once-through cooling (OTC) for coastal power plants, LADWP is undertaking a utility-wide transformation and making billions of dollars in investments on behalf of its ratepayers to replace about 70% of the energy resources over the next 17 years that it has relied upon for the last 50 years. To name just a few of its long-term goals, LADWP is making investments to contribute to clean air, end its reliance on coal, and stop the use of once through cooling. Nonetheless, it must do so in a responsible and coordinated manner to ensure continued grid reliability and to minimize unnecessary rate impacts to its customer-owners.

II. COMMENTS

California's most recent legislation for its RPS Program requires "each local publicly owned electric utility [to] adopt and implement a renewable energy resource procurement plan that requires the utility to procure a minimum quantity of electricity products from eligible renewable energy resources."¹ Since LADWP is a local publicly owned electric utility (POU), it is required to comply with Senate Bill (SB) 2 (1X).

The LADWP would like to take this opportunity to thank the CEC for making several key revisions to its RPS Guidebook, specifically, the

¹ Public Utilities Code, Section 399.30(a).

modifications made to the eligibility of small hydroelectric generation units up to 40 MW in capacity that are operated as part of a water supply or conveyance system.

Nonetheless, there are still several changes that need to be made to the revised guidebooks to ensure that it is aligned with SB 2 (1X). LADWP's comment (or lack of comment) on a particular question should not be interpreted to mean that LADWP is agreeing to CEC oversight on any given issue. As such, LADWP requests that the CEC take into consideration the changes proposed below to its revised RPS Guidebook. LADWP also supports the comments being filed concurrently by the California Municipal Utilities Association (CMUA).

a. General Comment – Delay

The LADWP is deeply concerned that the CEC is issuing the Draft Regulations and the Draft guidebook separately and is planning to adopt both documents at independent CEC Business Meetings. Both documents are interrelated and cannot function individually. Modifications to either document are causal, and thus, LADWP requests that the CEC consider delaying adoption of the RPS Guidebook until the regulations are completed.

b. Pre-June 1, 2010 Facilities

Page 16, Section II – Eligibility Requirements states the following:

*“A facility that was approved before June 1, 2010.... **may be certified** by the Energy Commission as RPS Eligible **if the facility meets the eligibility requirements set forth in the edition of this guidebook that was in place at the time of the facility’s approval by the POU governing board for its RPS under the former PUC Section 387.**”*

The Energy Commission's interpretation of this provision would retroactively apply certification requirements on renewable resources previously adopted by governing boards of POU's prior to June 1, 2010. This is counter to the Public Utilities Code (PUC) Section 399.12 (e)(1)(C), which states that:

*"a facility approved by the governing board of a local publicly owned electric utility prior to June 1, 2010... **shall be certified** as an eligible renewable energy resource by the energy commission... if the facility is a 'renewable electrical generation facility' as defined in Section 25741 of the Public Resources Code."*

The LADWP's interpretation of this provision is, as long as a facility is approved by the governing board of a POU prior to June 1, 2010, the facility will be certified by the Energy Commission if it meets the definition of a "renewable electrical generation facility" as defined in Section 25741 of the Public Resources Code without any additional conditions.

The CEC has also proposed a 'limited certification process' for Pre-June 1, 2010 contracts on Page 83, as follows:

*"A facility using renewable energy resources that was under contract with, or owned by, a retail seller or POU with the contract or ownership agreement having been originally executed prior to June 1, 2010, and not meeting the eligibility requirements of the current RPS guidebook, may receive a limited certification of the facility so that the electricity procured under that contract or ownership agreement **may be counted** for the RPS if all the following conditions are met:*

- a. The facility was eligible for the RPS under the rules in the RPS Guidebook as of the date when the contract was executed.*
- b. For an electrical corporation, the contract has been approved by the CPUC, even if that approval occurs after June 1, 2010.*
- c. Any contract amendments or modifications occurring after June 1, 2010, do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource. The duration of the contract may be extended if the original contract specified a procurement commitment of 15 or more years.*

A facility meeting the above requirements, but failing to meet the eligibility requirements of the current RPS guidebook, may apply for a limited certification on the CEC-RPS-1 form. A facility receiving a limited certification will be eligible for the RPS only for the duration of the contract or ownership agreement

originally executed prior to June 1, 2010;”

The ‘limited certification’ process proposed by the CEC does not align with the provisions and legislative intent set forth in SB 2 (1X). PUC Section 399.16(d)(1) requires that “the renewable energy resource was eligible under the *rules in place* as of the date when the contract was executed” (emphasis added). For contracts executed by POUs prior to June 1, 2010, the ‘rules in place’ are the POU’s adopted RPS Policy at the time the contract was executed, not the CEC’s RPS Eligibility Guidebook. As stated above, the Energy Commission’s interpretation of this provision would penalize POUs that were historically not required to comply with the CEC Certification process.

The Legislature intended to respect those historical procurement decisions made by POU governing boards prior to SB 2 (1X). Further, there is no provision in SB 2 (1X) that provides for an alternate limited certification process for Pre-June 1, 2010 contracts. Had the legislature intended for all existing POU RPS resources to be certified in accordance with the most current edition of the Eligibility Guidebook or be certified through the proposed “limited certification” process, it would have stated it outright, or at minimum, would have never included the language in Section 399.12 (e)(1)(C). The CEC should not make any artificial interpretations of the statute.

The LADWP recommends that the CEC re-write these portions of the RPS Eligibility Guidebook in order to align with the legislative language and intent of SB 2 (1X).

**c. RPS Guidebook for IOUs and POUs should not
Confound RPS Regulations for POUs**

The LADWP is concerned that the CEC is mixing portions of the RPS Regulations for Publicly Owned Electric Utilities (Regulations) with the draft RPS Guidebook. For example, Section II. A. provides a summary of the Procurement Targets and Procurement Content Categories applicable for both the IOUs and the POUs. Also, Page 106, Paragraph 2 states the following:

“[t]he Energy Commission intends to conduct a verification process for each retail seller and POU for each intervening year, during the compliance periods as established by SB 2 (1X). This process will begin with an Energy Commission staff analysis of annual procurement data submitted by retail sellers and POUs for the preceding year, as described in the following section, “reporting to the Energy Commission.” Staff will work with each retail seller and POU to verify its procurement claims, and then a public workshop will be held to present the Energy Commission’s findings and discuss outstanding issues. The Energy Commission plans to post its findings on its website. Following each compliance period, the Energy Commission will combine the verification results for the intervening years with the final year of the compliance period.”

This statement does not align with the proposal made by the CEC in its draft regulations, as it does not make reference to the qualitative analysis proposed by the CEC in its released draft Regulations. This is one example of several conflicting issues between the RPS Guidebook and the RPS Regulations. Although both documents are interrelated, a clear demarcation of topics needs to occur between the Guidebook and the draft Regulations, as the draft RPS Guidebook is shared by both the IOUs and the POUs, whereas the draft Regulations are primarily written for the POUs.

d. Definitions that require Revision

The LADWP has concerns with the following definitions provided in the Overall Program Guidebook.

i. Emerging Renewables Technology

As currently proposed by the Energy Commission, the definition of “Emerging renewable technology” appears to be a bit restrictive and all-encompassing before such technology emerges. What is the benefit of creating high hurdles when the point of an emerging technology is that it is new, developing, or unknown? Furthermore, the Public Resources Code (PRC) Section 25741 and PUC Section 399.12(e)(1)(A) already lists the criteria of renewable power sources required to be considered a “Renewable electrical generation facility.”

LADWP recommends that the Energy Commission re-write this definition while being cognizant of the renewable power sources listed in PRC Section 25741 and PUC Section 399.12 (e)(1)(A).

ii. Renewables Portfolio Standard (RPS)

The Energy Commission’s definition of “Renewables Portfolio Standard (RPS)” is extensively long and beyond the definition provided in PUC Section 399.12(i), which simply states that:

“Renewables portfolio standard” means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller or a local publicly owned electric utility is required to procure pursuant to this article.”

The Energy Commission should revise its definition of RPS and adhere to the plain language provided in PUC Section 399.12(i).

iii. Renewable Energy Certificate

The Energy Commission's definition of "Renewable Energy Certificate" is not in alignment with the term utilized by the PUC Section 399.12(h) and the CPUC, which is "Renewable Energy *Credit*." Furthermore, the CEC's definition goes beyond the language provided in PUC Section 399.12(h).

The Energy Commission should revise its definition of "Renewable Energy Certificate" to "Renewable Energy Credit," and adhere to the plain language provided in PUC Section 399.12(h).

iv. Small Hydroelectric

As currently written, the definition of "Small Hydroelectric" does not take into consideration those small hydroelectric generation units with a nameplate capacity not exceeding 40 megawatts that are operated as part of a water supply or conveyance system, as provided in Section 399.12 (e)(1)(A). The Energy Commission needs to revise its definition of "Small Hydroelectric" to incorporate such eligible 40 MW generating units.

e. Small Existing Hydroelectric Resources

i. FERC Licensing Data Request

As stated above, LADWP would like to thank the CEC for making the appropriate modifications to the eligibility of small hydroelectric generation units up to 40 MW to align with PUC Section 399.12 (e)(1)(A). However, the RPS Guidebook still needs to be fine-tuned to ensure eligibility of these units without creating unnecessary restrictions. For example, Page 39 of the draft Guidebook described the additional required information for such existing hydroelectric

generating units 40 MW or less that are operated as part of water supply or conveyance system:

“Additional documentation described below must be included with a complete application for RPS precertification or certification...”

- *Current water supply permit issued by the California Department of Public Health or its local equivalent.*
- ***Current Hydroelectric project license or exemption from licensing from the Federal Energy Regulatory Commission.”***

The bolded item above does not consider federal law that pre-dates FERC jurisdiction. LADWP recommends a straightforward fix for this issue by appending the language “if applicable” to the end of the second bullet point. This same comment and fix should apply to other areas in the RPS Guidebook that call for FERC licensing or exemptions, such as “Other Permits” on page 37.

f. Distributed Generation

LADWP’s Solar Incentive Program (SIP) provides ratepayer-funded incentives for residential and commercial customers to install solar photovoltaic systems on their facilities. The SIP has been in existence for over 10 years, is in full compliance with SB 1 guidelines, and has successfully promoted the installation of over 5,000 solar photovoltaic systems, totaling over 51 Megawatts (MW) of generation capacity.

i. Estimated Performance Data Should be Allowed

The RPS Guidebook requires POUs to use the Western Renewable Energy Generation Information System (WREGIS) to track and report, on a monthly basis, the energy generated by RPS-eligible facilities for Renewable

Energy Credit (REC) purposes. The current WREGIS Operating Rules² require all original metered data sources for reporting to come from the output of a revenue-quality meter.

Currently, these SIP installations have performance meters (not revenue-quality meters) that are installed by the customer and which may not be fully accessible by the verifier (LADWP). In addition, LADWP as well as other POUs, still read most residential meters and bills bi-monthly. To comply with WREGIS monthly tracking and reporting requirements, new revenue-quality (i.e. high-accuracy) meters will have to be installed to allow LADWP to verify the generation in a sustainable manner, and additional special meter readings may be required. This will be extremely laborious, costly, and grossly inefficient relative to the energy generated by the small-scale solar systems. The estimated cost to meter, record, and report monthly energy production for systems smaller than 10 kilowatts (kW) would rise substantially and is an un-wise expenditure of ratepayer funds for accounting purposes.

The LADWP asserts that the Energy Commission should exempt small-scale photovoltaic projects from the use of WREGIS to track and report monthly generation of RECs. These requirements are counterproductive to the program goal to promote distributed generation, may put an economic damper on future solar photovoltaic development, and will add significant and unnecessary expense to the ratepayer-funded program. Instead, the Energy Commission

² WREGIS Operating Rules, Page 38, Section 9.3.3 Classes H-J. Dated December 2010. Western Renewable Energy Generation Information System. Available at: <http://www.wregis.org/uploads/files/851/WREGIS%20Operating%20Rules%20v%2012%209%2010.pdf>

should allow utilities to report for these projects with expected performance data, which is based on the characteristics of the photovoltaic system (e.g. size, location, orientation, tilt, tracking, shading, etc.). LADWP and other utilities with customer solar incentive programs have based incentive rebates on expected performance data for smaller systems for many years, and have found that these estimates are very close to actual energy output.

ii. October 1, 2012 Deadline

In the case where an alternate reporting mechanism is not developed for these solar installations, LADWP does not believe it will be able to install all required revenue-quality meters before the CEC's proposed deadline of October 1, 2012:

*"All generation from facilities certified as eligible for California's RPS must be tracked in WREGIS, with the limited exceptions for 2011-2012 generation noted in this guidebook for facilities serving POU's and generation procured under an AB 920 program prior to October 1, 2012. **Applicants for certification must provide the WREGIS Generating Unit Identification number (GU ID) for each certified facility to the Energy Commission by October 1, 2012.**"³*

This proposal places a significant and unreasonable burden on POU's, who are planning to bring their Pre-June 1, 2010 procurement into compliance with WREGIS metering requirements. The LADWP requests that the CEC allow entities to provide their WREGIS GU ID for those facilities being re-metered by January 1, 2014. The LADWP requires this extra time to rewire, add meter sockets, reconfigure conduits at about 800 locations to install performance meters where none exists, and finally install approximately 4,000 performance meters so that they are revenue-grade and readable. Subsequently, the grace

³ CEC's Renewables Portfolio Standard Eligibility Guidebook, Fifth Edition, Page 78

period deadline of October 1, 2012 for CEC to receive certification applications of these facilities⁴ should be extended.

LADWP would like to reemphasize that the estimated cost to meter, record, and report monthly energy production for systems smaller than 10 kilowatts (kW) would rise substantially and is an un-wise expenditure of ratepayer funds for accounting purposes.

iii. Procurement Content Categories of Distributed Generators

As LADWP has commented in the past, LADWP's SIP installations meet the definition of an "Eligible Renewable Energy Resource" as well as the criteria set forth in PUC Section 399.16 (b)(1)(A), as these facilities are connected to distribution systems that serve end users within a California Balancing Authority. Furthermore, on top of SB 1 incentives, LADWP's SIP participants were offered a premium by LADWP to retain any electricity products generated to use towards its RPS goals. As such, LADWP requests that the CEC modify page 71, Section G, paragraph 3 of the Guidebook as follows:

*"Both the Energy Commission and the CPUC have roles in determining RPS implementation for renewable distributed generation (DG) facilities, ~~and both have established that~~ Renewable Energy Credits (RECs) created by a renewable DG facility belongs to the owner of the RPS-Eligible facility **or the utility that has acquired the energy with the RECs.**"*

Nearly all participants in LADWP's SIP program have elected to receive a premium in consideration for the energy with the RECs. Since these installations are already located within LADWP's distribution system, these installations

⁴ CEC's Renewables Portfolio Standard Eligibility Guidebook, Fifth Edition, Page 79.

should qualify as a renewable energy resource electricity product that meets the portfolio content category under 399.16(b)(1)(A).

iv. Disqualification of Aggregated Facilities

LADWP is deeply concerned that the CEC's approval approach for aggregate facilities:

“The eligibility of an aggregated unit depends on the eligibility of all facilities within the aggregated unit. An application for an aggregated unit will not be approved unless all facilities in the unit are eligible. If the Energy Commission determined that one facility of an approved unit is not RPS-eligible, the entire unit will lose its certification until an amended application is submitted that removes the ineligible facility from the list.”

As written, an aggregate facility consisting of 100 individual applications can be denied (as a whole) if certification for one generator is not-deemed certifiable. This certification and de-certification approach can seriously delay the generation of RECs. While LADWP feels its assumptions regarding capacity factors are conservative, future efficiency improvements or particularly good solar years create the possibility that a small number of generators registered in Class J may generate more than 30 Megawatt-hours (MWhs) in a certain year. To eliminate the entire aggregate unit from the RPS eligibility unless it meets Class I reporting requirements seems excessively punitive

The LADWP recommends that the CEC consider revising this language to the following:

The eligibility of an aggregated unit depends on the eligibility of all facilities within the aggregated unit. ~~An application for an aggregated unit will not be approved unless all facilities in the unit are eligible.~~ If the Energy Commission determined that one facility of an approved unit is not RPS-eligible for a particular Class, that facility ~~the entire unit~~ will lose its certification ~~until an amended application is submitted that removes the ineligible facility from the list~~ and the aggregated unit energy amount will be reduced accordingly.

This language allows the utilities to produce electricity products from the eligible facility while making adjustment to the ineligible facility to become RPS eligible.

**g. Efficiency Improvements - Environmental
Determinations**

LADWP is concerned that the CEC is inadvertently inheriting environmental responsibilities that were not granted to them in SB 2 (1X). For example, Page 38 states the following:

“Applicants seeking certification of incremental hydroelectric generation due to efficiency improvements regardless of facility output are required to provide:...
f. Documentation demonstrating that the efficiency improvements did not result in adverse impact on instream beneficial uses or causes a change in the volume or timing of streamflow. For this purpose, an efficiency improvement would have an adverse impact on the instream beneficial uses if it causes an adverse change in the chemical, physical, or biological characteristics of water.”

Commissions and Departments operating under the California Natural Resource Agency may apply the California Environmental Quality Act (CEQA) to determine adverse impacts on instream beneficial uses or changes in the volume or timing of streamflow. As such, a project which satisfied the CEQA process should suffice for the environmental requirements proposed by the CEC.

The CEC should not be requesting documentation pertaining to activities already conducted as part of a CEQA process. For example, there are hydroelectric energy efficiency improvements in LADWP’s resource mix that did not require a formal CEQA study because it was already determined that such adverse impacts were not evident in this project.

Here and elsewhere in the RPS Guidebook, the CEC is potentially creating a conflict between its Guidebook and CEQA. The CEC's own assessment may conflict with that of a CEQA assessment via the law and its application. This could become a regulatory stalemate.

Thus, LADWP suggests that the CEC requests entities to submit documentation pertaining to relevant CEQA actions.

h. Biomethane Eligibility

The LADWP continues to be extremely concerned about the indefinite Biomethane Eligibility suspension that was approved and in effect as of March 28, 2012. LADWP still believes that regardless of the suspension, those facilities which produced biomethane prior to the enactment of the suspension should still count towards the RPS as long as the facility met the requirements of the 4th Edition of the RPS Guidebook.

i. Existing Supply Contracts Should be Fully Counted

The proposed suspension should not affect power plants with existing supply contracts that allow suppliers to increase production in phases or to make up shortfalls from different sources. These supply contracts are usually firmed in supply amount by the Maximum Daily Volume (MDV) and it is very common that additional production facilities may need to be added to meet the MDV due to depletion and variation of weather-driven production of these existing sources.

ii. Grandfathered Publicly Owned Utility Biomethane Contracts

The LADWP wants to emphasize that biomethane contracts approved by a POU board prior to June 1, 2010, are grandfathered contracts per SB 2 (1X). LADWP's biomethane contracts meet the definition of a "Renewable Electrical Generation Facility" as defined in Section 25741 of the Public Resources Code. Therefore, these contracts should be deemed certified. The CEC should allow entities to submit these grandfathered resources for certification, regardless of the suspension.

iii. Biomethane Qualifies for Section 399.16(b)(1)(A)

The combustion of biomethane at a California generating facility will produce electricity products that meet the Portfolio Content Category found in Section 399.16 (b)(1) (Bucket 1) electricity products, regardless of the location of the source of the biomethane. However, as stated previously, contracts approved by POUs prior to June 1, 2010, as part of the POUs RPS requirements should count *in full* towards RPS requirements, regardless of whether the contract meets the CEC Eligibility Guidebook, as long the resource is adopted by the POUs governing board as a procurement contract which is consistent with SB 2 (1X).

The focus of Section 399.16 (b)(1) is with "electricity products," not the delivery of the fuel resources. To assume that biomethane is an "electricity product" that is subject to the Portfolio Content Categories is an inappropriate interpretation of SB 2 (1X). Once biomethane is consumed at a California facility, electricity products generated within the metered boundaries of California would be scheduled to California Balancing Authority, therefore making it subject to Bucket 1.

This approach is in accordance with the relevant provisions of SB 2 (1X), to which the CEC should adhere.

i. RPS Tracking, Reporting, and Verification

LADWP contends that for the POU's, PUC Section 399.30 (g) requirements 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, Table 1 below illustrates existing data submittals the CEC already collects, which are consistent with SB 2 (1X) requirements:

Table 1: Existing Data Submittals consistent with SB 2 (1X)

Data Collection - Existing Submittals				
SB 2 (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 1	-	Applicable
§399.30 (g)(3)	S2, S5	Schedule 1	-	-
§399.30 (j)(1)	-	-	-	-
§399.30 (j)(2)	S1, S2,	Schedule 1,	Annual Report	Applicable
§399.30 (j)(3)	S1, S2, S4, S5	Schedule 1, Schedule 5	Annual Report	Applicable

We ask the CEC to use its existing forms for compliance and to only create reporting requirements for elements that are not captured through existing submittals.

j. CEC Certification Forms

i. Water Supply or Conveyance System

Discrepancies

1. Certification Form Disconnect

LADWP has noticed several inconsistencies between the Application for RPS Certification and Pre-Certification Forms (Certification Forms) and the RPS Eligibility Guidebooks. The most concerning of these disconnects is on the form CEC-RPS-1.S2 Instructions – Certification Supplement 2 – Hydroelectric, Page 10, Item 7, which states the following:

“Section VII: Water Supply or Conveyance System Facilities
7. Applicant must certify that the facility meets all of the following requirements:

- *The facility commenced commercial operation before January 1, 2006*
- **Capacity is 30 MW or less**, with an exception for eligible energy efficiency improvements made after January 1, 2008.
- *Located in-state or satisfies the Facility With a First Point of Interconnection Outside California requirements.*
- *The Facility is a small hydroelectric facility that was under contract to, or owned by, a retail seller or local publicly owned utility as of December 31, 2005*
 - *Specify the retail seller or local publicly owned utility and attach documentation on the contract with, or ownership by, the specified utility.”*

The Legislature and the CEC have already acknowledged that the capacity limitation for a generating unit that operates as part of a water supply or conveyance system is 40 MW nameplate capacity. This disconnects the Certification Form from the Guidebook. If this mistake is an oversight by CEC staff, LADWP reinforces the concept of delaying adoption of the guidebooks to provide ample time to fix these types of errors.

2. Section X is not Applicable

LADWP is concerned that the CEC is requesting entities applying for certification under PUC Section 399.12 (e)(1)(A) will be required to provide information under the proposed CEC-RPS-1.S2 Certification Supplement 2 –

Hydroelectric form – Section X (Section X). Again, we find a disconnect between the proposed Guidebook and the forms. Page 39 of the draft Guidebook described two additional pieces of information required for existing hydroelectric generating units 40 MW or less that are operated as part of a water supply or conveyance system yet, Section X requests that we supply information above and beyond that stated in the Guidebook.

Furthermore, there are several questions in this section that would not apply to LADWP's small hydroelectric generating units (for example, Question 16 and 17 relate to Efficiency improvements and Incremental Hydroelectric Generation). If all of the fields specified in Section X are mandatory, it is possible that an application be denied on the basis that LADWP did not supply all the pertinent information of this Section, even though it is clear that most of these questions are not applicable.

Again, if this mistake is an oversight by CEC staff, LADWP reinforces the concept of delaying adoption of the guidebooks. Simple mistakes as the one illustrated above can have significant ramifications for utilities seeking certification of their facilities, and such certification can be delayed until the CEC again updates its Guidebook.

ii. Facilities With a First Point of Interconnection Outside California

LADWP is deeply concerned with the information being requested by the CEC in the CEC-RPS-1.S3 – Certification Supplement 3 – Facilities with a First Point of Interconnection Outside California form. First and foremost, Pre-June 1

2010 facilities should not have to provide the information pertinent to this form, as this form insinuates resource classification into Portfolio Content Categories. As stated in PUC Section 399.16 (d):

“Any contract or ownership agreement originally executed prior to June 1, 2010, shall count in full towards the procurement requirements established pursuant to this article....”

LADWP requests that the CEC remove any reference to resources procured before June 1, 2010 from this form, as these resources do not have to meet any of the Portfolio Content Category Requirements.

In addition, the “Distance from California” information to be provided in Questions 2 – 4 is irrelevant. PUC Section 399.16 (b)(1)(A) requires that a renewable energy resource electricity product:

“Have a first point of interconnection with a California balancing authority, have a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area, or are scheduled from the eligible renewable energy resource into a California balancing authority... “

Nowhere in the statute does it require entities to have a “Threshold or Minimum Distance from [a] California Border.”⁵ Such information is irrelevant to the Portfolio Content Categories. The requirement for Portfolio Content Category 1⁶ involve either an interconnection or scheduling the renewable energy electricity product into either the California Independent System Operator (CAISO), the Balancing Authorities of Northern California (BANC), Imperial Irrigation District (IID), LADWP, or Turlock Irrigation District (TID).⁷ The CEC

⁵ CEC’s Renewables Portfolio Standard Eligibility Guidebook, Fifth Edition, CEC-RPS-1.S3 Certification Supplement 3 - Facilities With a First Point of Interconnection Outside California, Question 4.

⁶ PUC Section 399.16 (b)(1)(A).

⁷ On December 15, 2011, the CPUC adopted Decision 11-12-052, which identified the aforementioned five California balancing authorities “primarily located within the state.”

should not request supplemental information beyond that requested in the statute.

iii. Aggregate Facilities

LADWP is concerned with the CEC-RPS-3 Certification of Aggregated Units Tab 3 form. The information requested on Page 2 requires LADWP to provide the name of the Owner of the unit. In the instance where LADWP is not the owner of the facility, this information may encounter privacy concerns. Also, there may be many instances where a lease governs the facility, where the owner of the facility is different from the owner of the real property. In addition, this could be an issue with DWP's Solar Incentive Program correlating with form CEC-RPS-1. In order to avoid these conflicting issues, LADWP requests that the CEC remove this column from the CEC-RPS-1 form or request information from the "Facility" or "REC Owner" in the respective forms, CEC-RPS-1 and CEC-RPS-3.

III. CONCLUSION

LADWP appreciates the opportunity to submit these comments and recommends that the CEC delay adoption of the guidebooks until all issues mentioned above and raised by other parties are fully resolved, and the RPS regulations are completed. LADWP looks forward to cooperating with the Energy Commission in this proceeding.

Dated: May 2, 2012

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