STATE OF CALIFORNIA
BEFORE THE CALIFORNIA ENERGY COMMISSION

In the matter of:	)	Docket No. 11-RPS-01
	)	
Developing Regulations and Guidelines for the 33 Percent Renewables Portfolio Standard	)	Docket No. 02-REN-1038
	)	
	)	Comments on Guideline Revisions for RPS Implementation and Renewable Energy Program
and	)	
	)	
Implementation of Renewables Investment Plan Legislation	)	August 9, 2012
	)	
	)	

Comments of the Sacramento Municipal Utility District (SMUD) on Guideline Revisions for RPS Implementation and Renewable Energy Program

SMUD requests the opportunity to submit the following comments to revisions of the Renewables Portfolio Standard (RPS) Guidebook proposed for adoption by California Energy Commission (CEC) on August 9, 2012, and for consideration for future revisions. SMUD appreciates the attention of CEC staff and the Commission to our concerns and proposals.

A. Because of SBX1 2, The CEC Should Revise The Implementation of Section 399.25(d)

On page 12, the Guidebook contains language to implement Section 399.25(d), which places restrictions on the sale of RECs from POUs to retail sellers. Basically, Section 399.25(d) is a longstanding part of the RPS law, stemming from when retail sellers had consistent RPS obligations overseen by the CPUC, while the POU RPS obligations were more diverse. The intent of Section 399.25(d) at that time was to ensure that POUs did not simply sell RECs to retail sellers, while not complying with their own RPS programs (with no state level enforcement), or not adopting reasonable RPS programs. In such circumstances, a POU might gain value from selling the RECs, but not be penalized when that sale prevented compliance with its own RPS, or may pass on the higher cost of purchasing renewables to the retail seller by not adopting an RPS of its own. To avoid this, the law requires the CEC to verify that a POU is in compliance with its RPS prior to selling RECs to retail sellers. There is no such restriction on retail

sellers selling RECs to POUs, because here their obligation under the law was clear and the CPUC and CEC were overseeing and verifying compliance.

With the passage of SBX1 2, however, it is clear that Section 399.25(d) is outdated. There no longer is the potential dichotomy in RPS obligations or compliance oversight that led to the section in the first place – all retail sellers and POUs have equal RPS obligations and both groups have coordinated statewide enforcement mechanisms. In the current situation, this section of law simply acts to limit a viable market transaction for no purpose. While SBX1 2 did not change Section 399.25(d), the CEC can recognize the new world in its Guidebook. The CEC should determine as a result of the passage of SBX1 2 that the POUs now have equal RPS obligations to retail sellers and consistent penalties for non-compliance, and hence there is no reason to prohibit REC sales from POUs to retail sellers, when retail sellers can sell to each other, and to POUs, without restriction. And, should such sales happen, there is no reason to incur the administrative burden of "going through the motions" on Section 399.25(d).

The CEC should change the Guidebook to simply state that with SBX1 2 in place, the CEC has determined that the conditions for sale of a REC from a POU to a retail seller have been met. The CEC will have already verified that a POU has crafted and adopted a procurement plan. It is now a requirement that POUs participate in WREGIS and procure from CEC-eligible resources. Given the multi-year compliance periods, banking provisions in SBX1 2, and rules authorizing the use of tradable RECs to satisfy RPS requirements, the CEC can state that sales of RECs by POUs to retail sellers will not threaten compliance, as there are ample opportunities to meet the required targets, even while some REC sales occur. Retail sellers have no restrictions on REC sales, with the same compliance obligations, and POUs should be treated no differently.

B. The CEC Should Clarify What Is Meant By A Dedicated Pipeline

On Page 16 of the Guidebook, the CEC describes three ways biogas combustion can create RPS-eligible electricity if the biogas is combusted at a facility separated from its source. One of these methods is through a "dedicated" pipeline – described as a pipeline running from the fuel processing facility to the electrical generation facility with no possibility of mixture with non–RPS eligible gas. This definition may not be broad enough to cover the broad array of internal pipeline systems that serve natural gas fired power plants. In SMUD's case, biogas from a landfill is injected into a dedicated pipeline and mixed with natural gas flowing on our internal pipeline system before being routed to our Cosumnes Power Plant. SMUD contends that this is consistent with the intent of the Guidebook of creating RPS-eligible electricity from biogas via a dedicated pipeline, in contrast to common carrier pipeline. The important point is that the biogas cannot be used elsewhere, and that no other use of the biogas is possible once injected into the dedicated pipeline. It does not matter whether the biogas mixes with natural

gas in our pipeline system upstream of the power plant, or at the burner tip in the power plant. SMUD suggests that the CEC change the definition of dedicated pipeline to clearly cover SMUD's dedicated pipeline system, as follows:

a) Dedicated pipeline: The biogas is injected into a pipeline running from the fuel processing facility to the electrical generation facility with no possibility of ~~mixture with non-RPSeligiblegas~~ combustion other than the electrical generation facility.

C. The CEC Should Alter its Meter Accuracy Requirements for Distributed Generation Facilities Required to Certify as Part of an Aggregated Unit.

On Page 53, the Guidebook continues to state that the newly eligible distributed generation facilities must meet +/- 2% metering accuracy in order to participate in the RPS (revenue-quality metering). While in many cases distributed generation has been installed with an additional revenue-quality meter to provide this accuracy, in most installations such meters have not been required, with the generation from the facility metered internally in the inverter necessary to connect to the grid. The additional meter, at additional cost, will simply move the accuracy of the generation reported from 95% or so to 98% or so, for the individual facility. Once the facility is aggregated with others to be RPS certified, this small difference in accuracy will be unobservable (with sufficient number of systems in the aggregation). Hence, the CEC's accuracy requirement for these systems, when aggregated, implies additional cost with no additional benefit.

SMUD is interested in accurate generation data at the lowest cost. SMUD is also concerned that the CEC's continued requirement for revenue grade meters will make development of a low cost "smart grid" structure more difficult, where the internal inverter communicates directly with the smart meter installed at the facility, providing a low cost but accurate method of determining the generation from the distributed system. SMUD suggests that the CEC alter the Guidebook in this section so that typical, +/-5% accuracy inverter meters are sufficient for RPS eligibility in situations where a minimum number of aggregated small DG systems are being certified for the RPS.

D. The CEC Should Reflect Full RPS History When Describing Historical Authority Regarding Treatment of DG RECs.

On Page 53 of the Guidebook, the CEC describes how both the CEC and the CPUC have established that RECs created by a renewable DG facility belong to the owner of the facility. The Guidebook describes a 2007 CPUC decision to this regard and a policy by the CEC that participants in the CEC-managed New Solar Homes Partnership retain full rights to their RECs, despite receiving incentive funding.

However, with SBX1 2, the RPS is now a broader program, with consistent statewide obligations for POUs under CEC oversight. POUs were also required by SB 1 to have distributed generation incentive programs, but in most if not all cases the POUs have structured their programs to purchase the RECs from the participants. This history should be acknowledged in the Guidebook for completeness now that the POUs are covered throughout the Guidebook. It is important background information to the overall description of the new eligibility of distributed generation to indicate that there were and still are programs in place where DG RECs were purchased by the utility, rather than remaining with the facility owner. Acknowledging such history can have an effect on the determination as to how to treat the RECs from distributed generation facilities within the new category structure established by SBX1 2.

E. The CEC Should Clarify the Requirement that Certification Applications Must Be Submitted No More Than 90 Days After Commercial Operation

Page 56 of the Guidebook states that all generation beginning with the month of the eligibility date in WREGIS is RPS-eligible if nothing changing eligibility has changed at the facility and if the "…application for certification is submitted within 90 days of the commencement of commercial operations.." It is not clear to SMUD why this requirement exists, or exactly how it may apply to those POU facilities that are now being certified by the CEC, but have been in commercial operation for some time. Some clarification of the intent and the application to these POU facilities would be useful.

F. The CEC Should Provide Market Certainty Within Reason By Enhancing Pre-Certification.

The CEC has for sometime allowed a process of precertifying RPS eligible facilities, providing an indication of eligibility prior to the facility coming on-line and subsequent application for full certification. The CEC has indicated that precertification provides no guarantee of certification, as RPS eligibility and certification requirements may change between precertification and certification. While this provides a signal to a potential project that eligibility should be expected, it may not provide enough certainty to finance the project, and may drive up the cost of financing in some circumstances.

The CEC can provide additional market certainty by changing how precertification is treated. Without indicating that precertification is an absolute guarantee of certification no matter what, the CEC should state that a facility that is precertified will be certified as RPS-eligible when it comes on-line, if there are no changes to the precertified facility that, if present at the time of precertification, would have prevented precertification from being granted.

Adding more certainty to precertification would allow easier and less expensive financing of renewable facilities, prevent stranded costs, and address a current quarrel in the industry over who should bear the risk from regulatory changes. It would also protect the long-run structure of the RPS by ensuring that any changes to the facility that would render it ineligible will prevent certification and any changes to RPS eligibility conditions that would render it ineligible will eventually hold sway.

G. The CEC Should Clarify that DG Facilities Can Participate in the RPS Whether or Not They Have Received Various State Incentives

Page 59 of the Guidebook states that a DG facility can be part of an aggregated unit if it meets any one of the following conditions:

a) It has received benefits from a ratepayer funded incentive program;
b) It participates in a net-metering tariff; or
c) It primarily serves on-site load.

SMUD believes that the intent of this section is to indicate that participation in these programs or serving on-site load will not disqualify a DG facility from participating in the RPS through an aggregated unit. SMUD believes that the CEC also intends that DG facilities that have not participated in these programs or that primarily serve load offsite may participate in the RPS through an aggregated unit. However, the text here can be interpreted in different ways. For clarity, this section of the Guidebook should be changed to read;

> A facility may be part of an aggregated unit using the CEC-RPS-3 form even if it meets any one of the following:

H. The CEC Should Allow POUs a One-Time Opportunity to Use the CEC-RPS-2 Form, or Clarify That Acting as a Facility's Agent is Equivalent

Page 61 of the Guidebook states that utilities may no longer use the CEC-RPS-2 Form to certify facilities under contract to the utility, but must now use the CEC-RPS-1 form acting as the facility's agent. The original use of the CEC-RPS-2 form was for expediting the initial certification of facilities under procurement contracts to the IOUs, and that need has certainly passed. However, POUs face a similar issue today of getting a variety of facilities quickly certified and in WREGIS, and the CEC should either bring back the CEC-RPS-2 form for this purpose, or clarify that use of the CEC-RPS-4

form and CEC-RPS-1 form, acting as a facility's agent, is relatively equivalent in process. In particular, if a facility itself will not certify nor join WREGIS, the POU contracting for its renewable output should have the opportunity to certify the facility, one way or another.

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