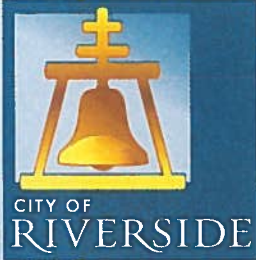

Public Utilities Department
Resources Division

California Energy Commission
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August 13, 2012

California Energy Commission
Dockets Office, MS-4
Docket No. 11-RPS-01
RPS Proceeding
1516 Ninth Street
Sacramento, CA 95814-5512

Re: The City of Riverside Comments on the 33 Percent Renewables Portfolio Standard Pre-Rulemaking Draft Regulations for Publicly Owned Electric Utilities

The City of Riverside (Riverside) appreciates the opportunity to provide comments on the 33 Percent Renewables Portfolio Standard Pre-Rulemaking Draft Regulations ("draft regulations"), issued on July 25, 2012. Riverside believes that significant progress has been made from the previous version of the draft regulations and is particularly thankful of CEC staff's willingness to engage in open dialogue with the municipal community in general and Riverside in particular on our issues and concerns. The comments below provide Riverside's remaining concerns and recommendations.

A. General Comments

Riverside fully supports the comments provided by California Municipal Utilities Association (CMUA) in this proceeding and urges the Commission to incorporate them in the final regulations.

B. Grandfathered Electricity Products

Riverside remains very concerned and urges the Commission to reconsider its stand on the categorization of pre-June 1, 2010 RPS contracts. The current draft regulations disallow such existing RPS contracts to count toward the categorization (category 1, 2 and 3) and only allow the counting toward the overall RPS requirements. Such a restriction penalizes Riverside for its early actions taken prior to SB 2 (1X) to procure in-state renewable resources before there was a mandate to do so. In addition, such restriction does not foster any new renewable project development in the short term due to the long lead time necessary to develop renewable projects in state and may result in non-compliance toward the RPS requirements in the short term (Compliance Periods 1 and 2).

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Since 2003, Riverside has engaged in significant renewable resource procurement even in the absence of a legislative mandate. Riverside's procurement has been almost exclusively from renewable resources located within California (Category 1 RPS resources). Riverside anticipates that such existing in-state RPS resources will be able to meet a significant portion of Riverside's Compliance Period 1 and 2 RPS obligations (86% for Compliance Period 1 obligation and 76% for Compliance Period 2 obligation). However, even with such high percentages of in-state renewable resource procurement already, Riverside will be required to procure additional in-state, higher-priced, renewable resources under the draft regulations which will likely cause Riverside to have almost all of its renewable resources from in-state resources. This additional cost burden is highly unreasonable and does not seem to have any sound justification for several reasons:

1. There is no realistic expectation that any new uncommitted, in-state renewable resource can be developed and brought online in the next three years. Thus, the rationale of mandating procurement of in-state renewable resources as a means to incent new project development does not hold true. Instead it will serve as a financial penalty to utilities that have to compete to procure scarce in-state renewable resources from existing resources;
2. It may cause a higher likelihood of failure by the utilities to meet RPS compliance obligations in the short term (Compliance Period 1 and 2) due to the very limited supply of in-state renewable resources in the short term and potentially subject such utilities to financial penalties with no commensurate benefit of promoting renewable project development

Such an outcome is highly undesirable and unwarranted. Therefore, Riverside urges the Commission to reconsider its stand on the categorization of pre-June 1, 2010 RPS resources.

C. <u>Historic Carry-Over Provisions</u>

Riverside strongly supports the proposed Historic Carry-over provision in Section 3206.(5) of the 33% RPS Pre-Rulemaking Draft Regulations. Riverside believes that this provision is fully consistent with CPUC regulations currently applied to IOU's. If consistently implemented, Riverside also believes that this provision should allow POU's to claim credit for the early procurement of eligible renewable energy that is in excess of the annual procurement targets (APT) currently applied to retail sellers. As described in the 11-05-005 CPUC Rulemaking decision (revision 2), this excess procurement (if any) should be deemed a "net surplus". Any POU that can show a cumulative CEC certified renewable procurement amount greater than the amounts necessary to meet its APT obligations in the years prior to 2011 should be allowed to

carry forward this net surplus for compliance credit towards any compliance period after 2010.

The Historic Carry-over language in 3206.(5) currently proposes using an initial baseline procurement amount (IBPA), incremental procurement target (IPT) and annual procurement target (APT) that are identical to the CPUC mandated targets for IOU's. As described on page 10 of the CEC RPS 2006 Procurement Verification Report (CEC-300-2009-006-CMD), these formulas are as follows:

$$IBPA = (REP_{2001}/TRS_{2001}) \times TRS_{2003} + 0.01 \times TRS_{2001}$$

where REP = RPS-eligible procurement and

TRS = Total retail sales, both on an annual basis.

$$IPT_{[year]} = 0.01 \times TRS_{[year-1]}$$

for year = 2004, 2005, 2006, 2007, 2008, and 2009

$$APT_{[year]} = IPT_{[year]} + APT_{[year-1]}$$

for year = 2005, 2006, 2007, 2008, and 2009

$$APT_{2003} = IBPA + IPT_{2004}$$

$$APT_{2010} = 0.20 \times TRS_{2010} \text{ (20\% of 2010 retail sales)}$$

Riverside strongly supports such a consistent approach. Subject to these rules, the following issues are particularly relevant:

1. Calculation of the IBPA for POU's with no eligible 2001 REP

Based on the formulas shown above, Riverside believes that it is important for the CEC to recognize (and not penalize) the many POU's that were early RPS adopters, yet still may not have procured any eligible renewable energy in 2001. In such a scenario, the formula for the IBPA reduces to 1% of the POU's 2001 total retail sales. Riverside does not view this issue as being inconsistent with the established approach (i.e., many ESP's started out with net zero IBPA's under the CPUC program). Likewise, the IBPA for SDG&E was determined to be 1.97% of their 2001 total retail sales (on a % basis), since SDG&E had only 146 GWh of eligible renewable procurement in 2001. Nonetheless, should CEC staff view this issue differently, Riverside suggests that the minimum IBPA for any POU be defined to be no less than 1.97% of their 2001 TRS. This would ensure that the IBPA for all POU's is at least equal to or greater than the IBPA percentage assigned to SDG&E.

2. Determination of the cumulative "net-surplus"

Riverside urges the Commission to endorse the logic for determining the cumulative "net-surplus" as described in the 11-05-005 CPUC Rulemaking decision (revision 2). More specifically, Riverside urges the Commission to adopt the following features of CPUC Decision that (i) excess procurement from contracts signed before June 1, 2010 should count without limitation for RPS compliance in later compliance periods, (ii) that the rules for counting procurement from short term contracts (i.e., contracts < 10 years in duration) at the time the contracts were signed continues to count for RPS compliance, independent of any changes to the requirements for the use of short term contracts made by SB 2 (1X), and (iii) that the determination of the excess procurement amount (if any) should not be exclusively preconditioned on meeting either the 2010 14% RPS (i.e., "safe harbor") or 20% RPS standards, but should instead be based on the full set of calculations for the years 2004-2010 inclusive (as discussed in Appendix B of 11-05-005).

3. Clarification of the phrase "or any other compliance or voluntary claim"

Riverside urges the Commission to clarify the phase "*or any other compliance or voluntary claim*" which appears in the definition of the "Historic Carry-over" term, as well as in subsection 3206.(5).A. Riverside firmly believes that all RPS reporting activities mandated by, and/or associated with, Power Content Label filings should be explicitly excluded from being considered a "compliance or voluntary claim". All California LSE's are required by law to complete annual Power Content Label (PCL) filings with the CEC, to list all of their eligible renewable procurement on their PCL, and to publically report their PCL to their customers. Such reporting activities do not constitute POU adopted RPS program targets. Rather, the CEC certified renewable energy reported on the PCL represents the results of each POU's renewable procurement progress. Riverside believes that the target used in the Historic Carry-over provision should be the greater of either the previously discussed APT's (see Section C.2.(iii) above) or the officially adopted POU RPS annual program targets.

Riverside suggests that CEC staff may wish to provide a formal definition for what constitutes a "compliance or voluntary claim" and clarify that such claims do not include any PCL filings or related customer reporting activities.

4. Clarification of the phrase "that was sold, retired, or otherwise claimed" in 3206.(5).C

Riverside respectfully requests that CEC staff clarify the phase "*that was sold, retired, or otherwise claimed*" which appears in subsection 3206.(5).C. Prior to 2010, it had been Riverside's standard practice to retire all WREGIS certified RECs in the year that the associated renewable energy was generated (assuming that the renewable energy resource was WREGIS certified). Again, the fact that a REC is retired in

WREGIS does not by itself constitute a "compliance or voluntary claim", in the absence of an officially adopted POU program target. Riverside respectfully suggests that the word "retired" be deleted from this phrase, particularly given the CEC's adopted definition of the word "Retire" (see definition (aa) in Section 3201).

D. Conclusion

Riverside appreciates the opportunity to work with CEC staff in a collaborative fashion towards the successful and equitable implementation of the new SB 2 (1X) RPS requirements for publicly owned utilities. Riverside encourages CEC staff to continue to consider the impact that mandatory resource grandfathering is having on many POU's. Additionally, Riverside encourages staff to adopt and implement a flexible Historic Carry-over provision in the 33% Rulemaking regulations that provides equitable treatment afforded by the CPUC to the IOUs that allows carry-over credits to those POU's that demonstrated sufficient procurement of eligible renewable energy contracts during the 2004-2010 timeframe.

Respectfully submitted,

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Riverside Public Utilities