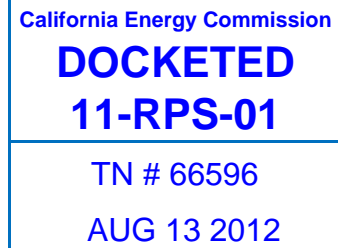


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August 13, 2012

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



Comments of the Cities of Cerritos, Corona, Moreno Valley, Rancho Cucamonga and Victorville on the 33 Percent Renewables Portfolio Standard Pre-Rulemaking Revised Draft Regulations

I. INTRODUCTION

The Cities of Cerritos, Corona, Moreno Valley, Rancho Cucamonga, and Victorville (“Small POU Cities”) appreciate the opportunities that the California Energy Commission (“CEC”) has provided to meet with both the staff and the Commissioners throughout this proceeding. The Small POU Cities have previously submitted comments on the *33 Percent Renewables Portfolio Standard Pre-Rulemaking Draft Regulations*, issued by the CEC, Energy Efficiency and Renewable Energy Division (CEC-300-2012-001-SD) (“Draft Staff Report”).

As described in earlier comments,¹ the Small POU Cities are challenged in trying to implement the new renewables portfolio standard (“RPS”) described under Senate Bill (“SB”) X1-2 in the same way as the larger, older utilities in California. Several alternatives have been described in previous comments and the Small POU Cities continue to request the CEC to consider those alternatives.

II. COMMENTS ON THE DRAFT STAFF REPORT

A. The CEC can limit the burden on the Small POU Cities by expressly acknowledging the authority of the governing boards to adjust the portfolio content category requirements under SB X1-2.

Still missing from the draft staff report is an express acknowledgement by the CEC that the governing boards of the Small POU Cities may rely on the statutory framework of SB X1-2 to reduce the impact of RPS compliance.

What would be helpful is an acknowledgement by the CEC that certain existing statutory provisions may be implemented by the very small POU’s governing boards. These include the right to alter the

¹ *Comments of the Small POU Cities on 33 Percent Renewable Portfolio Standard Publicly Owned Electric Utility Regulations Concept Paper*, September 12, 2011, Docket No. 11-RPS-01 (“Small POU Cities September Comments”), and *Comments of the Cities of Cerritos, Corona, Moreno Valley, Rancho Cucamonga and Victorville on 33 Percent Renewables Portfolio Standard Pre-Rulemaking Revised Draft Regulations*, March 30, 2012, Docket No. 11-RPS-01 (“Small POU Cities March 30 Comments”).

portfolio content category requirements of Section 399.16² pursuant to Section 399.16(e) which grants the governing boards of the Small POU Cities the discretion to adjust the percentage requirements for the reasons provided by that section, including inadequate supply of the nature and type fit for the very small POU's (i.e., small, incremental portions of resources or contracts). The Small POU Cities would appreciate express inclusion of the right to adjust the portfolio content category requirement in the draft regulation.

B. The CEC can design its procedures for enforcement under Section 399.30(n) to exempt the Small POU Cities from a finding of failure to comply due to the cost of compliance relative to the de minimis contribution of the Small POU Cities to California's RPS goals.

In previous comments, the Small POU Cities have made extensive arguments that the CEC has relatively broad authority to make reasonable distinctions in its enforcement rules on the basis of the size of the POU.³ Section 399.30(n) provides the basis for the CEC's enforcement authority and provides discretion on the part of the CEC as to whether a violation is noticed and ultimately referred to the California Air Resources Board ("ARB"). The Small POU Cities believe that the CEC can design its enforcement regulations to exempt very small POU's from a finding of non-compliance if, among other things, the Small POU Cities use good faith efforts to meet the RPS requirements.

III. CONCLUSION

The Small POU Cities appreciate the efforts of the CEC staff in developing the proposed regulation and the willingness to discuss and consider the arguments of the Small POU Cities.

Thank you for your consideration of these comments.

Respectfully,



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² Small POU Cities September Comments at 6.

³ See Small POU Cities September Comments at 2 (citing Gen. Elec. Co. v. State Bd. of Equalization, 111 Cal. App. 2d 180, 187 (1952)); also Small POU Cities March Comments, Cal. Gov. Code § 11346.2(b)(5)(B) (enacted by SB 617).