

BEFORE THE CALIFORNIA ENERGY COMMISSION

**IN THE MATTER OF:
IMPLEMENTATION OF RENEWABLES
PORTFOLIO STANDARD
LEGISLATION**

Docket No. 11-RPS-01

California Energy Commission

**DOCKETED
03-RPS-1078**

TN # 67606

OCT 08 2012

**COMMENTS OF THE NORTHERN CALIFORNIA POWER AGENCY
ON THE SEPTEMBER 21 WORKSHOP ON
RENEWABLE PORTFOLIO STANDARD PROCUREMENT VERIFICATION**

NCPA is pleased to offer these comments on the September 21, 2012 Staff Workshop on 2008-2010 RPS Procurement Verification and SBX 1-2 Procurement Verification (“Workshop”). NCPA limits these comments to Staff’s proposal regarding Senate Bill (SB) X 1-2 Procurement Verification. During the Workshop, Staff set forth preliminary thoughts on how verification would be addressed under SBX 1-2, with a focus on determining the process that would be necessary to verify the portfolio content categories (PCC) of resources used to meet the renewable portfolio standard (RPS) requirements outlined in SBX 1-2.

NCPA appreciates Staff looking forward for purposes of outlining the verification process and the desire to incorporate this process into the next round of RPS Eligibility Guidebook revisions. However, given the fact that the process is based on regulations that are not yet finalized for publicly owned utilities (POUs) (RPS Regulation), it is important to ensure that the verification process is implemented in a manner that is consistent with the legislation, and that affected parties are aware of the possibility that further revisions and adjustments to the verification process may be necessary when the final RPS Regulation is adopted. To some extent, the CEC and stakeholders alike are dealing with a case of “chicken and egg.” It is not possible to provide comprehensive feedback on the verification procedures without knowing what requirements will be set forth in the RPS Regulation, and it is not possible to offer comprehensive feedback regarding the totality of the RPS Regulation without an understanding of the verification requirements and procedures. However, in spite of this conundrum, NCPA appreciates the fact that Staff is working to define the verification process, and further

appreciates the opportunity to provide feedback on Staff's preliminary proposal for the verification procedure.

Because of the nascent nature of this verification process, the need for further clarity on several key issues, and the desire to move forward with development of the verification processes in advance of finalizing the RPS regulations, the comments provided herein are more general in nature. As was evidenced by the number of stakeholder comments and questions raised during the Workshop itself, several aspects of the proposed verification process are going to require additional deliberations, particularly with regard to the technical aspects of tracking and measuring PCC 1 resources. NCPA looks forward to continuing to work with Staff and affected stakeholders towards resolving the outstanding issues identified during the Workshop, and offers these comments in furtherance of those efforts.

Verification Procedures Must be Coordinated with Reporting and Other Requirements Eventually Adopted as Part of the RPS Regulation

Staff anticipates that for 2011 and forward, POU will submit "Compliance Period RPS Procurement Verification Reports." (Workshop Presentation #3, Slide 9) This report would be submitted annually during each compliance period, and a comprehensive report would be submitted at the end of the compliance period. It is not clear what data would be reported, processed and presented to the CEC annually. It is not clear if this is the same information that is going to be included in annual reporting required under the proposed RPS Regulation. Staff should provide more information on what type of information will be verified annually, as "annual verification" is contrary to the notion of a multi-year compliance period. Since there is no annual compliance obligation, it is unclear what the purpose of the "annual verification" will be. Accordingly, this aspect of the proposal should be further defined to clarify the type of verification that Staff anticipates undertaking on an annual basis, as well as the procedures and processes that will be employed to correct or true-up any discrepancies at the end of the actual compliance period.

Further details regarding the scope of verification would be useful to stakeholders. It is not entirely clear what the scope of the "annual" verification will be. Staff should clarify if this is intended to address only whether or not the electricity delivered from a specific resource is

eligible for PCC treatment, or if the verification will also include an analysis of the quantity of electricity delivered for purposes of calculating the balancing requirements.

Coordination between the verification process and the RPS Regulation will also be necessary to ensure that any interim review processes acknowledge the fact that corrections or adjustments may be made to the designation of resources in pre-compliance period reporting. The verification processes must include provisions for how to correct designations, as well as a process for how WREGIS errors discovered after the initial 12 month period will be handled.

The final RPS Regulation and the verification procedures must also set forth clear direction on the parameters and definitions regarding the “retirement of RECs.” As currently drafted, “Retiring RECs” in WREGIS is not necessarily synonymous with reporting RECs for compliance purposes. There are instances where RECs may be retired in WREGIS and still be eligible for PCC treatment more than 36 months after generation. Accordingly, it is important for the verification procedures to accurately account for these scenarios.

Verification of Portfolio Content Category 1 Resources

As presented in the initial proposal, the verification process for PCC 1 resources appears to be not only unduly burdensome, but flawed. Clearly, reporting and verification need to distinguish PCC 1 resources from PCC 2 or PCC 3 resources, but the proposal’s graphic regarding the amount of electricity from PCC 1 resources that may actually be categorized as PCC 2 or PCC 3 based on “amounts over the schedule” is problematic. (Workshop Presentation #3, Slide 19) As more fully set forth in the comments submitted by the California Municipal Utilities Association (CMUA), the requirements of Public Utilities Code section 399.16(b)(1)(A) and (B) can be satisfied without the need to provide hourly data, and indeed, even the information that is proposed to verify the deliveries is not necessarily accurate when used for that purposes. For example, the tracking of schedules through e-tags is not an infallible means by which to verify hourly schedules, and looking at scheduled deliveries is not necessarily reflective of actual deliveries. NCPA urges Staff to look more closely at this issue and to continue to work with stakeholders on a comprehensive analysis or ways to verify the needed information without creating burdensome processes.

In its comments, CMUA addresses several of the *technical* aspects associated with the supporting documentation that can be utilized to support PPC1 classification, as well as the use of hourly schedules to meet that need. Rather than reiterate the technical analysis regarding both herein, NCPA incorporates those sections of CMUA's comments herein. NCPA also encourages Staff to continue dialogue with stakeholders on these matters, as the way in which these resources are counted and verified will have significant financial implications for all compliance entities.

POU Reporting Working Group

During the Workshop, Staff also asked stakeholders to provide initial thoughts on RPS reporting to the CEC. NCPA has long advocated for consolidated reporting procedures. To the greatest extent possible, any information requested by the CEC for RPS purposes that is already provided to the agency as part of other mandated reports should be consolidated. Reporting spreadsheets should include categories for all required information, so that the POU can process the necessary information with administrative ease, and so that review of the submitted information can be conducted in a uniform manner.

NCPA applauds the development of a reporting working group, and looks forward to working with Staff and fellow-stakeholders in designing the reporting spreadsheets for RPS compliance in the most efficient and least duplicative manner possible. The October 12 Webinar on this matter should provide a sound basis for further revisions to the reporting process. However, it is important that documentation sought for verification purposes also be reconciled with the overall reporting requirements under the RPS mandate, as well as existing reports. As noted above, the verification process is but one part of the RPS program and all aspects of verification must be consistent with, and not duplicative of, the reports that are mandated under the RPS Regulation. NCPA also supports the notion of a single verification process. As was suggested in previous filings before this Commission, "NCPA recommends that a verification process similar to that employed by the California Air Resources Board (CARB) be used for purposes of determining the accuracy of the information contained in the Compliance Reports."¹

¹ As noted above, the manner in which information is to be verified for purposes of the compliance reports is another area where the overlap between the RPS Eligibility Guidebooks and the current Proposed Regulation must be reconciled.

To the extent a resource is deemed to be eligible, the CEC's processes would then only require verification of the total megawatts reported and the content category designations, all of which can be further refined as part of the WREGIS process on a going forward basis. NCPA believes that the costs associated with such a verification process – to either the POU or the CEC – would be incremental to the total cost and would more than offset the added staffing and time associated with providing far more documentation than is needed.” NCPA continues to support the development of reporting and verification processes that provide the greatest amount of information needed by this Commission in the most efficient and cost-effective manner possible.

Biomethane and Assembly Bill 2196

During the Workshop, Staff properly noted that it was premature to discuss matters regarding the treatment of biomethane specific to Assembly Bill (AB) 2196 since the legislation had yet to be signed by the Governor. Since Governor Brown signed AB 2196 on September 27, 2012, it is imperative that matters regarding biomethane be addressed in the next version of the RPS Guidebook. NCPA supports the CEC's proposal to release a concept paper in November 2012 to solicit public input on implementation of AB 2196, and urges the CEC to follow through with a webinar or focused meeting to receive input on the concept paper from stakeholders.² In order to address this issue in a comprehensive manner, the concept paper and subsequent stakeholder discussions should also address the other matters flagged for consideration in the revised guidebook relative to biomethane, namely, (1) requirements for electric generation facilities using biomethane that was procured under a contract executed by a retail seller or POU and reported to the Energy Commission before March 29, 2012; and under which biomethane is produced and injected into a common carrier pipeline on or before April 1, 2014, (2) requirements for electric generation facilities using biomethane that was procured under a contract executed after March 29, 2012, or for amendments made after March 29, 2012, to an existing contract, and (3) a system for tracking and verifying the procurement and delivery of biomethane and the required attributes that is comparable to the system required by Public Utilities Code Section 399.25(c).³

² California Energy Commission *Notice Regarding Implementation of Assembly Bill 2196 Pertaining to the Renewables Portfolio Standard Program*. October 5, 2012, p. 4.

³ *Id.*

Conclusion

SBX 1-2 creates a new paradigm for RPS compliance. Along with the requirement to increase overall RPS procurement, the legislation outlines new categories of resources and mandates minimum balancing requirements. Implementation of the legislative intent to categorize and quantify resources in this new way is no easy feat, but one that is crucial to the program. NCPA appreciates the desire of CEC Staff to look into the issue prospectively and work closely with stakeholders and industry experts to ensure that these renewable resources are counted towards their appropriate PCC, in order to ensure that California's electricity ratepayers receive the full value and benefit of these resources. NCPA looks forward to continuing to work with the CEC on these matters. If you have any questions regarding these comments, please do not hesitate to contact the undersigned or Scott Tomashefsky at 916-781-4291 or scott.tomashefsky@ncpa.com.

October 8, 2012

Respectfully submitted,



C. Susie Berlin

MCCARTHY & BERLIN, LLP
100 W. San Fernando Street, Suite 501
San Jose, CA 95113
Phone: 408-288-2080
Fax: 408-288-2085
Email: sberlin@mccarthylaw.com

Attorneys for the:
NORTHERN CALIFORNIA POWER AGENCY