



February 8, 2013

California Energy Commission
Dockets Office, MS-4
Docket Nos. 11-RPS-01; and 02-REN-1038
1516 Ninth Street
Sacramento, CA 95814-5512



Re: CMUA Comments on the Concept Paper for the Implementation of Assembly Bill 2196 for the Renewables Portfolio Standard

The California Municipal Utilities Association (CMUA) would like to thank the California Energy Commission (CEC) for the opportunity to provide comments on the *Concept Paper for the Implementation of Assembly Bill 2196 for the Renewables Portfolio Standard* (Concept Paper), issued on January 25, 2013. CMUA recognizes the complexity of the issues involved in implementing Assembly Bill (AB) 2196 and appreciates CEC staff's hard work. In general, the Concept Paper does a good job of properly interpreting AB 2196 and CMUA looks forward to working with CEC staff to address our remaining issues. Many of our members will be providing comments and responses to the technical issues raised by the Concept Paper; our comments below provide a general overview of our concerns.

I. COMMENTS ON THE CONCEPT PAPER

A. A Clear Legislative Purpose of AB 2196 Was to Preserve the Value of the Contracts Negotiated Prior to March 29, 2012.

AB 2196 changed the renewables portfolio standard (RPS) eligibility requirements for generation associated with pipeline biomethane for contracts executed on or after March 29, 2012. However, in recognition that this represented a change from the rules in place up until the CEC's March 28, 2012, suspension of RPS Eligibility Guidelines related to biomethane, AB 2196 clearly preserved the eligibility of contracts executed up to this date, with very limited restrictions. The purpose of protecting these pre-March 29, 2012, contracts was to avoid punishing those utilities, and ultimately the ratepayers of California, for actions consistent with the rules in place at the time of execution.

As the CEC works through the process of implementing AB 2196, this purpose mentioned above should be the primary consideration. The CEC should avoid hyper-technical interpretations that would rob the value negotiated in these contracts. Toward this end, the exceptions to the pre-March 29, 2012, treatment that are found in Public Utilities Code section 399.12.6(a)(2) should be narrowly interpreted, such that these exceptions do not devalue normal contracting activities. Achieving a 33 percent RPS is

a substantial undertaking and the CEC should avoid imposing unnecessary additional costs on California's ratepayers.

B. Additional Discussion is Necessary to Properly Implement AB 2196.

Several of CMUA's members will be submitting comments addressing a variety of issues with the interpretations proposed in the Concept Paper. These complex and technical issues are based on the utility staff's real-world experience with both contracting practices and operational limitations. CMUA urges the staff to seriously consider and address these concerns.

CMUA believes that it will almost certainly be necessary to have additional dialog on these matters in order to properly address our members' concerns. The Concept Paper states that CEC staff will consider and incorporate the input received in the comments filed today into the Seventh Edition of the RPS Eligibility Guidebook. While CMUA is aware of the strict time constraints facing the CEC, it would be beneficial to hold an additional workshop dedicated to AB 2196 implementation issues, prior to the release of the draft RPS Eligibility Guidebook. In the alternative, CMUA volunteers to host a webinar with CEC staff so that CMUA members could provide greater detail and respond to any questions that staff may have.

C. The CEC Must Develop Some Method of Providing Some Level of Certainty of the Portfolio Content Category Prior to the End of Compliance Period Verification Process.

Many parties, including CMUA, have raised concerns with the lack of any mechanism for obtaining certainty regarding the portfolio content category (PCC) of a particular contract, or the associated procurement, until a significant amount of time after the end of each compliance period. This lack of clarity causes a number of problems, but a key concern is that a utility may only discover that the CEC disputes its assignment of procurement to a particular PCC years after the contract has been executed, and after it has been relied on for meeting a compliance period target. Not only would the utility have lost the ability to cure any deficiency, it may have negotiated and relied on similar contracts for the next compliance period.

This is of particular concern for the biomethane contracts addressed by AB 2196, which were negotiated and executed based on an assumption that this procurement would qualify at PCC1. CMUA appreciates the statement in the Concept Paper that:

The assignment of electricity procurement to a particular PCC bucket is based primarily on the electrical generating facility's interconnection and details of electricity delivery to a balancing authority, and the execution dates and terms of the electricity procurement contract(s).

However, this general statement does not provide sufficient clarity, and given the importance of this issue, a greater degree of certainty is required. As part of the

Seventh Edition of the RPS Eligibility Guidebook, the CEC should consider a mechanism where a utility could seek an early confirmation regarding the PCC of a particular contract and the associated procurement.

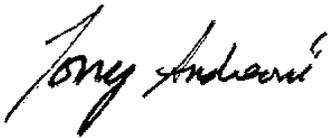
D. The CEC Should Coordinate With the ARB to Develop a Single Reporting and Verification Process.

As CMUA has mentioned previously, there is substantial overlap between the reporting required for the RPS verification process and the California Air Resources Board's (ARB) Mandatory Reporting Requirement (MRR) under AB 32. Unifying or at least streamlining these reporting requirements would reduce administrative costs and improve reporting accuracy because it would enable a single independent verifier to examine all supporting generation data and make appropriate reports and findings to both the CEC and the ARB. Therefore, the CEC should consolidate the reporting and verification requirements for the RPS program.

II. CONCLUSION

CMUA appreciates the efforts by the CEC staff in developing the Concept Paper and CMUA looks forward to working with the CEC to address our remaining concerns raised in this comment letter, and in developing the Seventh Edition of the RPS Eligibility Guidebook.

Sincerely;

A handwritten signature in black ink that reads "Tony Andreoni". The signature is written in a cursive, flowing style.

Tony Andreoni, P.E.
Director of Regulatory Affairs

cc: Kate Zocchetti, CEC