

STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

In the matter of:

Developing Regulations and Guidelines for the 33
Percent Renewables Portfolio Standard

And

Implementation of Renewables Investment Plan
Legislation

Docket No. 11-RPS-01

Docket No. 02-REN-1038

**COMMENTS OF BEAR VALLEY ELECTRIC SERVICE, A DIVISION OF GOLDEN
STATE WATER COMPANY, ON THE DRAFT SEVENTH EDITION OF THE
RENEWABLES PORTFOLIO STANDARD ELIGIBILITY GUIDEBOOK**

California Energy Commission

**DOCKETED
02-REN-1038**

TN# 70093

MAR. 25 2013

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March 25, 2013

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Bear Valley Electric Service (“BVES”), a division of Golden State Water Company and a retail seller, provides the following comments on the California Energy Commission’s (“Commission’s”) draft seventh edition of the *Renewables Portfolio Standard Eligibility Guidebook* (“Guidebook”). BVES’ main concern is that the Guidebook must be revised to provide additional clarity regarding the renewables portfolio standard (“RPS”) reporting and renewable energy credit (“REC”) retirement requirements to ensure that procurement undertaken to date, as well as procurement yet to be undertaken in 2013, will fully count toward the RPS program, as intended by Senate Bill (“SB”) X1-2.¹

¹ BVES currently has an RPS contract before the California Public Utilities Commission (“CPUC”) that is anticipated to begin deliveries in 2013.

I. Comments on RPS Procurement Reporting and REC Retirement

A. Timing for REC Retirement Must be Clarified

The RPS Guidebook requires “retail sellers and POUs to report on the monthly procurement that was retired for the RPS to be counted in the previous calendar year (reporting year)...on July 1...of each year *for claims to be counted for the previous year.*”² Additionally, the Guidebook adds the following requirement:

RECs retired for the 2011 reporting year must be reported by July 1, 2013 or within 90 days after the adoption of the *RPS Eligibility Guidebook, Seventh Edition*, whichever is later and RECs retired for the 2012 reporting year must be reported [by] or [sic] 120 days after the adoption of the *RPS Eligibility Guidebook, Seventh Edition.*³

This language appears to impose a new requirement that retail sellers must retire RECs annually in order for RECs to be applied to and counted for a particular year. Such a requirement violates the clear language of Public Utilities Code Section 399.21(a)(6) which allows RECs to be retired “within 36 months from the initial date of generation of the associated electricity.” Furthermore, an annual REC retirement requirement would contradict other provisions within the Guidebook that provide for a 36 month timeframe for retail sellers to retire RECs.⁴ Accordingly, the Guidebook must be clarified to ensure that the requirements for reporting and counting RECs comply with Section 399.21(a)(6) and provide for a 36 month “shelf life” for RECs.

To ensure that the Guidebook complies with the Public Utilities Code, the Guidebook must be clarified so that it does not impose an annual REC retirement requirement. The RPS

² Guidebook, p. 114, emphasis added. All references to the Guidebook are to the redlined version of the Guidebook which was issued on March 11, 2013.

³ Guidebook, p. 119.

⁴ See Guidebook, pp. 113, 120-121, and 136. It should also be noted that the CPUC has also determined that RECs have up to 36 months to be retired in order to qualify for the RPS program. (CPUC Decision 12-06-038, pp. 48-51 and Ordering Paragraph 23.)

program uses a multiyear compliance period and does not have any enforceable annual targets.⁵ Accordingly, language in the Guidebook that implies that RECs must be retired annually in order to count for the RPS program must be modified to ensure that no annual retirement is required. Although BVES does not object to an annual reporting requirement, the Commission and the Guidebook must recognize that an annual report can only reflect those RECs that have been procured or retired as of the time of reporting. And because RECs may be retired up to 36 months after they are generated, additional retirement may take place after the reporting deadline. Therefore, the annual report could not be relied upon to determine the full extent of a retail seller's annual procurement and the application of such procurement towards retirement subaccounts in the Western Renewable Energy Generation Information System ("WREGIS"). Modifying the Guidebook to remove any implication that RECs must be retired on an annual basis by a CEC-imposed reporting date will help conform the Guidebook to SB X1-2 and recognize the multiyear compliance periods.

Clarifying the Guidebook is important to ensure that retail sellers have the flexibility afforded them by SB X1-2 and the CPUC to meet RPS procurement targets and satisfy applicable portfolio balance requirements. Due to the multiyear compliance period and fluctuating electric loads, retail sellers are unlikely to know their specific compliance period procurement targets or applicable portfolio balance requirements until late in the compliance period (or following the compliance period for the last year of that compliance period). Accordingly, retail sellers are likely to elect to defer retiring any procured RECs until they have a better sense of what their actual procurement obligations will be; thus retail sellers will rightly be able to maximize the value of renewable procurement, as intended by SB X1-2. Therefore,

⁵ See Guidebook, pp. 111, 113, 121.

the Guidebook should be clarified to provide that RECs retired after the annual reporting deadline may still be applied to and counted for the prior year.

For these reasons, the Guidebook must be clarified and revised to conform to the requirements in SB X1-2 and avoid imposing an annual retirement requirement. The Guidebook may retain an annual reporting requirement, but it must recognize that an annual report will not include all RECs that will ultimately be retired and applied to the prior year that is the subject of the report.

B. The Guidebook Must Provide for Supplemental RPS Procurement Reporting

According to the Guidebook, “LSEs should not expect to supplement procurement claims for a report submitted for a previous year.”⁶ However, as described above, due to the multiyear nature of each compliance period and the statutory provision allowing retail sellers up to 36 months to retire RECs for a given year, if the Commission requires retail sellers to submit an annual report, it must also allow retail sellers to supplement any information provided in an annual report to reflect any additional volumes of RECs that are retired after the reporting deadline but within the 36 month shelf life for the procured RECs. These additional RECs reported in a supplement would still “count” toward that year’s or that compliance period’s obligation. Any other result would violate the requirements of SB X1-2 and would not allow retail sellers, their customers, or the State to receive the value of renewable procurement.

Therefore, the Guidebook must be revised to provide for supplemental reporting to conform to SB X1-2. This is not currently contemplated in the Guidebook, so the Guidebook must be amended to describe the process by which retail sellers may report procurement

⁶ Guidebook, p. 121.

information that is retired after the annual reporting deadline but within the statutorily allowed 36 month window.

C. Additional Clarity is Needed for Reporting and Retirement

At this time, Appendix A to the Guidebook has not been issued. However, Appendix A will provide the details for RPS reporting as well as the process for retiring RECs in WREGIS.⁷ To minimize confusion and to ensure that retail sellers have sufficient time to address any questions or concerns that arise relating to reporting and retirement requirements included in Appendix A, BVES recommends that the Commission provide a draft of Appendix A as soon as possible. If the requirements included in Appendix A are complex, it is vital that the Commission provide adequate time for retail sellers, especially small retail sellers with fewer resources, to digest and comply with those requirements to ensure that renewable procurement can be retired and reported in conformance with the new requirements. Accordingly, the Commission may need to reevaluate the current deadlines for reporting 2011 and 2012 procurement, depending on the complexity of the requirements included in Appendix A.

D. Verification Efforts Should be Coordinated Between Agencies

BVES recommends that, to the extent possible, the Commission and the CPUC coordinate reporting and verification deadlines to minimize the reporting burdens on retail sellers and to help expedite the verification process so that retail sellers have a better understanding of what procurement will qualify for the RPS program. As the Commission and the CPUC will have different verification roles for retail sellers, ideally both agencies would verify information at the same time so retail sellers would know what procurement volumes would be eligible for the RPS program and how such procurement would be classified. Because verification

⁷ See Guidebook, p. 119.

information is essential for RPS procurement planning, to the extent the Commission and CPUC can work together and expedite that process, they should.

II. Conclusion

BVES appreciates the efforts and hard work undertaken by the Commission and Commission staff in revising the Guidebook, and looks forward to working with the Commission and other parties going forward to help refine the RPS program. For the reasons described above, the Commission should modify the Guidebook as recommended herein to further the goals of SB X1-2.

Respectfully submitted,

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