

**BEFORE THE
CONSERVATION AND DEVELOPMENT COMMISSION
OF THE
STATE OF CALIFORNIA**

In the Matter of:)
Developing Regulations and)
Guidelines for the 33 Percent)
Renewables Portfolio Standard)

Docket No. 11-RPS-01
Docket No. 02-REN-1038



**COMMENTS OF THE SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ON
THE CALIFORNIA ENERGY COMMISSION STAFF WORKSHOP ON PROPOSED
CHANGES TO THE RENEWABLES PORTFOLIO STANDARD ELIGIBILITY
GUIDEBOOK, 7th EDITION**

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ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
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Pursuant to the procedures established in the Notice of Staff Workshop on Proposed Changes to the Renewables Portfolio Standard Eligibility Guidebook, the Southern California Public Power Authority (SCPPA) respectfully submits the following comments to the California Energy Commission (CEC, or Energy Commission) on the proposed changes to the Renewables Portfolio Standard (RPS) Eligibility Guidebook (Guidebook), 7th Edition.

I. INTRODUCTION

SCPPA is a joint powers authority consisting of eleven municipal utilities and one irrigation district. SCPPA members deliver electricity to approximately 2 million customers over an area of 7,000 square miles, with a total population of 4.8 million. SCPPAs members include the municipal utilities of the cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles, Pasadena, Riverside and Vernon, and the Imperial Irrigation District.

SCPPA was formed in 1980 to finance the acquisition of generation and transmission resources for its members. Over the past several years SCPPA has

increasingly become a primary means by which its members procure renewable energy resources. As such, it is important for SCPA to ensure that its members' historical procurement decisions are preserved, and that new renewable resources are both eligible for the RPS and fall into clear and well-defined Portfolio Content Categories (PCCs).

II. COMMENTS

SCPA would like to take this opportunity to thank CEC staff for providing stakeholders with this opportunity to comment.¹ Given the limited amount of time allotted for preparing these comments, SCPA will focus on the following issues of major interest or concern to its members, and reserves the right to express its views on other matters when the occasion arises.

a. Changes Pertaining to Biomethane Should Have Priority

SCPA understands that the CEC is engaged in an expedited process to approve this Guidebook and "concurrently [lift] its March 28, 2012, suspension of eligibility for biomethane."² While SCPA agrees that expedited review is appropriate insofar as it will enable the CEC to end the suspension on biomethane sooner rather than later, it is concerned that expediting approval of the entire Guidebook, if done in haste, will jeopardize the success of the effort.

Accordingly, SCPA respectfully suggests that the CEC divide its consideration of the proposed Guidebook changes into two phases. The first phase would address the

¹ SCPA supports the comments submitted concurrently by the California Municipal Utilities Association (CMUA), the Los Angeles Department of Water and Power (LADWP), Imperial Irrigation District (IID), and the Sacramento Municipal Utility District (SMUD).

² Staff Draft Renewables Portfolio Standard Eligibility Guidebook, Seventh Edition. California Energy Commission, Efficiency and Renewable Energy Division. Section II.C: Biomethane. Publication Number CEC-300-2013-005-ED7-SD.

biomethane changes made to implement AB 2196 on an expedited basis, while the second phase would address other outstanding issues after stakeholders are given adequate time to comment. This request is not unusual: it is essentially what the CEC did with the 5th and 6th editions of the Guidebooks, where biomethane was not considered but other topics were addressed.

b. Overlap Between the Proposed Guidebook and POU Regulations should be Avoided.

SCPPA is concerned that there may be overlap between the RPS Eligibility Guidebook and the RPS Enforcement Procedures for POUs (Regulations).³ As currently proposed, the Regulations solely deal with the implementation of the Public Utilities Code (PUC) Section 399.30(*I*) and are only applicable to the POUs. The Guidebook should exclusively address renewable energy resource certification and the administration of Renewable Energy Credits (RECs). At the March 14, 2013 workshop, the CEC mentioned that any references to the Regulations and California Public Utilities Commission (CPUC) decisions in the Guidebook are provided as background information. These references, however, create confusion as to what the applicable rules are for POUs and Investor-Owned Utilities (IOUs).

As such, any section in the Guidebook that expands or reiterates code sections that are to be addressed in the Regulations (e.g., Section (I)(B)(2)) or CPUC decisions should be edited or removed. This would not only resolve the potential overlap, but will also simplify the process of managing updates on each document if future RPS legislation is enacted.

³ Gonzalez, Lorraine and Angela Gould. 2012. Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities. California Energy Commission, Energy Efficiency and Renewable Energy Division. CEC-200-2012-001-SD.

**c. The Requirement for New Applications for All Facilities Using
Biomethane is Unnecessary and Unreasonable.**

Section II.C.2 of the proposed Guidebook requires utilities that had “pending” applications to pre-certify or certify electric generating facilities to use biomethane at the time the current suspension took effect on March 29, 2012, to:

reapply using the new application forms associated with this seventh edition of the RPS Eligibility Guidebook to demonstrate that they acknowledge the new requirements, attest that they meet these new requirements and all applicable requirements in this guidebook, and provide any additional information that the Energy Commission staff may need to determine the electric generating facility’s eligibility for the RPS.⁴

This provision, could be characterized as unnecessary because this requirement could be replaced by the CEC allowing applicants to supplement their “pending” applications with the new information required by the revised Guidebook. However, Section II.C.4 takes the re-application requirement to an entirely different level by appearing to make it applicable to facilities that were already certified to use biomethane prior to March 29, 2012, and not just to those which at the time had pending applications for pre-certification or certification.

It is unreasonable to require new applications for facilities already certified by the CEC to use biomethane (and perhaps already burning biomethane to generate electricity) for no apparent reason, particularly where a consequence of failing to comply is to suspend the facility’s eligibility for RPS “until the suspension is resolved.” This requirement should be rejected insofar as it would apply to facilities already certified. Moreover, a reapplication requirement creates a concern that such new applications will

⁴ Staff Draft Renewables Portfolio Standard Eligibility Guidebook, Seventh Edition. California Energy Commission, Efficiency and Renewable Energy Division. Section II.C: Biomethane. Publication Number CEC-300-2013-005-ED7-SD

not be processed in accordance with the Fourth Edition of the Guidebook despite the fact that the CEC, in its resolution establishing the suspension, stated:

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| 5. | Complete applications for RPS certification and RPS pre-certification for power plants seeking to use biomethane that are received by the Energy Commission prior to the effective date of the suspension will be processed in accordance with the “Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition.”... |
| 7. | The suspension will not affect the RPS eligibility requirements for power plants that utilize biogas that is produced on site or that is delivered to the power plant via a dedicated pipeline or is delivered to the power plant via truck or railcar. ⁵ |

Several SCPPA members completed applications for certification prior to the effective date of the suspension, with the expectation that their pending applications would be processed under the standards contained in the Fourth Edition of the Guidebook, and no expectation that approved applications would have to be resubmitted. SCPPA therefore requests that the CEC make it clear in the proposed Guidebook that there is no reapplication requirement for facilities already certified and that “pending” applications submitted prior to the suspension will be processed under the Fourth Edition consistent with the conditions upon which the suspension was put into effect.

d. Grandfathering of Existing Projects

SCPPA is very concerned with the CEC’s current interpretation of the ‘rules in place’ provision of SB X1-2, which states that:

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| (d) Any contract or ownership agreement originally executed prior to June 1, 2010, shall count in full towards the procurement requirements established pursuant to this article, if all of the following conditions are met:
(1) The renewable energy resource was eligible under the rules in place as of the date the contract was executed. |
|--|

⁵ Suspension of RPS Eligibility Guidelines Related to Biomethane, Corrected Resolution, California Energy Commission. Resolution No. 12-0328-3. Conditions of Suspension, Sections 5 through Section 7

The current CEC interpretation of the 'rules in place' prior to June 1, 2010 for IOUs refers to the guidebook in place at the time a contract was executed. However, SCPA believes that this interpretation is flawed as it retroactively applies previous Guidebooks to utilities that were not subject to such guidebooks before the effective date of SB X1-2. Also, PUC Section 399.16(d) solely deals with the PCCs, not the eligibility criteria. Applying the 'rules in place' language to judge the eligibility criteria for grandfathered resources is a misapplication of the statute.

PUC Section 399.30(c)(3), as enacted by SB X1-2, states that:

(3) A local publicly owned electric utility *shall adopt* procurement requirements consistent with Section 399.16.

This section clearly provides the POUs with the authority to adopt procurement requirements consistent with PUC Section 399.16 as that Code exists, or existed, at the time of POU decision-making. This provision of the statute does not give the CEC the authority to adopt requirements for Section 399.16 on behalf of the POUs. Had it been the intent of the Legislature, it could have used the term "guidebook" in place of the phrase 'rules in place,' but it chose not to. The Legislature's clear intent was not to abrogate or override historical procurement decisions made by POUs. This intent is evident in transcripts in the committee hearings for SB X1-2:

This bill grandfathers all contracts consummated by an IOU, ESP, or POU prior to June 1, 2010.⁶

Under the bill, all existing renewable energy contracts signed by June 1, 2010 would be "grandfathered" into the program. Going forward, new renewable energy contracts must meet a "loading order" that categorizes renewable resources.⁷

⁶ Third Reading of Bill No. SB X1-2, Senate Rules Committee, Dated February 23, 2011. Available at: http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0001-0050/sbx1_2_cfa_20110223_155225_sen_floor.html

⁷ Bill Analysis for SB X1 2, Senate Appropriations Committee Fiscal, dated February 23, 2011. Available at: http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0001-0050/sbx1_2_cfa_20110223_101343_sen_comm.html

This bill grandfathers all contracts consummated by an IOU, ESP, or POU prior to June 1, 2010.⁸

Note that these excerpts repeatedly refer to “all contracts”, not “some contracts” or “contracts subject to regulations that did not apply at the time”. Further, the CEC has acknowledged the POU governing boards’ authority under the Fourth Edition RPS Eligibility Guidebook⁹:

“Each governing board of a local publicly owned electric utility (POU) shall be responsible for implementing and enforcing a renewables portfolio standard...”

Therefore, SCPPA urges the CEC to change its interpretation of ‘rules in place’ and acknowledge that the POU governing boards’ RPS Policies were the governing policies for POU contracts executed prior to SB X1-2.

e. Solar Distributed Generation – Metering Requirement

The currently-drafted metering requirement for distributed generation in the Guidebook requires that such installments be metered with revenue-quality meters with an accuracy of ± 2 percent:

Applicants for a renewable facility that serves onsite load must meet all RPS eligibility requirements including, but not limited to, participation in WREGIS and reporting eligible generation based on a meter with an independently verified rating of 2 percent or higher accuracy.¹⁰

⁸ Bill Analysis for SB X1 2, Senate Energy, Utilities and Communications Committee, dated February 15, 2011. Available at: http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0001-0050/sbx1_2_cfa_20110214_141136_sen_comm.html

⁹ Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition. Section V, Publicly Owned Electric Utilities. California Energy Commission, Efficiency and Renewable Energy Division. Publication Number: CEC-300-2010-007-CMF

¹⁰ Staff Draft Renewables Portfolio Standard Eligibility Guidebook, Seventh Edition. California Energy Commission, Efficiency and Renewable Energy Division. Section III.F: Eligibility of Renewable Energy Credits for Distributed Generation Facilities and Onsite Load. Publication Number CEC-300-2013-005-ED7-SD

However, several small scale solar distributed generating systems currently do not meet this requirement. These smaller installations contain performance meters with an accuracy of $\pm 5\%$. The WREGIS system does not exclusively require revenue-quality metering in order to report and generate RECs:

Recognition of generation for creation of WREGIS Certificates from renewable electricity generation resources that do not have metering that meets the ANSI C-12 or equivalent standard will only be at the direction of state or provincial regulators or voluntary program administrators. Program administrators must notify the WREGIS Administrator in writing of approved exceptions to the ANSI C-12 standard; upon receipt, WREGIS will make that information publicly available on its website.¹¹

SCPPA recommends that the CEC allow utilities (1) to utilize performance meters with an accuracy of $\pm 5\%$, (2) to report such data on a monthly or bi-monthly basis, and (3) to request an exception from WREGIS for such systems.

f. Energy Storage Systems

SCPPA appreciates the CEC's willingness to address the issue of Energy Storage systems in this iteration of the Guidebook. Energy storage systems will become ever more important as more intermittent renewable energy resources are added to the grid. Currently, there is a variety of storage systems that are competing for industry acceptance and, to date, there is very limited deployment of such systems.

However, the current draft of the Guidebook section addressing Energy Storage systems is overly restrictive and allows energy storage systems to count towards the RPS only if they are utilized to store RPS-eligible generation or, in the case of pumped-storage, the system meets the small hydro eligibility criteria set forth in the guidebook.

¹¹ WECC WREGIS Operating Rules, dated December 2010. Section 9.3.3, Classes H-J. Available at: <http://www.wecc.biz/WREGIS/Documents/WREGIS%20Operating%20Rules.pdf>

Given the nature of electrical flows on the grid, it is impossible as a practical matter to ensure that only RPS-eligible energy is injected into storage, which means that the proposed restriction would eliminate energy storage as an eligible resource. This restriction is unnecessary, impractical, and will unnecessarily increase the cost of meeting RPS obligations. SCPPA recommends that the CEC expand the criteria of eligible energy storage systems and configurations that may qualify towards the RPS.

g. Restricting Biomethane Use is Unnecessary

SCPPA is concerned with the following restriction on the use of Biomethane in the proposed Guidebook:

Biomethane under an existing biomethane procurement contract may only be used for RPS purposes at the designated electrical generation facility for which the biomethane procurement contract was originally reported to the Energy Commission prior to March 29, 2012, interconnection with the RPS certification of the designated electrical generation facility. Biomethane under an existing biomethane procurement contract may not be used for RPS purposes at a different electrical generation facility.¹²

First, this restriction should not apply to re-powered generating units at an electrical generation facility.

Second, this restriction overlooks one critical aspect of the procurement of biomethane resources. Several SCPPA members have entered into contracts that require them to accept a daily million British Thermal Units (MMBTU) minimum or fixed delivery requirement, which binds them to a “take and burn” obligation. If the designated facility is out of service due to scheduled maintenance or a forced outage, this restriction would hinder the generation of RECs. The redirection of biomethane fuel from one generating facility to another does not change the terms and conditions of the

¹² Staff Draft Renewables Portfolio Standard Eligibility Guidebook, Seventh Edition. California Energy Commission, Efficiency and Renewable Energy Division. Section II.C.1.c: Substitution of Electrical Generation Facilities. Publication Number CEC-300-2013-005-ED7-SD

original biomethane procurement contract and is not prohibited by statute. Biomethane procured under approved contracts should be allowed to generate RECs at any eligible facility that can generate electricity with biomethane.

SCPPA requests that this restriction be removed from the Guidebook, as this requirement hinders the generation of eligible RECs and is not supported by statute.

h. Optional Biomethane Quantities in Existing Contracts.

SCPPA disagrees with the following provision in the proposed Guidebook that would make quantities of biomethane specified in existing contracts as “optional to the buyer” subject to the rules for new procurement contracts:

Electrical generation that is attributable to any quantities of biomethane delivered through a common carrier pipeline and associated with any of the following changes under the existing biomethane procurement contract will be considered RPS-eligible only if the biomethane procurement complies with requirements of Section 2: New Biomethane Procurement Contracts.

Any quantities of biomethane procurement from sources identified in the existing biomethane procurement contract, as originally executed and reported to the Energy Commission before March 29, 2012, that are specified as optional to the buyer in the contract, as determined by the Energy Commission. Quantities will be deemed optional if the buyer, through his or her initiation or election, can decide whether to accept the additional quantities of biomethane.¹³

As a standard industry practice, it is common that a contract with a biomethane producer allows the addition of new sources in order to meet contractual supply requirements or to makeup unforeseen shortfalls from old sources. The additional quantities acquired under a contract to meet the MMBTU delivery requirements and injected into the pipeline prior to April 1, 2014 should not be subject to the new requirements of PUC § 399.12.16(b), because these sources do not produce additional

¹³ Staff Draft Renewables Portfolio Standard Eligibility Guidebook, Seventh Edition. California Energy Commission, Efficiency and Renewable Energy Division. Section II.C.1.b: Substitution of Electrical Generation Facilities. Publication Number CEC-300-2013-005-ED7-SD

generation. Additional sources already listed in the contract that will inject biomethane before April 1, 2014 to makeup delivery shortfalls should be subject to the prior rules, as these sources may be needed to makeup shortfalls in the delivery obligations.

i. Biomethane Generation Counts As Long As The Precertification Or Certification Application Has Been Submitted

As the biomethane certification applications remain in limbo, SCPPA members have been receiving biomethane gas and producing RPS-eligible generation on a daily basis. SCPPA does not want this generation and associated RECs to go to waste. The current after-the-fact PCC verification structure is unsustainable & leaves utilities with an unmanageable financial risk. As SCPPAs members have received pre-certification for various biomethane projects and provided the CEC with certification applications prior to the suspension, SCPPA wants to ensure that the quantities of biomethane gas delivered to-date qualify for the RPS.

j. Portfolio Content Category Verification Process

SCPPA members are still concerned at the lack of certainty on the PCC designation of an electricity product. There is a need to develop a process to provide PCC certainty due to the large price differences between PCC 1 and a PCC 3 RECs and the potential cost impact to POU ratepayers inherent in after-the-fact PCC determinations.

On September 21, 2012, CEC staff held a workshop on 2008-2010 RPS Procurement Verification and SB X1-2 RPS procurement verification.¹⁴ During the

¹⁴ Notice of Staff Workshop on 2008-2010 RPS Procurement Verification and SB X 1-2 RPS Procurement Verification, California Energy Commission, dated September 21, 2012. Available at: http://www.energy.ca.gov/portfolio/notices/2012-09-21_workshop/2012-09-21_procurement_Verification_Notice.pdf

workshop, Iberdrola proposed that the CEC develop a checklist to help utilities determine if their energy resources fall within PCC1, PCC2 or PCC3, and several POUs submitted comments supporting the idea of a checklist.

At the March 14, 2013 workshop, it was further discussed whether the CEC could provide a PCC verification process that would assign each project to the appropriate PCC. This verification process would also provide the standard caveats to PCC REC classification, such as the limitations on resale, if any, and PCC re-classification if such RECs are unbundled.

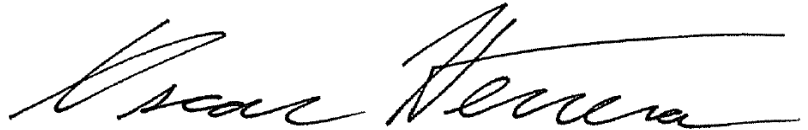
SCPPA recommends that the CEC develop both a PCC checklist as part of the Guidebook and provide for a PCC verification process that provide greater certainty as to the PCC designation of RPS eligible generating facilities.

III. CONCLUSION

SCPPA would like to thank CEC staff for their time and effort spent in developing the draft 7th Edition RPS Guidebook. SCPPA believes that staff is moving in the right direction, and looks forward to working in a collaborative way on these important matters.

Dated: March 25, 2013

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Oscar Herrera", is written over a horizontal line.

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