California Energy Commission
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**BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA**

In the matter of:	)	
	)	
Developing Regulations and Guidelines	)	Docket No. 13-RPS-01
For the 33 Percent Renewables	)	
Portfolio Standard	)	

COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND POWER TO THE CALIFORNIA ENERGY COMMISSION'S 15-DAY COMMENT PERIOD REGARDING MODIFICATIONS TO THE PROPOSED REGULATIONS ESTABLISHING ENFORCEMENT PROCEDURES FOR THE RENEWABLES PORTFOLIO STANDARD FOR LOCAL PUBLICLY OWNED ELECTRIC UTILITIES

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Dated May 6, 2013

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Pursuant to the procedures established by the California Energy Commission (Energy Commission, or CEC) in the Notice of Changes to Proposed Regulations and Notice of 15-Day Comment Period (Notice) dated April 19, 2013, the Los Angeles Department of Water and Power (LADWP) respectfully submits these comments in response to the CEC's revisions to the proposed Regulations establishing Enforcement Procedures (Regulations) for the Renewables Portfolio Standard (RPS) for Local Publicly Owned Utilities (POUs).

I. INTRODUCTION

The City of Los Angeles is a municipal corporation and charter city organized under the provisions set forth in the California Constitution. LADWP is a proprietary department of the City of Los Angeles, pursuant to the Los Angeles City Charter, whose governing structure includes the Mayor, the fifteen-member City Council, and a five-member Board of Water and Power Commissioners (Board). As the third largest electricity utility in the state, one of five California Balancing Authorities, and the nation's

largest municipal utility, serving a population of over four million people, LADWP is a vertically integrated utility, both owning and operating the majority of its generation, transmission and distribution systems. LADWP has annual sales exceeding 23 million megawatt-hours (MWhs) and has a service territory that covers 465 square miles in the City and most of the Owens Valley. The transmission system serving the territory totals more than 3,600 miles and transports power from the Pacific Northwest, Utah, Wyoming, Arizona, Nevada, and California to Los Angeles.

California's most recent legislation for its RPS Program requires:

> "each local publicly owned electric utility to procure a minimum quantity of electricity products from eligible renewable energy resources."[1]

Since LADWP is a local publicly owned electric utility (POU), it is required to comply with Senate Bill (SB) 2 (1X).

II. LADWP REMAINS COMMITTED TO ITS REGULATORY OBLIGATIONS

As a result of combined regulatory mandates for increased renewable energy, emissions performance standard on fossil fuel generation, energy efficiency, solar roofs, reduction in greenhouse gas (GHG) emissions, and the elimination of once-through cooling from coastal power plants, LADWP is facing a utility-wide transformation and making billions of dollars in investments on behalf of its ratepayers to replace about 70% of its resources over the next 17 years that it has relied upon for the last 50 years.

Prior to the enactment of SB 2 (1X), the City of Los Angeles was committed to the procurement of renewable energy as part of its long-term resource mix. On May 23, 2005, the Board adopted the LADWP RPS Policy that established the goal of increasing its renewable energy resources to 20 percent of its energy sales to retail customers by

[1] Public Utilities Code, Section 399.30(a)

2017, with an interim goal of 13 percent by 2010. On April 11, 2007, the Board amended the LADWP RPS Policy by accelerating the goal of requiring 20 percent of energy sales to retail customers to be generated from renewable resources by December 31, 2010. In 2010, LADWP achieved its RPS goal of 20 percent renewables.

Per SB 2 (1X), LADWP has subsequently amended its RPS Policy to incorporate an enforcement component and has proactively acquired renewable energy resources such as wind, geothermal, and solar facilities that meet the RPS Guidebooks established by the State of California. LADWP continues to implement renewable resources and is on track to meet the 33 percent renewable target by 2020.

III. COMMENTS

LADWP appreciates the opportunity to comment on the RPS Regulations. However, LADWP is concerned on the recent and substantial revisions provided by the CEC in this iteration of the Regulations and the lack of a revised Statement of Reason (SOR) to justify such significant changes.

LADWP's comments propose further modifications to the Regulations that emphasize the need to recognize POU historical investments in renewable technologies prior to the enactment of SB 2 (1X). LADWP also wants to ensure that the CEC's Regulations do not abrogate the authority of LADWP's Board of Water and Power Commissioners or the Los Angeles City Council.

LADWP's comment (or lack of comment) on a specific topic should not be interpreted to mean that LADWP is agreeing with the CEC's position in the Regulations on a particular topic. To the extent the CEC has not incorporated LADWP's changes in these proposed enforcement regulations, the LADWP incorporates by reference its prior

comments filed with the CEC. In addition, LADWP supports the comments being filed concurrently by the California Municipal Utilities Associate (CMUA) and the Southern California Public Power Authority (SCPPA).

a. Proposed Modifications to Compliance Period 3 raises concern

LADWP is extremely concerned with the last-minute proposed modification to Compliance Period 3:

For the compliance period beginning January 1, 2017, and ending December 31, 2020, a POU shall demonstrate it has procured electricity products within that period sufficient to meet or exceed the sum of 27 percent of its 2017 retail sales, 29 percent of its 2018 retail sales, 31 percent of its 2019 retail sales, and 33 percent of its 2020 retail sales. The numerical expression of this requirement is: $(EP_{2017} + EP_{2018} + EP_{2019} + EP_{2020}) \geq 0.27(RS_{2017}) + 0.29(RS_{2018}) + 0.31(RS_{2019}) + 0.33(RS_{2020})$

The CEC may have made this haste modification to align with comments provided by some stakeholders, which in general want the POU Compliance Period obligations to align with those interpreted by the California Public Utilities Commission (CPUC) for the Investor Owned Utilities (IOUs) based on PUC Section 399.15 (b)(2)(B). However, this change is not a proper interpretation of PUC Section 399.30(c)(2) and does not align with the express language of the statute or the Legislative intent of SB 2 (1X).

399.30(c)(2) reads as follows:	399.15(b)(2)(B) reads as follows:
(c) **The governing board of a local publicly owned electric utility shall** ensure all of the following: (2) The quantities of eligible renewable energy resources to be procured for all other compliance periods reflect **reasonable progress** in each of the intervening years sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25 percent of retail sales by December 31, 2016, and 33 percent of retail sales by December 31, 2020. The **local governing board shall** require the local	**(b) The [CPUC] commission shall** implement renewables portfolio standard procurement requirements only as follows: **(2) (B)** In establishing quantities for the compliance period from January 1, 2011, to December 31, 2013, inclusive, the commission shall require procurement for each retail seller equal to an average of 20 percent of retail sales. For the following compliance periods, the quantities shall reflect **reasonable progress** in each of the intervening years sufficient to ensure that the procurement of electricity products from eligible

publicly owned electric utilities to procure not less than 33 percent of retail sales of electricity products from eligible renewable energy resources in all subsequent years.	renewable energy resources achieves 25 percent of retail sales by December 31, 2016, and 33 percent of retail sales by December 31, 2020. **The [CPUC] commission shall** require retail sellers to procure not less than 33 percent of retail sales of electricity products from eligible renewable energy resources in all subsequent years.

(emphasis added).

The express authority for POUs is a POU's governing board, while for IOUs it is the CPUC. The intent is identified in section (a) of each statute. Section 399.30 (a) states that a POU's governing board is tasked with adopting and implementing a plan to procure renewable energy for "each compliance period, to achieve the targets of subdivision (c)." Section 399.15(a) states that "the [CPUC] commission" establishes a standard for IOUs to procure renewable energy for "each compliance period to achieve the targets."

The Legislature identified the CPUC commission to adopt standards for IOUs while it identified the governing board of POU's to come up with their own plans to satisfy the compliance periods and achieve the targets. The CEC should adhere to the statutory scheme adopted by the Legislature.

Had it been the Legislature's intent to have intervening targets for the second and third compliance periods, it could have easily done so by adding them to §399.30. The averaging of the first compliance period essentially demonstrates a way to impose intervening targets. The Legislature did not do so for the subsequent compliance periods. However, the Legislature expressly wrote that there will be no intervening targets in PUC Section 399.15(b)(2)(C):

…Retail sellers shall not be required to demonstrate a specific quantity of procurement for *any individual intervening year.*

Consequently, a sensible interpretation of “reasonable progress” under PUC Section 399.30(c)(2) is to assess compliance on a qualitative, not a quantitative, fashion. With using the term “reasonable progress,” the Legislature intended utilities to be diligent in pursuing the targets for the compliance periods, but avoided defining how to measure their pursuit. There are various strategies for pursing the compliance periods, including contracting for eligible renewable energy resources *or* owning them. The Legislature specifically recognized these two strategies when it defined the term “procure” to mean “acquire through *ownership or contract.*[2]”

The phrase “procurement of electricity products” as used in Section 399.30(c) shows that when speaking of “reasonable progress” ownership and contracting may have very different facts to show progress. For example, in the “ownership” context, reasonable progress may include developing an Environmental Impact Report under the California Environmental Quality Act (CEQA), a potentially multi-year process. In the “contracting” context, reasonable progress may include issuing a request for proposal (RFP), also a potentially multi-year process. Either of these could include transmission interconnection studies and agreements or transmission planning studies to assist the project in development and eventual integration to the power grid.

Moreover, in recent revisions to section 399.30, provisions directing POUs to submit to the CEC various supplemental data to show their “progress” was deleted. This supplemental data was outlined in prior §399.30(g) and Section 399.30 (*l)*, but has since been deleted, which further supports the interpretation that the governing boards

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[2] PUC §399.12(f). LADWP has previously commented that the definition provided for the term “Procure” in the proposed Regulations is incorrect, as it does not strictly adhere to the definition already provided in SB 2 (1X).

of POUs have control over their procurement plans for the compliance periods and to ultimately achieve the targets in section 399.30(c).[3]

In addition, LADWP has historically advocated against the interpretation currently proposed by the CEC. At the CPUC R11-05-005 Proceeding:

> The LADWP disagree[d] with the interpretation [proposed by the CPUC] that Section 399.15(b) requires the Commission[4] to establish intermediate, enforceable, RPS targets beyond those intended by the Legislature. In fact, Section 399.15(b)(2)(C) clearly states that a "retail seller shall not be required to demonstrate a specific quantity of procurement for any individual year." The LADWP finds that the language of Section 399.15 (b)(2)(C) precludes the Commission or other enforcement entities from setting enforceable RPS targets for the intervening years of the compliance periods."[5]

In the statutory scheme, the Legislature recognizes that a POU's governing board is the most suitable entity to adopt and implement a RPS plan, while the CPUC commission is the most suitable entity to adopt and implement a RPS for IOUs. Each respective utility will strive to achieve the targets, but each employs different means for attaining them. Therefore, the phrase "reasonable progress" should be interpreted very broadly to achieve the Legislature's goals for the compliance periods while affording the CPUC Commission and the POUs governing boards for their respective utility with the flexibility to assess and employ various strategies to achieve those goals.

The straight-line trend the CEC is currently proposing diverges from its past proposals, the statute, the Legislative intent, the current LADWP RPS Procurement Policy, and the LADWP Integrated Resource Plan (IRP) that has been developed with substantial stakeholder and community input. LADWP has made significant

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[3] Compare 399.30 in 2012 with changes that took effect in 2013.

[4] In this instance, the Commission refers to the California Public Utilities Commission.

[5] Comments Of The Los Angeles Department of Water and Power To The Administrative Law Judge's Ruling Requesting Comments on New Procurement Targets and Certain Compliance Requirements For the Renewables Portfolio Standard Program, dated August 30, 2011. Filing Available At: http://docs.cpuc.ca.gov/PublishedDocs/EFILE/CM/142601.PDF.

investments by acquiring property and preparing plans to develop geothermal resources in Compliance Period 3 that will not align with recent interim compliance period proposal. Therefore, the LADWP urges the Commission to revert to its previous interpretation for Compliance Period 3,

b. Portfolio Content Category 2

i. Calendar Year Restriction

Section 3203(b)(2)(D) currently states that:

> The incremental electricity must be scheduled into the California balancing authority within the same calendar year as the electricity from the eligible renewable energy resource is generated.

In the latest justification provided in the Initial Statement of Reason (ISOR), the CEC states that:

> The substitute electricity must be scheduled into a California balancing authority in the same calendar year that the electricity from the eligible renewable energy resource is generated. This requirement was in place for retail sellers under the RPS Guidelines that were in effect when SB 2 (1X) was passed and was generally understood to be part of the definition of "firmed and shaped" in California.

The LADWP still believes that the CEC's explanation in the ISOR for the delivery of substitute electricity within the calendar year does not justify the restriction: This requirement unjustly adds unnecessary restrictions to PCC 2 electricity products.

In LADWP's experience, several firming and shaping entities perform balancing in January and February for December produced energy, which conflicts with the proposed Regulation. SB 2 (1X) did not contemplate a timeframe requirement for firming and shaping substitute energy delivery. If the CEC insists on providing a time frame, then a rolling 12 month approach generally aligns with LADWP's operations than an arbitrarily chosen calendar year cut-off. Furthermore, there is no statutory basis to preclude a rolling 12-month approach.

As all California utilities move closer to the 33 percent renewable energy compliance mandate, operational flexibility with firming and shaping is necessary for the reliability of the grid and to minimize the ratepayer cost of renewable energy integration. Different utilities providing energy to different parts of the state have different needs based on many factors, including varying weather patterns. The arbitrary requirement of delivery within the year does not take these factors into account and implements an unnecessary barrier and reduces the renewable technology and procurement options that a utility will have to operate a reliable electric grid.

Further, compliance with the RPS is judged on a compliance-period basis: Energy generated in 2012 and substitute electricity delivered in 2013 would still count within the same compliance period. Therefore, the restriction of a calendar-year delivery approach simply because it was a requirement applicable to the IOUs prior to SB 2 (1X) is not acceptable and does not comport with each POU's grid operations.

Again, the LADWP requests that the CEC remove the calendar-year restriction or replace it with a "rolling 12-month" approach, where a POU would be required to schedule the substitute electricity within 12 months from the date the electricity is generated.

ii. In-State Generation Should Count

Section 3203(b)(2)(A)-(B) have been partially modified to currently state:

(A) The first point of interconnecting to the WECC transmission grid for both the eligible renewable energy resource and the resource providing the incremental electricity must be located outside the metered boundaries of a California balancing authority area.

(B) The incremental electricity used to match the electricity from the eligible renewable energy resource must be incremental to the POUs. For purposes of this section 3203, "incremental electricity" means electricity that is generated by a resource located outside the metered boundaries of a California balancing authority area and that is not in the portfolio of the POU claiming the electricity products for RPS compliance prior to the date the contract or ownership agreement for the electricity products from the eligible

renewable energy resource, with which the incremental electricity is being matched, is executed by the POU or other authority, as delegated by the POU governing board.

The CEC substantiates its interpretation in its latest ISOR by stating the intent of this requirement:

> Electricity products must originate from outside of a California balancing authority because PUC Section 399.16 (b)(2) specifies that products in this portfolio content category must be "scheduled into a California balancing authority."

However, this current interpretation provides unintended consequences.

The energy market thrives on economic decisions; contracted substitute energy providers (SEP) will likely replace RPS-eligible energy with a cost-effective product. As such, if substitute energy originating from California is cheaper than substitute energy produced from out-of-state, the SEP will procure the California-sourced energy and deliver it to the designated point of delivery (POD).

As currently proposed by the CEC, by limiting substitute energy to originate from outside of California, the CEC may inadvertently influence the energy market by earmarking out-of-state substitute electricity as the PCC 2-compliant product. This interpretation sets preference for non-California electricity, which could not have been the intent of the Legislature. Further, when in-state electricity is less expensive than out-of-state energy on the wholesale market, such an interpretation would encourage renewable energy vendors to export substitute energy out of California simply in order to meet the literal definition of a PCC 2-compliant product. Finally, such an interpretation would create regulatory uncertainty for existing contractual obligations that, for many utilities, do not specify the source of the substitute energy in their respective underlying agreements.

The LADWP again requests that the CEC remove this interpretation, as this interpretation negatively affects market activity, operational flexibility, and effectively sets a preference for non-California energy for PCC 2.

c. Portfolio Content Category 1 Electricity Products Should Never Get Redirected

Section 3203 (a)(1)(C) currently states that:

> If there is a difference between the amount of electricity generated within an hour and the amount of electricity scheduled into a California balancing authority within that same hour, only the lesser of the two amounts shall be classified as Portfolio Content Category 1.

LADWP strongly believes that the excess renewable energy generated should, under no circumstance, count other than towards PCC 1, as this energy would still clearly be bundled and should still meet the definition of a PCC 1 resource. For LADWP, the number of times a specific renewable resource over-generates is fairly common. The current interpretation creates a tiered-structure for PCC 1 resources, which is not accounted for in several existing PCC 1-qualifying contracts. The Power Purchase Agreements (PPAs) signed by LADWP typically require the utility to take all generation from the renewable project. Taking only the scheduled amount is not a discretionary action and most contracts were not negotiated and executed to allow different payments for scheduled versus actual produced energy. Of greatest concern, this interpretation can inadvertently encourage other Parties to overschedule transmission, which can easily clog-up valuable transmission capacity and lead to inefficiency in grid operations.

The LADWP again requests that the CEC allow utilities to count these excess electricity products under PCC 1, as these excess electricity products would still meet the interconnection and bundled product requirements of PCC1.

d. Additional Unsupported Restrictions on the Retirement of RECs are unnecessary

LADWP is deeply concerned with the CEC's proposed language in Section 3202 (d), which currently states:

> A POU may not use a REC to meet its RPS procurement requirements for a compliance period that precedes the date of generation of the electricity associated with that REC. For example, a POU may not retire a REC associated with electricity generated in April 2013 to meet its RPS procurement requirements for the 2011-2013 compliance periods.
>
> A POU may not use a REC to meet its RPS procurement requirements for a compliance period that precedes the date the POU procured that REC. For example, a POU may not retire a REC associated with electricity generated in November 2013 that the POU procured in February 2014 to meet its RPS procurement requirements for the 2011-2013 compliance period.

As currently drafted, POUs would be prohibited from making up shortfalls in one compliance period in the following, which would default the utility to non-compliance. This is an unjust requirement.

POUs will not know what their procurement shortfall until the conclusion of the compliance period. Further, with the intermittency of renewable energy resources and the fluctuations in loads, it is nearly impossible to plan for 100% compliance days at the end of the compliance period.

The CEC needs to provide POUs with the flexibility to fully close the compliance periods without the risk of enforcement. LADWP requests that the CEC remove this language from the Regulations in its entirety.

e. Distributed Solar Generation

LADWP's Solar Incentive Program (SIP) provides ratepayer-funded incentives for residential and commercial customers to install solar photovoltaic systems on their facilities. The SIP has been in existence for over 10 years, is in full compliance with SB 1 guidelines, and has successfully promoted the installation of over 6,000 solar photovoltaic systems, totaling over 70 MWs of generation capacity. Two incentives are

available, one for customers that desire to retain the REC value and a higher incentive for those customers that are willing to sell the REC's to LADWP.

i. Metering Requirement for Distributed Generation Should Not Be the Firewall for Eligibility

As currently written, the RPS Guidebook requires:

> Applicants for a renewable facility that serves onsite load must meet all RPS eligibly requirements, including, but not limited to, participation in WREGIS and reporting eligible generation based on a meter with an independent verified rating of 2 percent or higher accuracy.[6]

To align with this requirement, new meters will have to be installed to allow LADWP to verify the generation. However, this will be extremely onerous, costly, and grossly inefficient relative to the energy generated by the small-scale solar systems simply for accounting purposes. The estimated cost to meter, record and report monthly energy production for a typical 4 Kilo watt (kW) system producing about 400 to 800 Kilo watts per hour (kWh) per month would be about $10 per Megawatt-hour (MWh). This requirement is counterproductive to the program goal to promote distributed generation, and will add significant expense to the ratepayer-funded program. ***A metering requirement should not be a roadblock for the eligibility and PCC classification for these systems.***

Therefore, the LADWP requests that the CEC:

[6] Staff Final 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-SF

- Exempt existing small-scale solar photovoltaic projects from the use of WREGIS to track and report monthly generation of RECs based on a meter accuracy that was not the standard when the systems were installed; and
- Have a project capacity threshold of 10 kW for the metering requirement for existing systems.
- Requires 2% performance meters only on new installations

The Energy Commission should allow utilities to report for these projects with expected performance data, which is based on the characteristics of the photovoltaic system (e.g. size, location, orientation, tilt, shading, etc.). LADWP and other utilities with customer solar incentive programs have based incentive rebates on expected performance data for smaller systems for many years, and have found that these estimates are very close to actual energy output.

f. Change In Law Effects

A major concern between POUs and project developers (Developers) is the risk associated with Change in Law. Change in Law risks affect all contracts/agreements executed for compliance with California's RPS moving forward, the ponderous point of contention between parties in negotiations is "Who should bear the risk of Change in Law? The Utility or the Developer?" It is getting harder and harder to negotiate contracts due to this issue, which can significantly increase the cost and/or risk of a project, as well as complicate the project's underwriting process to the point of infeasibility. This is not a speculative risk: it is real and has already affected several POUs and developers. Developers constantly point to the Biomethane Moratorium installed March 29, 2013,

which instituted economic impacts on historical decisions. As such, parties refuse to accept the Change of law liability due to certification or PCC contingencies.

The CEC needs to be cognizant that changes (whether they be considered miniscule or not) have a significant effect on procurement decisions made by POUs and will impact meeting compliance. Therefore, the CEC needs to add “Change of Law” to Section 3206.

g. Delay of Timely Compliance.

The “conditions beyond the control of the POU” change proposed by the CEC conflicts with the factors identified in 3206(2)(A)1. – 3. The CEC has already used “reasonable” language, here, including “all reasonable measures” (1.i.), “all reasonable operational measures,” (1.ii.), and “reasonable measures to procure,” (2.iv.). In addition, the factors identified in 3206(2)(A)1. – 3, include findings of “prudent” management, including “prudently managed portfolio risks,” (2.i.), “appropriate minimum margin of procurement” (2.iii.), and “unanticipated curtailment,” (3). These required findings by a POU support the “reasonable cause” language the CEC had prior to its current proposed change.

The “beyond the control of the POU” language creates an unknown standard. The CEC should revert to its prior language as it more aligns with the language and factors the CEC has already identified in 3206(a)(2)(A)(1) – (3).

h. Compliance Reporting for POUs

Based on the detailed and potentially voluminous information the CEC is requesting in Section 3207(c), the LADWP suggests that a provision be added to 3207 (g) to allow a grace period to self-report missing information or to correct information, or

even to supplement the information as it becomes available, without violation of the proposed regulations. A reasonable time period for POUs to self-report would be a grace period of 90 days. This self-reporting opportunity would be in addition to the process identified in 3207 (g).

i. Enforcement

The Enforcement Section, 3208, does not provide any time period for the CEC to file a complaint, or perform audits, recordkeeping, or verification of data. Similarly, Section 3207 (g) does not provide POUs with any certainty as to a time deadline of when the Executive Director may determine that a POU's report is incorrect or incomplete. For planning purposes, there should be finality with respect to enforcement of the regulations and audits for compliance periods.

Public Utilities Code Section 399.25 requires the CEC to develop an accounting system for SB 2 (1X). However, there isn't a time period for the CEC to complete an audit, or verify information, or compliance reporting in the draft regulations. While the Record Keeping section in 7th Edition of the Guidebook requires records to be kept for "no fewer than 3 years," there is no equivalent time period for the CEC to begin or complete an audit, verify information for reporting, or enforce the proposed regulations. It would provide POUs much needed certainty to be able to report on existing resources and targets and plan for additional resources and compliance obligations while knowing its obligations under enforcement have either been satisfied or are no longer considered for retroactive enforcement.

The LADWP proposes that the CEC add language to Section 3208 to include a time period of 3 years for the CEC to commence an enforcement action against a POU. Here is suggested language:

The CEC must file a complaint against a POU pertaining to the enforcement of a RPS requirement, or any regulation, order, or decision adopted by the Commission pertaining to the RPS within three years.

j. Section 1240 – Renewables Portfolio Standard Enforcement

The Chief Counsel should have the authority to grant an extension of time to a POU for answering a complaint or replying to a response. This authority may be provided in subsections (d) and (e), respectively.

k. CEC's Authority Under SB 2 (1X)

The authority of the CEC in the California Renewable Energy Resources Act (commonly known as and referred to as SB 2 [1X]) is set forth in Section 399.25 of the PUC. In this Section, the Legislature mandated the CEC to (a) "certify eligible renewable energy resources;" (b) "design and implement an accounting system" to count renewable energy, to certify renewable energy credits and to verify retail product claims; (c) "establish a system for tracking and verifying renewable energy credits;" and (d) certify renewable energy credits so that POUs may transact with all retail sellers. There are other places where the Energy Commission is specifically mentioned. However, these generally relate to the Legislature's intent and the aforementioned duties in PUC Section 399.25. For example, PUC Section 399.12 (e)(1)(C) directs the CEC to certify "an eligible renewable energy resource" if it was approved by a POU "pursuant to former Section 387."[7]

[7] See also 399.12 (h)(1) [accounting system for renewable energy credits], 399.12(h)(3) [accounting system for "de minimis nonrenewable fuels" for each renewable energy

As such, LADWP disagrees with proposed Regulations that are beyond the scope of the CEC's jurisdictional authority under SB 2 (1X). The only grant of authority to the CEC over POUs or their governing boards is to "adopt regulations specifying procedures for enforcement of this article" pursuant to PUC Section 399.30(n). The CEC's Regulations must not exceed the specific regulatory authority granted to the CEC under SB 2 (1X) or abrogate the authority of a POU's governing board.

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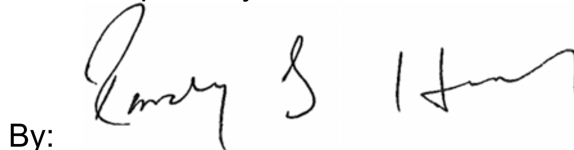
technology], 399.21(a)(1) [tracking system is operational], 399.21(a)(5) [tracking of electricity purchase contract for retail sellers, Section 399.17(b)(2) and (3) [electrical corporations serving 60,000 or fewer customers participates in the Energy Commission's accounting system], 399.18 [electrical corporations with a limited number of customers participates in an accounting system], 399.19 [reporting to the Legislature of its progress].

IV. CONCLUSION

The LADWP remains committed to transitioning to a greater usage of a renewable energy resource mix in a cost-effective manner while maintaining grid reliability. LADWP appreciates the opportunity to comment on the proposed Regulations, to make such regulations more consistent with the legislative intent of SB2 (1X) and not to abrogate the authority of LADWP's governing board or the Los Angeles City Council. LADWP looks forward to continue working with the CEC in this proceeding.

Dated May 6, 2013

Respectfully Submitted,

By: 

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