

STATE OF CALIFORNIA

ENERGY RESOURCE 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

California Energy Commission

DOCKETED

11-RPS-01

TN 72665

JAN 18 2014

**COMMENTS OF PACIFICORP ON THE SCOPE OF THE FUTURE EDITION OF THE
RENEWABLES PORTFOLIO STANDARD ELIGIBILITY GUIDEBOOK**

Etta Lockey
Legal Counsel
PacifiCorp
825 NE Multnomah, Suite 1800
Portland, OR 97232
Tel: (503) 813-5701
Fax: (503) 813-7252
Email: etta.lockey@pacificorp.com
Attorney for PacifiCorp

February 18, 2014

STATE OF CALIFORNIA

ENERGY RESOURCE 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 PACIFICORP ON THE SCOPE OF THE FUTURE EDITION OF THE
RENEWABLES PORTFOLIO STANDARD ELIGIBILITY GUIDEBOOK**

PacifiCorp appreciates this opportunity to comment on the scope of the California Energy Commission's (Commission's) future edition of the *Renewables Portfolio Standard Eligibility Guidebook* (RPS Guidebook). PacifiCorp participated at the January 28, 2014 workshop (the Workshop) and provides these written comments in furtherance thereof and in response to several of the specific questions raised in the *Notice of Lead Commissioner Workshop to Scope a Future Edition of Renewables Portfolio Standard Eligibility Guidebook* (the Notice).

I. Comments on and Proposed Modifications to the RPS Guidebook

A. Precertification

The Workshop included extensive discussion of the pre-certification v. certification process, and the staff resources that are invested in the pre-certification of facilities that are never constructed. Parties also discussed how the availability of pre-certification results in its

extensive use; parties discussed the concept of limiting pre-certification to technologies that would benefit from a Commission review. Parties also discussed that Commission staff could also be consulted by parties interested in understanding the conformity of their proposed resources to the statute and regulations.

The Company proposed at the Workshop that the separate certification and pre-certification be replaced by a single process that grants certification at a point prior to commercial operation when several elements are met. For example, a facility could be permitted to apply for certification once it is able to certify to the Commission that it has both site control and commencement of a continuous program of construction within the meaning of Internal Revenue Service Notice 2013-60 (<http://www.irs.gov/pub/irs-drop/n-13-60.pdf>).

For facilities other than wind or solar—which are clearly renewable facilities—precertification could remain available separately as a means for developers to ensure compliance with existing regulations. However, the Company suggests that a more efficient use of Commission resources may be to promote communication and outreach with developers, so that the Commission staff remains a resource to help developers conduct themselves within the requirements of the regulations.

Combining the certification and pre-certification processes by providing for a pre-commercial online date (COD) for certification will also help resolve other issues. For example, test energy generated prior to the COD of a facility would be clearly eligible under the RPS. Although WREGIS currently allows for test energy to be tracked and uploaded in WREGIS, the RPS Guidebook provides that “[a]n electrical generation facility must be registered in the

WREGIS system before the applicant may apply for the RPS certification of that facility.”¹ As WREGIS requires a facility to have commenced commercial operations prior to registering in WREGIS, an application could not be submitted to the Commission until after COD, thus potentially stranding any test energy or generation uploaded after WREGIS registration approval but prior to receipt of the application to the Commission. For these reasons, PacifiCorp continues to urge the Commission to combine certification with precertification into an earlier certification process for renewable facilities.

B. Certification Application Deadlines Relating to the Eligibility Date

At the Workshop, several parties expressed concern with the requirement in the seventh edition of the RPS Guidebook requiring pre-certified facilities to submit a certification application within 90-days of commencing commercial operations in order to retain the eligibility dates assigned to the pre-certified facility. Parties recommended alternatives to the 90-day deadline; these ranged from instituting a waiver and appeals process to imposing fines for failure to meet the 90-day deadline. PacifiCorp recognizes and appreciates the potential consequences of a facility receiving a new RPS-eligibility date as the result of missing the 90-day deadline, including potential impacts on project financing or lost revenues.

Compliance with the 90-day deadline for certification applications, rather than fines or deadline flexibility, should be the Commission’s highest priority. To that end, the Company strongly opposes the creation and imposition of fines as a mechanism to encourage facilities to meet the 90-day deadline. The consequences of missing the 90-day deadline, a period of generation that does not qualify for the RPS and which can adversely affect both the seller and the buyer, should act as sufficient incentives for parties to submit certification applications on

¹ RPS Guidebook, p. 58.

time.

Similarly, the Company disagrees that it is necessary for the Commission to create additional processes to allow for waivers or deadline flexibility. Both fines and additional processes fail to address what the Company sees as the fundamental goal: increased compliance. The Company believes that improved communication and outreach targeted at helping applicants submit the certification application within the 90-day deadline will produce better compliance within the existing process. PacifiCorp encourages the Commission to focus its resources on improving communications and outreach to aid parties in complying with all aspects of the Commission's rules, including submitting certification applications within the 90-day deadline, rather than on establishing new processes and fines to cope with outliers.

C. Energy Storage Facilities

PacifiCorp supports the Commission's efforts to proactively address issues related to the integration of energy storage facilities into California's RPS. At this time, the Company does not have specific recommendations for scoping this issue, but wishes to echo the concerns raised by several parties at the Workshop. The Company is especially concerned that new rules not permit double counting, not permit stored generation from non-renewable resources to later be counted as renewable (i.e., not function as "behind the meter" firming and shaping) and be consistent with the goal of promoting new renewable technologies: storage of any kind should not threaten the credibility of new renewable resource generation requirements of the RPS.

D. Change in Law and Application of New Eligibility Requirements for RPS

Certified Facilities

The Company strongly recommends that the Commission not retroactively apply any

restrictions or provisions that would reduce the available renewable resources or create any additional burdens or targets on renewable resources and compliance unless clearly and unequivocally required to do by the Legislature in an enacted statute. Regulatory uncertainty, exacerbated by “moving the goalposts,” is one of the greatest impediments to construction and proliferation of renewable resource development in California.

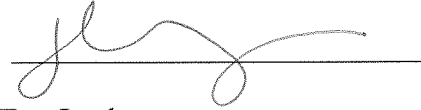
Regulatory certainty is a critical component of a robust and well-functioning renewables market. Retroactive application of changes in RPS eligibility requirements implemented through recertification requirements under new versions of the RPS Guidebook would undermine regulatory certainty for existing facilities and negatively impact the California renewables market. Long-term resource planning becomes exceptionally difficult if required to be made in the face of retroactive application of new laws and regulations. Resources should be allocated to renewable resource development, rather than on the litigation and other risks presented by retroactive rulemaking.

The Company recommends against requiring periodic recertification. However, the Commission could review facilities with respect to which it has actual concerns based on information received or discovered and request such facilities demonstrate continued compliance with the rules that applied to such facility’s certification.

II. Conclusion

PacifiCorp commends the Commission and Commission staff for the time and effort taken to solicit suggestions and comments from parties for future revisions to the RPS Guidebook. PacifiCorp appreciates the opportunity to provide suggested topics for future RPS Guidebook revisions.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Etta Lockey', is written over a horizontal line.

Etta Lockey
Legal Counsel
PacifiCorp
825 NE Multnomah, Suite 1800
Portland, OR 97232
Tel: (503) 813-5701
Fax: (503) 813-7252
Email: etta.lockey@pacificorp.com