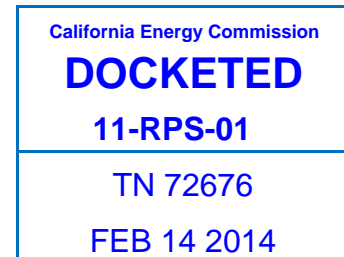




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February 18, 2014 | Submitted Electronically

California Energy Commission
Dockets Office, MS-4
RPS Proceeding – Docket No. 11-RPS-01
1516 Ninth Street
Sacramento, California 95814-5512

RE: SCPPA Comments on the January 28, 2014 “Renewables Portfolio Standard Eligibility Guidebook Scoping Workshop” (Docket No. 11-RPS-01)

The Southern California Public Power Authority (SCPPA) appreciates the opportunity to submit these comments to help inform future revisions to the Renewables Portfolio Standard (RPS) Eligibility Guidebook and thanks the Lead Commissioner, David Hochschild, and the Energy Commission staff for hosting the January 28, 2014 scoping workshop to solicit public comments. SCPPA respectfully requests consideration of the following comments on the January 28th Scoping Workshop agenda, as well as the inclusion of two additional topics discussed therein: the creation of retroactive Renewable Energy Credits, and RPS eligibility for distributed generation as a Portfolio Content Category 1 resource.

Precertification value and challenges.

SCPPA strongly supports the retention of a pre-certification process. We encourage the Commission to work with stakeholders towards improving the process to both reduce administrative burdens and mitigate regulatory risks for renewable projects. As noted during the scoping workshop, there is overwhelming support among municipal utilities, the Investor Owned Utilities, and other stakeholders for the pre-certification process to be retained and improved – particularly because of the important role pre-certification plays in obtaining financing for renewable energy projects.

Undertaking any renewable energy project entails significant risks for both the developer and the potential facility output purchaser(s). These risks include, but are not limited to, environmental and local conditional use permit risks, financing risks, construction risks, regulatory and change-in-law risks. It would therefore be extremely constructive for the Commission to mitigate or eliminate such risks in order to increase project success rate. Although SCPPA understands that pre-certification does not provide a guaranteed assurance that the facility will ultimately be certified, it does signify to potential investors and purchasers that the project is reasonably expected to be.

It is unreasonable to expect that the renewable market would reasonably adjust to a lack of a precertification process in California without adding significant additional cost premiums added on to renewable projects and, ultimately, born by utility customers.

SCPPA recognizes the concerns expressed by Commissioner Hochschild and Commission staff, specifically regarding processing the large volume of pre-certification applications received and the need to better clarify the application process and instructions. We respectfully request that the Commission consider the following guiding principles to help streamline the process for all parties involved:

1. The pre-certification process should be amended to identify and “fast track” project applications that are clearly eligible for certification (e.g., in-state wind and solar projects) to help reduce administrative burdens. A simplified

checklist could be developed that would both identify explicit conditions that must be met to file for pre-certification utilizing this streamlined process and, subsequently, re-submitted to compare any significant changes made as part of the final certification process. The process would be similar to alternative categorical options currently available when filing federal tax forms (“easy” v. traditional).

2. The Commission should offer additional up-front guidance to better facilitate the pre-certification process, which could include: (a) developing and posting a pre-certification Frequently Asked Questions list to help ensure that accurately completed applications are submitted in a timely manner; (b) developing a “how to” guide using comparative business case examples; (c) developing a “do’s and don’ts” list to avoid common mistakes; and (d) posting a webinar on the Commission’s website to help guide developers through the process. This should greatly reduce staff time for all involved and minimize common application mistakes.
3. A more robust communication and notification process directed to small developers would be particularly welcome going forward.
4. The Commission should consider requiring status updates on projects if it becomes apparent that the commercial operation date may be delayed based on certain benchmark standards.
5. The Commission should consider using certified verifiers to assist Commission staff in undertaking the verification of pre-certification and certification applications to help reduce administrative burdens.
6. SCPA continues to believe that the Commission should explicitly clarify that the final certification of facilities will be based on the RPS Eligibility Guidebook rules in place at the time the pre-certification application was granted; any new rules would therefore only be applied on a prospective basis.

Additionally, the potential for under-counting eligible renewable energy for the RPS remains a real concern. As part of the final certification process, SCPA recommends that the Commission strive to account for all “test energy” generated prior to a facility being deemed commercially operational as eligible renewable energy for the RPS. Counting test energy is one of the many benefits the current certification process affords towards meeting the State’s RPS goals.

Application of new eligibility requirements to previously certified facilities.

SCPA strongly believes that there should not be any retroactive application of new eligibility requirements. Then, once a facility is certified, it should be deemed to be certified for the entire life of that facility. Any change in law by an act of the State legislature or change in regulation should be applied *prospectively only*, as has been the Commission’s historic practice. To do otherwise would disrupt the delicate balance inherent in developing renewable projects, diminish the value of investment, and will very likely increase the cost of renewables for California consumers.

The most important aspect of any certification program is in adopting well-defined requirements that parties can depend upon for resource planning purposes. Regulatory uncertainty about whether projects will be RPS eligible for the life of the project will raise financing costs, impair a project’s prospects for development, or otherwise create inefficiencies that ultimately impact California customers. The Energy Commission must consider the consequences that such uncertainty can create in growing California’s clean energy economy:

- The risk of potential de-certification of the facilities, causing the loss of investment and increased financing cost for future projects for facility owners, would also raise costs to consumers. Uncertainty regarding the permanence of a project’s certification would increase financing costs for some projects such that they would be unfinanceable at any price. This would seriously (and perhaps irreparably) harm numerous small- and mid-size developers without larger parent companies that could and would absorb such significant contingencies. Lenders would question financing projects where an offtaker could terminate an agreement early if RPS compliance is lost due to an unforeseen

change in the project's certification – the risks associated with an early contractual termination before the debt is amortized is simply too great of a risk to undertake. This increases cost for utilities and California consumers, shrinks the pool of potential projects, and dramatically increases costs for remaining projects selling into California. Such uncertainty would directly contradict the very goals of California's RPS program to increase development of a diverse portfolio of renewable resources at an affordable rate for consumers.

- Uncertainties related to any re-certification process may cause utilities to unnecessarily over-procure renewable resources – further increasing costs to consumers.
- Investors and creditors place significant weight on California's regulatory environment; any perceived regulatory unpredictability can be an important factor in determining capital costs in the financial markets.

Because added regulatory unpredictability directly correlates to higher costs of capital in procuring renewables, the Commission should and must strive to develop clear and predictable regulations.

The definition of a dedicated pipeline for facilities using biomethane not used onsite or delivered through a common carrier pipeline.

SCPPA remains concerned with the ongoing regulatory uncertainty surrounding certification of biomethane projects, as well as the pace of certification. We appreciate Commissioner Hochschild's shared concern in this regard at the scoping workshop. Particularly as California's utilities must steadily increase procurement of a diverse portfolio of renewable resources to meet the State's 33% RPS goal by 2020. It is extremely important to SCPPA members that the Commission's policies and decisions reflect reasonableness regarding the definition of a dedicated pipeline for biomethane in order to make use of this valuable resource to meet RPS compliance obligations.

SCPPA encourages the Commission to consider alternative means of incentivizing development and certifying use of biomethane projects in California. The Sacramento Municipal Utility District's (SMUD) proposal to include a definition of a "private carrier" pipeline is a reasonable proposal that should be seriously considered. SMUD has proposed that private carrier pipelines be treated similarly to dedicated pipelines under the RPS Eligibility Guidebook to help structure a reasonable market. A "private carrier pipeline" for purposes of RPS eligibility of biomethane, may be defined as "a gas conveyance pipeline that is not part of a common carrier pipeline system, on which only the pipeline owner has authority to transmit biomethane or gas that it has purchased, and only for use in power plants owned by the pipeline owner. For purposes of biomethane in this Guidebook, a private carrier pipeline will be treated similarly to a dedicated pipeline."

The Commission should also consider broadening the definition of a "dedicated pipeline" and/or re-examining the definition used in AB 1900 (Gatto, 2012), either of which would help resolve pending concerns to move important renewable-eligible biomethane projects forward. SCPPA members remain extremely concerned that ongoing regulatory uncertainty and unduly burdensome restrictions – especially those applied retroactively – may unintentionally negate development of local landfill gas and/or digester gas projects, which cannot be the intent of California's RPS Program and climate change program policies. Rather, the Commission should provide the maximum flexibility possible to encourage development of projects intended to reduce methane emissions, encourage recovery and productive use of landfill gas, and reduce greenhouse gas emissions pursuant to AB 32 (Pavley, 2006).

The definition of prime generating equipment for repowering.

SCPPA believes that the definition of "prime generating equipment" should be limited to the actual generation equipment and not the digesters.

The requirement to apply for RPS certification within 90 days of a facility's commencement of commercial operations to retain the precertification eligibility date.

SCPPA generally supports the existing 90-day requirement. We recommend that the Commission further evaluate proposals that would allow for a case-by-case determination to provide waivers or variances under certain circumstances, such as when an applicant encounters difficulties beyond their control and can demonstrate that a good-faith effort was made to meet the deadline. For example, the Commission could allow applicants to submit an application at a later date through a waiver process that would require the Executive Director's approval. It is also reasonable to require that facilities that have been pre-certified provide timely updates to the Commission if those facilities are expecting delays in the commercial operation date or towards final certification as conditions to maintain pre-certification.

A late application should not result in a loss of generation credited prior to submitting a certification application, nor should any other financial penalties be applied. The presence of an Executive Director-level waiver process should provide a sufficient deterrent to avoid any project delays to the greatest extent possible. It would also be extremely helpful if the Commission outlined a decision-making timeline for certification applications within a reasonable timeframe.

Once certified, all associated generation between the eligibility date and the final certification date should be considered RPS-eligible to avoid under-counting renewable power in California.

Creation of retroactive Renewable Energy Credits (RECs).

SCPPA supports proposals that would provide for the creation of retroactive RECs. As discussed above, we remain concerned with regulations that unintentionally under-count renewable energy generated towards meeting California's RPS goal. The Commission should work with stakeholders to develop criteria and a protocol for creating retroactive RECs, such as by extending the Interim Tracking System to cover initial generation or seeking a change in Western Renewable Energy Generation Information System (WREGIS) rules that would allow for the creation of retroactive RECs within the 36-month RECs retirement requirement.

Counting Distributed Generation as PCC1.

SCPPA strongly recommends that the Commission work with stakeholders to develop a methodology to count the increasingly prevalent amount of distributed generation being installed in California as RPS-eligible under Portfolio Content Category 1 – particularly the net surplus energy created from rooftop solar installations.

With various tax credits having already expired or set to expire or be reduced, the Commission should act now to encourage installation of and credit for small renewable system in California. Aiding utility net metering programs to this affect will greatly help stabilize such investments in an increasingly tenuous State and Federal tax environment.

For example, the Commission could clarify that renewable resources (e.g., a municipally-owned small solar photovoltaic system) automatically counts as Portfolio Content Category 1 regardless of how it is interconnected to a distribution system to directly serve retail load. Avoiding complicated, costly, and unnecessary interconnection requirements amongst California utilities would protect customer investment and facilitate further development of these resources in an expedited manner. For projects that began production prior to June 1, 2010, RECs generated should count as "historical carryover" under Portfolio Content Category 0.

Metering Requirement for Distributed Generation.

To address concerns with "over counting" aggregated distributed generation resources, particularly rooftop solar, SCPPA recommends that the Commission discount an aggregated figure by 2% to provide added assurance to account for performance metering differentials. Some small-scale solar distributed generating systems do not meet the $\pm 2\%$ revenue-quality meter accuracy requirement; these typically contain performance meters with an accuracy of $\pm 5\%$. However, the WREGIS system does not exclusively require the use of 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.” [\[WECC WREGIS Operating Rules Section 9.3.3, Classes H-J\]](#)

A metering requirement should not be the roadblock for resource eligibility. Solar distributed generation is clearly renewable and is typically located in California; there should be no question regarding the eligibility and the PCC treatment for these resources as PCC1. As SCPPA has previously recommended, the CEC should allow utilities to utilize performance meters with an accuracy of $\pm 5\%$; report such data on a monthly or bi-monthly basis; and to request an exception from WREGIS for such meters.

SCPPA appreciates the opportunity to provide these comments to the Commission in this proceeding and urges the Commission to consider the unique circumstances of each California load-serving entity as it meets the State’s RPS goals.

Respectfully submitted,



Tanya DeRivi
Director of Regulatory Affairs