



California Municipal Utilities Association

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Re: CMUA Comments on the Workshop to Scope a Future Edition of the *Renewables Portfolio Standard Eligibility Guidebook*

The California Municipal Utilities Association (CMUA) would like to thank the California Energy Commission (CEC) for the opportunity to provide comments on the Workshop to Scope a Future Edition of the *Renewables Portfolio Standard Eligibility Guidebook* (Scoping Workshop), held on January 28, 2014. Our general comments below list general issues from our members that should be addressed in the next Guidebook revision. The next section provides CMUA's responses to the questions posed in Attachment A to the Scoping Workshop notice.

I. GENERAL ISSUES

A. Interim Tracking System (ITS)

CMUA supports the proposal of the Northern California Power Agency (NCPA) and the Sacramento Municipal Utility District (SMUD) to continue to allow the use of the ITS for the retirement of RECs, in certain circumstances, beyond the deadline stated in the current RPS Eligibility Guidebook (7th Ed.). For some facilities still awaiting RPS-certification, such as RPS-eligible water conveyance facilities, this may be the only means that the utility can receive RPS-credit before the RECs associated with these facilities reach their 36-month limit.

B. Distributed Generation Meter Requirements

As CMUA has described in previous comments, the minimum meter requirements for RPS-eligible resources in the RPS Eligibility Guidebook have created a barrier for the certification of customer-generators participating in POU net energy metering programs. For POUs, these customer facilities are measured with performance meters (rating of $\pm 5\%$) rather than revenue quality meters (rating of $\pm 2\%$). This is partly due to the cost of revenue quality meters, but is also due to several other factors. Several POUs have proposed solutions to the meter accuracy issues associated with performance meters. CMUA strongly encourages the CEC staff to consider these proposals and to work with

stakeholders to develop a solution to this issue that does not discount these valuable RPS eligible resources.

C. Updating Reporting Forms

CMUA appreciates the CEC clarifying that changes to the POU RPS reporting forms do not need to be addressed through the process used to change the RPS Eligibility Guidebook, but can instead be changed by CEC staff as necessary. CMUA recommends that CEC staff coordinate with the POUs to ensure that the Compliance Period Reporting forms are free of errors, user-friendly, and available in a final form well before the reporting deadline. CMUA is willing to establish a working group with the CEC to facilitate this process if necessary.

D. Incremental Hydroelectric

CMUA generally supports the proposal expressed at the workshop by Pacific Gas & Electric, which would allow a hydroelectric facility that is RPS-eligible pursuant to California Public Utilities Code section 399.12.5(b) to elect to use a fixed percentage methodology for counting the amount of RPS-eligible generation. However, additional consideration of this issue is necessary. In particular, as noted at the Scoping Workshop, the existing method for calculating incremental hydroelectric generation should remain available for those electric utilities, such as the San Francisco Public Utilities Commission and the Los Angeles Department of Water and Power that have hydroelectric facilities that pre-date or are not subject to FERC licensing requirements.

E. Transparency of the Certification Process

CMUA recommends that CEC staff provide a regular report at all CEC business meetings on: (1) the number of outstanding applications for certification and precertification; and (2) an explanation of the legal/technical reasons for any individual applications that have been outstanding for a significant amount of time, such as more than 6 months.

II. RESPONSES TO ATTACHMENT A QUESTIONS

A. Definition of Prime Generating Equipment for Repowering

The CEC should not amend the current definition of “prime generating equipment” for a facility using biomethane from landfill or digester gas. The definition should remain limited to the prime generating equipment, and not include the gas collection or process equipment.

B. Certification Application Deadlines Relating to the Eligibility Date

1. 90-Day Requirement

The current requirement that applicants of precertified facilities must apply for certification within 90 days of the commercial operation date is reasonable in most cases. However, the CEC should allow applicants to request, on a case-by-case basis, an extension for this deadline. Additionally, the penalty for failing to submit the application within the 90-day deadline should not be the loss of eligibility of the generation occurring prior to the submission of the application for certification. An appropriate, but less severe, penalty should be applied, for example, the eligibility of the generation occurring before the application is submitted could be suspended until a complete application is submitted.

2. Alternative Approaches

Rather than focusing on developing an alternative to the 90-day rule, the CEC should first work on improving communication between the project developers and CEC staff. The CEC could develop/expand training programs, guidance documents, and notification protocols to assist generators in meeting the various deadlines. The utility that will purchase the output of the facility may also be able to play a role in coordinating these efforts.

3. Loss of Precertified Status

A facility should not lose its precertified status if the facility applicant does not submit an application for certification with 90 days of the estimated commercial operations date. The CEC would most likely only become aware that the 90-day deadline had passed when the project applicant submitted a late application for certification. Unless the CEC plans to actively monitor the operational status of all precertified facilities, this means that this rule would be unevenly applied. Furthermore, such a penalty could potentially threaten a facility's contractual obligations or financing, which is too severe a penalty for missing this deadline.

C. The Definition of a Dedicated Pipeline for Biomethane

CMUA supports the comments that will be filed by SMUD, which will address this issue in detail.

D. Energy Storage Facilities

1. Eligibility Requirements for Energy Storage Facilities

The RPS Eligibility Guidebook should not require that energy storage facilities be directly connected to or metered as part of a renewable electrical generation facility in order for the energy storage facility to be eligible for RPS certification. Energy storage facilities provide the greatest benefit if they are located near load centers. The CEC's Guidebook should not unnecessarily restrict or discourage the most beneficial deployment of energy storage facilities.

However, it is reasonable for the CEC to require that a RPS-certified storage facility have a separate WREGIS ID and be tracked separately in WREGIS. To ensure there is no double counting, the CEC would need to: (1) develop a methodology to determine the storage efficiency for a certified energy storage facility; and (2) develop a process where a bundled product (energy and RECs) can be transferred to the energy storage facility and then that facility can subsequently transfer a bundled product (energy and RECs) to a third party, subject to adjustment based on the storage efficiency.

2. Benefits of RPS Eligibility for Energy Storage

There are a variety of benefits to procuring renewable energy from an energy storage device, including the ability to shift the time of delivery, as well as the ability to address some of the variability issues associated with renewable generation.

3. PCC1 Status for Procurement from Energy Storage

The CEC's Guidebook should support the broadest possible uses of energy storage. Procurement of a bundled product (energy and RECs) from an energy storage facility should be eligible as a bundled PCC1 transaction, even if the underlying renewable facility generated the associated electricity at an earlier time.

E. Precertification

1. Purpose of Precertification

CMUA provided extensive comments on this issue as the CEC developed the 7th Guidebook Edition. Furthermore, CMUA members do not believe that there is a widespread misunderstanding of the purpose or meaning of the precertification status among market participants. Instead, market participants recognize that a precertified status is not a 100 percent guarantee of obtaining RPS certification. However, for projects that do obtain precertification, this status does serve as a useful indication to investors that the project is likely to ultimately obtain certification.

2. Impacts of Eliminating Precertification

In light of the significant risks associated with financing the construction of a renewable generating facility, it is useful and necessary for the CEC to maintain the precertification process as an indication of whether the proposed facility will be able to obtain RPS-certification. It is not reasonable to expect the market to adjust to the elimination of the precertification process, and doing so would have adverse impacts on the development of new renewable facilities.

It may be reasonable for the CEC to develop a streamlined and simplified precertification process for certain categories of solar and wind facilities, particularly if there is little risk that the proposed facilities would not be able to obtain certification. The CEC may also want to consider focusing precertification efforts on those facilities where there is greater uncertainty about their RPS-eligibility, and thus greater uncertainty in obtaining up-front financing. These facilities could include small hydroelectric facilities, multi-fuel facilities, and out-of-state renewable facilities that need to meet California environmental standards.

To the extent that the CEC does change the existing precertification process, it is essential that the new process still: (1) provide an initial indication that the proposed facility would be certified based on existing requirements; (2) meet the financing needs for project developers; and (3) allow for an eligibility date that is earlier than the date that the application for certification is submitted.

3. Test Energy

It would be difficult to count test energy without some process that would be functionally equivalent to precertification. Test energy is a good example of the value of the current precertification process and why it should not be abandoned. If there is a change to the precertification process, the new process should ensure that test energy is still eligible.

4. Viability of Precertified Facilities

It is understandable that the CEC does not want to waste resources by precertifying a proposed facility if there is no real likelihood that the facility will ever actually be built. However, it would be unduly burdensome and also outside the CEC's authority, for the CEC to demand some demonstration that the applicant is likely to be successful in bringing the project to completion. Such a requirement may also unduly inhibit the renewables market if, for example, the CEC incorrectly rejects precertifying a project, which would have actually been successful. CMUA recommends that the CEC focus its efforts to reduce the administrative burdens on streamlining the process rather than attempting to limit the ability of applicants to seek precertification in the first place.

5. Revisions to the Precertification Process to Provide Greater Certainty

Increasing the degree to which a precertified status guarantees ultimate certification of the project will have a beneficial impact on the market. Therefore, the CEC should do everything within its statutory discretion to provide regulatory certainty to project developers. One key mechanism for increasing this certainty would be to evaluate a project under the RPS Eligibility Guidebook in place at the time the application for precertification was submitted as long as: (1) the application for certification was submitted within a reasonable amount of time; and (2) the project does not substantially differ from the project described in the application for precertification.

F. Application of New Eligibility Requirements to RPS Certified Facilities

1. Retroactive Application of RPS Eligibility Guidebook Requirements

The CEC should continue its historical practice of not applying the requirements of subsequent RPS Eligibility Guidebooks to facilities that are already certified. At the Scoping Workshop, there was almost unanimous opposition from all parties in attendance to applying these requirements retroactively. The stakeholders at the workshop expressed numerous reasons as to why this practice should not change, including that: (1) requiring renewable projects to meet unknown future requirements would add substantial risk to project developers that would likely increase costs and discourage new development; (2) electric utilities would face increased uncertainty that long-term contracts they entered into for what they thought were RPS-eligible resources would no longer count toward their RPS obligations; and (3) a significantly increased workload for CEC staff if they had to review all previously approved RPS applications to determine which ones no longer qualify under changed rules.

2. Re-certification to Meet Current Guidebook Requirements

If the CEC were to require that any certified facility that does not meet the requirements of a new edition of the RPS Eligibility Guidebook to re-certify, it would have disastrous impacts. First, even if it were possible for the project developer or the utility to make minor adjustments to bring the facility into compliance with the new regulations, the administrative burden of reviewing and re-certifying a utility's existing fleet of renewable generation would be substantial. Second, for those facilities that would lose their status as RPS-certified, it is very likely that the result would be a loss of project viability because the generation would no longer be purchased at a premium above the market rate. Additionally, the utility relying on procurement from the facility may be out of compliance despite its good faith efforts.

3. Timing for Implementing Guidebook Changes for Existing Facilities

As stated above, CMUA strongly urges the CEC to not change its historical practice regarding the retroactive application of subsequent Guidebook requirements that restrict or rescind certification. However, if a new change in law or regulation *expands* the eligibility of a generating facility, the CEC should generally count as eligible all generation occurring at the earlier of the date of the change in law, or the date the regulation becomes effective.

4. Timing for Re-certification

The administrative burden for both the CEC and project applicants associated with re-certification would be substantial and unreasonable. The CEC should not change its historical practice regarding the retroactive application of changes to Guidebook

III. CONCLUSION

CMUA appreciates this opportunity to provide these comments to the CEC on the Scoping Workshop. CMUA looks forward to working with the CEC on the next edition of the RPS Eligibility Guidebook, and encourages the CEC to continue the dialog with utilities through both workshops and webinars to discuss possible changes in the Guidebook.

Sincerely,



Anthony Andreoni
Director of Regulatory Affairs