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California Energy Commission DOCKETED 11-RPS-01
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RE: DOCKET NO. 11-RPS-01. RPS GUIDEBOOK SCOPING WORKSHOP

San Diego Gas & Electric Company (“SDG&E”) appreciates this opportunity to provide to the California Energy Commission (the “Commission”) its comments on the Commission’s Staff Workshop to Scope a Future Edition of the Renewables Portfolio Standard (“RPS”) Eligibility Guidebook. The workshop presented a list of topics for discussion, including the value of precertification, and whether or not the Commission should apply new RPS requirements retroactively to existing RPS-certified facilities and require them to recertify. SDG&E provides comments below regarding Precertification, Changes in Law, and Assembly Bill (“AB”) 920 implementation. SDG&E may provide additional comments in the future as the Guidebook revision process progresses.

A. Precertification

SDG&E believes that the precertification process provides value in that it presents a preliminary indication of RPS eligibility from the Commission and specifies an eligibility date for the RPS facility. Both of these items provide a greater level of certainty for both the facility and contracting utility. SDG&E’s preference is for the precertification process to remain unchanged, however, should the Commission decide to modify this process, SDG&E requests that the simplified format continue to specify a facility eligibility date.

B. Changes in Law

SDG&E echoes the sentiment expressed by many parties at the workshop – retroactively applying new eligibility requirements to facilities that have been certified would only serve to destabilize the RPS market in California, making it more difficult and thereby more expensive to develop projects in the state. Retroactive application of new eligibility requirements would impact all stakeholders:

- Investor Owned Utilities (IOUs): An IOU procures in good faith to meet the state’s RPS targets under the assumption that the CEC certified facilities with which it contracts will not lose their RPS eligibility due to a change in law. If a change in law was retroactively applied, this could result in a situation where an IOU that is in compliance in one month is out of compliance the next, and must procure additional RPS-eligible energy to meet its goals. As a result, not only would that IOUs’ ratepayers pay for RPS energy that they would no longer be receiving (due to its

sudden ineligibility), but they would also pay for the new replacement energy – clearly not the intent of the RPS program.

- **Project Developers:** Project developers build their facilities in good faith to meet CEC certification criteria, with the understanding that this certification will stand unless a facility is modified such that it is no longer consistent with its certification. If a change in law was retroactively applied, this could result in a situation where a developer who invested resources and capital to build and sell what he/she thought was an RPS-eligible project now has a facility that cannot be marketed (or paid) as an RPS-eligible resource. This developer, and others, may decide the risk of developing a project in California is too high to warrant further development, thereby reducing competition in the state and driving up prices to the detriment of all California IOU ratepayers.
- **The Commission:** The Commission reviews the materials provided by a developer in order to determine the RPS-eligibility of the facility, which presumably is a time intensive process. Reviewing the certification for each project potentially affected by each new law could prove an onerous task, and the potential for harm, as explained above, is clear. The Commission itself expressed concern regarding the workload created by the pre-certification process alone; as such it is difficult to rationalize adding yet another layer of unnecessary complexity to an already complicated process.

Retroactively applying new eligibility requirements would be problematic for all stakeholders and would add no value to the RPS program. As a general guiding principle, SDG&E requests that the Commission adopt a forward-looking view when considering changes in law related to facility RPS eligibility, and clarify in the next RPS Eligibility Guidebook that new eligibility requirements will not be retroactively applied.

C. AB 920

SDG&E notes that the rules regarding usage of the Western Renewable Energy Generation Information System (“WREGIS”) in the current version of the RPS Guidebook could result in a situation where a utility is not able to count the net surplus generation from AB 920 towards its RPS compliance obligations, and SDG&E recommends that the next version of the guidebook be modified to remedy this situation. AB 920 requires that a utility reimburse a customer-generator for any net surplus generation from its RPS eligible facility at the end of a 12-month period. In essence the utility is purchasing RPS energy in the form of net surplus generation, and this net surplus generation should therefore count in full towards the utility’s RPS obligations. The legislation also allows for a customer-generator to retroactively claim this net surplus generation from January 2010 going forward. The current version of the CEC’s RPS Guidebook requires that all generation from facilities certified as eligible for California’s RPS program be tracked in WREGIS, and states that generation occurring after October 2012 that is not tracked in WREGIS cannot be used to meet the RPS obligations of a utility. This is problematic as many of the customer-generators have not yet registered in WREGIS – if these customer-generators retroactively claim generation after October 2012, the utility will not be able to count this generation towards its RPS obligations. This is harmful to ratepayers; consequently SDG&E requests the guidebook be revised to allow any net surplus generation purchased by a utility after October 2012 that was not tracked in WREGIS to count in full towards that utility’s RPS obligations.

For the reasons set forth herein, SDG&E respectfully requests that the Commission clarify that it will either maintain the precertification process or retain the eligibility date in any modified precertification process, that it will not retroactively apply new eligibility requirements to facilities that have been certified, and that any net surplus generation purchased by a utility after October 2012 that was not tracked in WREGIS will count in full towards that utility’s RPS obligations.

Sincerely,

Tamara Raspberry