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California Energy Commission

DOCKETED

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California Energy Commission
Dockets Office, MS-4
Re: Docket No. 11-RPS-01
1516 Ninth St
Sacramento, CA 95814-5512

Re: Docket No. 11-RPS-01, Comments on Lead Commissioner Workshop to Scope a Future Edition of Renewables Portfolio Standard Eligibility Guidebook

On January 28 2014, the California Energy Commission (“Energy Commission”) held a Lead Commissioner Workshop to Scope a Future Edition of the Renewables Portfolio Standard Eligibility Guidebook (the “RPS Guidebook Scoping Workshop”). The RPS Guidebook Scoping Workshop was part of the Energy Commission’s initiative to seek comment on possible revisions to a future edition of the Renewables Portfolio Standard Eligibility Guidebook (“RPS Guidebook”). Southern California Edison Company (“SCE”) appreciates the opportunity to contribute to the Energy Commission’s collaborative process for refining the current RPS Guidebook through these written comments.

As discussed below, SCE recommends that the Energy Commission:

- Extend RPS certification application deadlines to 180 days and remove the requirement to submit a hard copy of the application;
- Retain RPS precertification, but consider modifications that could streamline the precertification process;
- Not apply new eligibility requirements to RPS certified facilities; and
- Modify the eligibility requirements for hydroelectric facilities.

A. Certification Application Deadlines Relating to the Eligibility Date

With respect to the application deadline for precertified facilities to apply for RPS certification, SCE believes that it is a reasonable requirement that facilities apply within a given time period in order to retain the eligibility date assigned to the facility upon precertification. However, SCE also understands that it can be challenging for many facilities to track and comply with changing RPS requirements.

SCE recommends that the current application deadline be extended to within 180 days of the facility commencing commercial operations. This deadline appropriately balances providing sufficient time for facilities applying for certification to correctly provide all necessary information required by the Energy Commission with ensuring that the Energy Commission receives information in a timely manner.

Furthermore, SCE believes that additional modifications to the RPS Guidebook could streamline the precertification process for all parties. In particular, the Energy Commission should remove the requirement that a hard copy version of applications be submitted and instead require that either an electronic *or* hard copy be submitted. Allowing the submission of electronic applications with physical signatures in lieu of hard copies would help reduce the number of physical applications that the Energy Commission has to process, review, and store. Additionally, utilizing an electronic medium would provide a more reliable and expedited record of when applications are submitted.

Finally, SCE recommends that the Energy Commission expand its list of special cases¹ where the generation from a facility may count for the RPS prior to the eligibility date, or where the facility may be able to retain a previous eligibility date despite a failure to submit a certification or amended certification application in a timely manner to include: “e) A facility has provided a statement of reasonable cause for its failure to submit a certification or amended certification application within the provided guideline.” This minor addition would provide developers an avenue to correct any failures to submit a certification or amended certification provided they can demonstrate reasonable cause why this failure occurred. An alternative to this approach would be a specific waiver process. However, SCE believes that including a new special case would be easier to implement.

B. Precertification

Precertification of facilities benefits both the buyers and sellers under RPS contracts by providing a signal from the Energy Commission that a particular facility will likely be deemed an eligible renewable energy facility. For instance, SCE includes language in all of its RPS power purchase agreements that requires precertification be received prior to any facility beginning deliveries. This helps to mitigate regulatory risk and provides SCE with an early indication as to whether there are any problems that may prevent a facility from obtaining RPS certification. In addition to eliminating a useful tool, the elimination of precertification could be disruptive to existing contractual arrangements unless some transition period were adopted so that projects with existing contractual obligations could fulfil them before the precertification process is eliminated.

Another key benefit of the current precertification process is that it establishes an eligibility date for test energy. Any proposal to modify the current precertification process should allow the eligibility date to be determined prior to a project achieving commercial operations. RPS power purchase agreements often require payment for test energy, therefore,

¹ See RPS Guidebook, Seventh Edition, at 77.

there must be certainty around the eligibility date when test energy deliveries begin.

Similarly, precertification provides facility operators with preliminary preparation before the facility files its certification application. This preparation expedites the certification process for facility operators given that they already have prepared most of the necessary application elements during the precertification process. It also allows facility operators to address Energy Commission questions and resolve potential problems early in the process. Many financiers of renewable projects also utilize the precertification process in evaluating project financing. As such, eliminating precertification may make project financing more difficult.

SCE believes that there are ways the precertification process could be streamlined to reduce the burden on facility operators and Energy Commission Staff. For example, wind and solar photovoltaic projects could be subject to a less rigorous review, since these projects are generally RPS-eligible with few exceptions. In effect, the streamlined precertification for these technologies would indicate that a project built solely using these technologies could reasonably expect to be certified, without guaranteeing the outcome, particularly if the facility details changed at a later date. Other technologies that have more complex eligibility requirements could remain subject to a more detailed precertification review.

Lastly, precertification applications could expire after a finite period. For instance, any precertification could be deemed expired after five years if the facility has made no correspondence of intent or no formal submittal of a certification application. SCE recommends that the expiration date be no shorter than five years given the timeline for development of RPS-eligible projects, and that the RPS Guidebook should allow for project developers to demonstrate continued forward process on the project should they need additional time.

C. Application of New Eligibility Requirements to RPS Certified Facilities

In its questions on possible revisions to a future edition of the RPS Guidebook, Energy Commission Staff explicitly asks whether new RPS eligibility requirements should be applied to facilities that have already received RPS certification.² SCE urges the Energy Commission not to hold all RPS-certified facilities to the requirements of all subsequent RPS Guidebooks, particularly once a facility has already established its RPS certification. SCE believes this proposal would result in a substantial amount of uncertainty for the renewables market, which could potentially hinder the development of renewables in California.

Some renewable facility operators currently have a difficult time maintaining their facilities and ensuring they are compliant during their certification process. Requiring certified facilities to comply with all new requirements could make it even more difficult for facilities to maintain their RPS certifications. In addition, renewable developers face many challenges and uncertainty in developing their projects including obtaining financing, competition for contracts, and complying with existing regulatory requirements. Imposing a requirement to meet new legal

² See Notice of Lead Commissioner Workshop to Scope a Future Edition of the Renewables Portfolio Standard Eligibility Guidebook, December 26, 2013, Attachment A at 8.

requirements that were not in place when their contract was signed could put undue requirements on developers, which could lead to them increasing the prices they charge California customers or even choosing not to participate in the California renewables market. Furthermore, requiring existing facilities to meet new requirements introduces an opportunity for compliant facilities to become noncompliant due to failure to meet administrative requirements, such as filing deadlines, which would not be in the best interest of California customers or the renewables market.

As mentioned above, requiring facilities to comply with new requirements that were not in place when their contracts were executed could lead to a decrease in market participants in the California renewables market. Without a large pool of participants in the renewables market, it is possible that costs could increase due to a lack of competition or increasing regulatory uncertainty. Additionally, owners and operators of renewable facilities could face large financial impacts either due to failure to comply with the new rules or because of the costs required to maintain compliance. Indeed, the potential risk and costs of losing RPS eligibility will either be placed on renewable facilities, which will make it more difficult to get projects built and likely result in developers raising their prices, or on customers, which could lead to customers paying RPS prices for energy that is not actually RPS eligible. Neither result will advance the State's RPS goals.

SCE strongly believes that the Energy Commission should not consider any application of new eligibility requirements to RPS certified facilities. SCE also opposes periodic recertification due to the burden it would cause to the renewables market, as well as Energy Commission Staff, particularly without an identified reason recertification is necessary.

D. Additional Issues Recommended for Energy Commission Consideration

In addition to the comments above, SCE also recommends that the Energy Commission modify the energy resource eligibility requirements for hydroelectric facilities to consider "dependable operating capacity" in addition to "nameplate capacity" for small hydroelectric and conduit hydroelectric facilities.^{3 4} This distinction is critical because many hydroelectric facilities do not operate at their nameplate capacity; rather, their maximum operating capacity is less than nameplate. The nameplate capacity refers to the rated or designed capacity of the power plant, which is to say that the nameplate capacity is the intended full-load sustainable output of the power plant, as rated by the manufacturer of the generator.

However, in day-to-day operations, the actual output of the power plant is almost always less than the nameplate capacity for a number of reasons, including the hydraulic and electrical limitations of the equipment installed within the power plant. Essentially, while the generator could hypothetically produce up to the nameplate capacity, because of the restriction of the water resources at the site, it is likely the generator will never be able to produce the nameplate

³ See RPS Guidebook, Seventh Edition, at 27-29.

⁴ SCE recommends this change only for projects 30 MW and below because the RPS statute (Public Utilities Code Section 399.12(e)(1)(A)) limits units operated as part of a water supply or conveyance system to 40 MW *nameplate*.

capacity. Moreover, the actual output of power from a hydroelectric plant to the electrical grid is further reduced below the nameplate capacity because some of the components outside of the generator, upon which the nameplate is based, but inside the power plant, use up some of the power before it reaches the transmission grid. For example, a hydroelectric facility could be required to limit the output of the generator because the transmission or distribution facilities it connects to are not physically able to sustain generation at the nameplate capacity level.

Accordingly, SCE suggests that the spirit and intent of the RPS program would be best met by using a measure of actual capacity, such as determined by a maximum load test, for hydroelectric facilities 30 MW and below. This will create a balance between the legislative intent and the reality of allowing hydroelectric facilities that do not operate above the 30 MW threshold to count toward RPS goals.

Finally, SCE recommends a slight change to the glossary term *water supply or conveyance system*.⁵ SCE recommends that term read as follows:

Water supply or conveyance system — the distribution of water through a tunnel, canal, pipeline, aqueduct, flume, ditch, and/or similarly constructed water conveyance ~~that was initially built solely~~ for the distribution of water for agricultural, municipal, or industrial consumption, and operated primarily for this purpose, and not primarily for the generation of electricity.

SCE believes this change is consistent with the spirit of the RPS statute, and inclusive of facilities that are operated primarily for public benefit. This modification would promote the use of green energy and is in line with the State's environmental goals. In particular, it would help to certify projects that were built over 100 years ago where it may be difficult to reconstruct the original intent of the facility.

In conclusion, SCE appreciates the Energy Commission's consideration of SCE's comments and looks forward to continuing to engage in this collaborative process with the Energy Commission. Please do not hesitate to contact me at (916) 441-2369 regarding any questions or concerns you may have.

Very truly yours,

/s/ Manuel Alvarez

Manuel Alvarez

⁵ See RPS Guidebook, Seventh Edition, at 127.