

**CALIFORNIA ENERGY COMMISSION**1516 Ninth Street  
Sacramento, California 95814Main website: [www.energy.ca.gov](http://www.energy.ca.gov)

In the matter of:	)	Docket No. 11-RPS-01
	)	
Developing Regulations and Guidelines	)	
for the 33 Percent Renewables Portfolio	)	Notice of Business Meeting
Standard	)	RE: RPS Certification
	)	

California Energy Commission APR

**DOCKETED****11-RPS-01**

TN 72880

APR 08 2014

## Notice to Consider Process to Extend and Waive Deadlines for Renewables Portfolio Standard Certification

The California Energy Commission will hold a Business Meeting on:

**TUESDAY, APRIL 22, 2014**  
9 a.m.  
**CALIFORNIA ENERGY COMMISSION**  
1516 Ninth Street  
First Floor, Hearing Room A  
Sacramento, California  
(Wheelchair Accessible)

Audio from this meeting will be broadcast over the Internet.  
For details, please go to:  
[www.energy.ca.gov/webcast](http://www.energy.ca.gov/webcast)

As part of the April 22, 2014 Business Meeting, the Energy Commission will consider adopting staff's recommendation for the establishment of a process that would allow the Executive Director to extend and waive application deadlines in the *Renewables Portfolio Standard Eligibility Guidebook, Seventh Edition*, for certifying eligible renewable energy resources for California's Renewables Portfolio Standard.

### Background

The *Renewables Portfolio Standard Eligibility Guidebook* (RPS Guidebook) explains how the Energy Commission implements and administers its responsibilities under California's RPS statute. Under these laws, the Energy Commission is charged with certifying eligible renewable energy resources that may be used by retail sellers of electricity and local publicly owned electric utilities (POUs) to satisfy their RPS procurement requirements and with developing an accounting system to verify a retail seller's or POU's compliance with the RPS. The RPS Guidebook describes the requirements and process for certifying electrical generation facilities as eligible for the RPS and describes how the Energy Commission verifies compliance with the RPS. The RPS Guidebook was initially adopted by the Energy

Commission in April 2004, and has been revised on various occasions since then to reflect changes in law and market conditions.

The RPS Guidebook establishes various application deadlines for applying for RPS certification or precertification. Applicants must submit complete applications to the Energy Commission by these deadlines to be granted RPS certification with the earliest eligibility date. The eligibility date determines when the electricity produced by a certified electrical generation facility may first be claimed by a retailer seller or POU to satisfy an RPS procurement obligation. Only electricity generated in or after the month containing the eligibility date of a certified facility may be claimed to satisfy an RPS procurement obligation. Application deadlines and related requirements are primarily specified in Section IV of the seventh edition of the RPS Guidebook, and include, but are not limited to, deadlines for the following types of applications:

- For the certification of aggregated units. (Section IV.A.2, pg. 69.)
- For the recertification of facilities that were initially certified by a utility on the facility operator's behalf. (Section IV.A.5, pg. 71.)
- For the certification of facilities under the RPS eligibility category for existing biomethane procurement contracts. (Section IV.A.8, pg. 73.)
- For the certification of facilities that are precertified based on the planned use of a renewable fuel. (Section IV.B.3, pg. 77.)
- For the certification of facilities under the RPS eligibility category for existing small hydroelectric generation units up to 40 MW in capacity that are operated as part of a water supply or conveyance system. (Section IV.B.3.b, pg. 78.)
- For the certification of facilities under contract to a local publicly owned electric utility as of January 1, 2011. (Section IV.B.3.c, pg. 78.)
- For the certification of facilities in general, when the Energy Commission requests additional information. (Section IV.B.4, pg. 80.)
- For amendments to the certification or precertification of facilities that have changed the basis or the information upon which certification or precertification was originally granted. (Section IV.B.7, pg. 82.)

These application deadlines typically require an applicant, such as a facility operator, to submit a complete application within 90 days of a specific event in order to retain the facility's earlier eligibility date for RPS certification, if applicable. For example, a facility that has been precertified by the Energy Commission must apply for certification within 90 days of commencing commercial operations to retain an earlier eligibility date based on the facility's precertification. Similarly, a facility that was under contract to a utility and originally certified by the utility on the facility operator's behalf, must apply for re-certification within 90 days of the contract's termination date. If an applicant misses this 90-day deadline, the facility's eligibility date is revised based on the submission date of the application for certification. If the facility is subsequently certified by the Energy Commission, its eligibility date will be the month of the certification application, rather than the earlier eligibility date based on precertification (in the first example) or utility certification (in the second example).

The above noted deadlines and related requirements were implemented to help ensure the Energy Commission has the most up-to-date information on RPS-certified facilities, to avoid and minimize staff work in verifying RPS-certified generation (ensuring a facility is certified

before its generation is claimed to satisfy an RPS procurement obligation), and to guard against fraud in cases where it may be difficult to verify a facility's use of fossil fuels or other non-renewable energy resources. The deadline and application requirements are particularly important for utility-certified facilities and precertified facilities, because many of these facilities were certified or precertified based on limited information.

Utility certification, for example, was permitted under the Energy Commission's first RPS Guidebook, which was adopted in 2004 when the RPS was initially established. The first RPS Guidebook allowed a utility to certify facilities the utility had under contract based on minimal information, the submission of little or no supporting documentation, and limited attestations. This approach was publicly vetted and agreed upon by the utilities to jump start the initial certification process of hundreds of existing facilities the utilities had under contract. To certify facilities under the current RPS Guidebook, the owner or agent of a facility must now provide more information on the facility and its operations, submit supporting documentation, and attest to the accuracy of the information submitted and their understanding and compliance with the RPS eligibility requirements.

Similarly, applicants for precertified facilities might have submitted limited information on the facility or its proposed operations, which could have changed as the precertified facility was being developed.

The *RPS Guidebook, Seventh Edition*, is available on the Energy Commission's website at:

[www.energy.ca.gov/renewables/documents/index.html#rps](http://www.energy.ca.gov/renewables/documents/index.html#rps)

## **Purpose**

The current RPS Guidebook does not permit Energy Commission staff to extend or waive any of the applications deadlines specified in the RPS Guidebook. As a result, if an applicant misses the deadline, staff can only certify the facility with an eligibility date starting in the month the application was submitted, and cannot certify the facility with an earlier eligibility date. The financial consequences to the facility operator could be significant if the facility's generation, prior to the determined eligibility date, is ineligible for the RPS. The facility operator may be unable to sell this generation or may be subject to contract penalties if the generation was sold in advance through a power purchase agreement.

To address this issue, staff is proposing a process that would allow the Energy Commission's Executive Director to extend and waive application deadlines for RPS certification based on certain criteria, including a demonstration of good cause. Energy Commission staff solicited public input on the need for such an extension process at a workshop on January 28, 2014. This workshop was held to gather input on the need and scope of future changes to the RPS Guidebook. Many of the stakeholders who attended the workshop offered oral and written comments in support of a process to extend and waive application deadlines.

Energy Commission staff recommend the following criteria and procedures be used for the extension process.

- 1) Applicants for RPS certification may request from the Energy Commission's Executive Director an extension of time to submit a complete application for RPS certification. The request may be submitted before or after the application deadline specified in the RPS Guidebook.
- 2) A request for an extension of time shall be submitted in writing to the Executive Director at the following address:

California Energy Commission  
Office of the Executive Director  
1516 9<sup>th</sup> Street, MS-39  
Sacramento, CA 95814-5512

- 3) A request for an extension of time shall include the following information:
  - a) The name and address of the applicant and the name, location, and other identifying information of the electrical generation facility for which the applicant has or will seek RPS certification, including any certification or precertification ID numbers issued by the Energy Commission and any WREGIS registration numbers.
  - b) The amount of additional time being requested for the applicant to submit a complete application for RPS certification or an amended application for RPS certification, as applicable, unless the request for an extension of time includes a completed application for certification or amended certification.
  - c) An explanation of the circumstances why the applicant is or was unable to submit a timely application for certification and/or supporting documentation by the deadline specified in the RPS Guidebook, and whether these circumstances were beyond the applicant's control.
  - d) An explanation of the financial consequences or other consequences to the applicant and/or facility owner or operator if an extension of time is not granted.
  - e) An explanation of any other good cause that exists for granting the request for an extension of time.
  - f) Documentation, if available, to support the information provided in items (a) through (e).
- 4) If a request for an extension of time is incomplete, the Executive Director may either request additional information from the applicant or return the request unprocessed.
- 5) The Executive Director may grant an extension of time if he or she finds that the applicant has demonstrated good cause exists for granting an extension of time. In determining whether good cause exists, the Executive Director may consider, without limitation, whether the applicant was diligent in submitting a request for an extension of time upon learning that an application deadline had been missed, whether the applicant's failure to submit a timely application for certification was caused by circumstances beyond the control of the applicant, and whether the applicant or facility owner or operator will suffer financial consequences or other hardships if an extension of time is not granted.

- 6) The extension of time granted by the Executive Director shall be limited to that time reasonably necessary for the applicant to submit a complete application for certification.
- 7) An extension of time shall not exempt the facility from complying with all eligibility requirements of the RPS Guidebook, such as registration in WREGIS and metering requirements.
- 8) An extension of time shall not be granted under any circumstances that would waive or excuse any of the eligibility dates specified in RPS Guidebook, such as the eligibility dates to qualify under the category for existing biomethane procurement contracts in Section II.C.1, or the eligibility dates to qualify under the category for small hydroelectric in Section II.F.1.
- 9) An extension of time shall not be granted under any circumstances that would allow the applicant to use a discontinued certification application form, such as the CEC-RPS-4 form, which is no longer available for use.
- 10) An extension of time shall not be granted under any circumstances that would allow an applicant to circumvent changes under pending RPS Guidebook revisions, or receive a benefit that is not provided in the RPS Guidebook under which the facility actually submitted an application for certification. Applicants shall be subject to the RPS Guidebook requirements in place when an application for certification is submitted to the Energy Commission.
- 11) The Executive Director's approval of an extension of time may include the conditions under which Energy Commission staff may amend the applicant's certification, if previously granted, to reflect the extended application deadline and any corresponding change in the applicant's RPS eligibility date.

## **Public Comment**

The Energy Commission encourages public comments on the proposed process to extend and waive application deadlines for RPS certification.

**Oral comments:** The Energy Commission will accept oral comments during the Business Meeting. Comments may be limited to three minutes per speaker. Any comments will become part of the public record in this proceeding.

**Written comments:** Written comments should be submitted to the Dockets Unit by 4:00 p.m. on Thursday April 17, 2014. Please include docket number 11-RPS-01 and indicate "RPS Certification" in the subject line. Written comments will also be accepted before or at the Business Meeting, however, the Energy Commission may not have time to review them before the conclusion of the meeting. For additional information, see Standing Order re: Proceedings and Confidentiality Procedural Requirements for Filing, Service, and Docketing Documents with the Energy Commission, available at:

[www.energy.ca.gov/commission/chiefcounsel/docket.html](http://www.energy.ca.gov/commission/chiefcounsel/docket.html)

Additionally, written comments may be posted to the Energy Commission's website for the proceeding. Please note that your written and oral comments, attachments, and associated contact information (e.g. your address, phone, email, etc.) become part of the viewable public record. This information may become available via Google, Yahoo, and any other search engines.

The Energy Commission encourages comments by e-mail. Please include your name and any organization name. Comments should be in a downloadable, searchable format such as Microsoft® Word (.doc) or Adobe® Acrobat® (.pdf) and sent to both:

[docket@energy.ca.gov](mailto:docket@energy.ca.gov) and [RPS33@energy.ca.gov](mailto:RPS33@energy.ca.gov)

If preferred, you may send a paper copy of your comments to:

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

## **Public Adviser and Other Commission Contacts**

The Energy Commission's Public Adviser's Office provides the public assistance in participating in Energy Commission proceedings. If you want information on how to participate in this forum, please contact the Public Adviser's Office at [PublicAdviser@energy.ca.gov](mailto:PublicAdviser@energy.ca.gov) or (916) 654-4489 (toll free at (800) 822-6228).

If you have a disability and require assistance to participate, please contact Lou Quiroz at [lou.quiroz@energy.ca.gov](mailto:lou.quiroz@energy.ca.gov) or (916) 654-5146 at least five days in advance.

Media inquiries should be sent to the Media and Public Communications Office at [mediaoffice@energy.ca.gov](mailto:mediaoffice@energy.ca.gov) or (916) 654-4989. If you have questions on the subject matter of this notice, please contact Kate Zocchetti of the Renewable Energy Office at [kate.zocchetti@energy.ca.gov](mailto:kate.zocchetti@energy.ca.gov) or (916) 653-4710 or Gabe Herrera of the legal office at [gabe.herrera@energy.ca.gov](mailto:gabe.herrera@energy.ca.gov) or (916) 653-4710.

## **Remote Attendance**

You may participate in this meeting through WebEx, the Energy Commission's online meeting service. Presentations will appear on your computer screen, and you may listen to audio via your computer or telephone. Please be aware that the meeting may be recorded.

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4. To listen over the computer: If you have a broadband connection, and a headset or a computer microphone and speakers, you may use VoIP (Internet audio) by going to the Audio menu, clicking on "Use Computer Headset," then "Call Using Computer."

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**David Hochschild**  
**Lead Commissioner**

Date: April 11, 2014

Electronic Mail Lists: renewables and 33by2020 list serves

