



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
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**IN THE MATTER OF
LETTER OF APPEAL FOR DENYING
LADWP'S PETITION FOR
RECONSIDERATION OF
APPLICATIONS FOR RENEWABLES
PORTFOLIO STANDARD
CERTIFICATION FOR THE CASTAIC
POWER PLANT, UNITS 3 AND 5,
RPS ID 62561A**

Docket No. 11-RPS-01

California Energy Commission

DOCKETED

11-RPS-01

TN # 73195

JUN 12 2014

ORDER DISMISSING LETTER OF APPEAL

Introduction

On May 12, 2014, the Energy Commission received and docketed a Letter of Appeal, filed by the Los Angeles Department of Water and Power (LADWP), appealing the denial of its Petition for Reconsideration of staff's denial of its application to certify the Castaic Power Plant as RPS eligible, based on incremental generation from efficiency improvements to Unit 3 and Unit 5.

Procedural Background

LADWP submitted separate applications to certify Unit 3 and Unit 5 in September 2012, under the category for Incremental Hydroelectric Generation from Efficiency Improvements Regardless of Facility Output. Staff denied the applications in a letter dated January 14, 2014. In a letter dated February 13, 2014, LADWP petitioned the Executive Director for reconsideration of staff's denial, pursuant to a process set forth in the *RPS Eligibility Guidebook, Seventh Edition*, Section 8.C.1. (page 113). The Executive Director denied the Petition in a letter dated April 10, 2014.

Discussion

LADWP filed its Letter of Appeal pursuant to the process set forth in the *RPS Eligibility Guidebook, Seventh Edition*, Section 8.C.2. (page 113), which permits an applicant whose application for RPS certification of a facility has been denied by staff, and whose petition for reconsideration of that denial has been denied by the Executive Director, to

appeal the Executive Director's denial of their petition for reconsideration to the Commission. The appeal shall be processed as a Request for Investigation, pursuant to Title 20, Section 1231. In addition:

The letter of appeal shall include the information specified in . . . Section 1231(b). In place of the information specified in Section 1231(b)(2), (b)(4) and (b)(6), the letter of appeal shall identify the eligibility criteria in the guidelines that the appealing party believes were applied incorrectly in denying or revoking RPS certification.

RPS Eligibility Guidebook, Seventh Edition, Section 8.C.2. (page 113).

In its Letter of Appeal, LADWP does not identify any "eligibility criteria in the guidelines that [it] believes were applied incorrectly in denying . . . RPS certification." Nor does it assert that certification is warranted under the rules set forth in the RPS Eligibility Guidebook. Furthermore, as explained by the Executive Director's denial of the Petition for Reconsideration and the memorandum attached thereto, LADWP's legal arguments that the Castaic Power Plant should be exempt from the general rules governing RPS eligibility are unavailing.

LADWP also asserts that staff's delay in denying its application for RPS certification of the Castaic Power Plant may impair LADWP from complying with its RPS procurement obligations for the first compliance period. LADWP's compliance with the RPS is not currently at issue, and the fact that LADWP may fall short in its compliance obligations is not a reason to certify an ineligible facility.

For these reasons, dismissal of the Letter of Appeal for insufficiency and lack of merit is warranted pursuant to Title 20, Section 1232(a)(1).

Re-application for Certification Based on Efficiency Improvements to Unit 3

In his denial of the Petition for Reconsideration, the Executive Director stated that LADWP may reapply for RPS certification of the Castaic Power Plant if it can demonstrate that the efficiency improvements to Unit 3 were initiated after January 1, 2008, and were not included in a resource plan sponsored by LADWP prior to that date. The Executive Director included a detailed list of deficiencies that LADWP would need to address in a revised application for certification of the Castaic Power Plant. LADWP is encouraged to work with staff in re-applying for RPS certification if it believes it can demonstrate the facility is eligible under the rules set forth in the RPS Eligibility Guidebook.

LADWP argues that even if it reapplies for and is granted certification, it will be unable to count renewable energy credits (RECs) from the Castaic Power Plant towards its RPS procurement obligations for the first compliance period because of deadlines in the RPS Eligibility Guidebook.

Pursuant to Resolution No: 140422-11, adopted by the Energy Commission at the April 22, 2014 Business Meeting, LADWP may request from the Executive Director an extension of time to submit a complete application for RPS certification. Without determining whether a waiver would be appropriate, it is noted that the fact that LADWP's original application for certification was denied after the close of the first compliance period could weigh in favor of granting a waiver of the deadline for a revised application for RPS eligibility of the Castaic Power Plant to count towards the first compliance period, in the event that the facility is ultimately approved as RPS eligible.

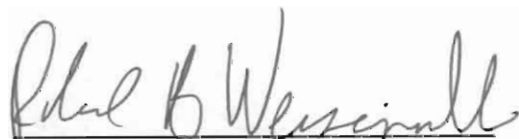
This Order expresses no opinion about the ultimate eligibility of the Castaic Power Plant, or the availability of a waiver or extension of any RPS deadline.

Conclusion and Order

The Letter of Appeal is dismissed without prejudice pursuant to Title 20, California Code of Regulations, Section 1232(a)(1).

IT IS SO ORDERED.

Dated: June 12, 2014 at Sacramento, California.

A handwritten signature in black ink, appearing to read "Robert B. Weisenmiller". The signature is written in a cursive style with a horizontal line underneath the name.

Robert B. Weisenmiller, Chair
California Energy Commission