

**STATE OF CALIFORNIA
BEFORE THE CALIFORNIA ENERGY COMMISSION**

In the matter of:)	Docket No. 11-RPS-01
)	
Developing Regulations and Guidelines for the 33 Percent Renewables Portfolio Standard)	Comments On: <i>Draft RPS Guidebook, 8th Edition</i>
)	
<hr/>)	February 17, 2015

**Comments of the Sacramento Municipal Utility District
(SMUD) on the
*Draft RPS Eligibility Guidebook, Eighth Edition***

Thank you for the opportunity to provide comments on the topic of potential changes to the Renewables Portfolio Standard Eligibility Guidebook (*Draft RPS Guidebook*), as proposed in the posted Draft Eighth Edition. SMUD appreciates the CEC staff work on RPS Guidebook simplification, and incorporation of changes to reflect new laws and stakeholders' comments. SMUD supports most of the proposed changes in the *Draft RPS Guidebook*, and suggests additional changes for CEC consideration in these comments. SMUD also supports the comments of the California Municipal Utilities Association.

In particular, SMUD supports:

- The addition of the “functionally dedicated pipeline” concept, with changes as suggested below.
- Removal of the prohibition in the current Guidebook against switching an existing biomethane contract from designated use in one generating facility to another.
- Allowing generation to be claimed for aggregated systems tracked in WREGIS starting on January 1, 2011, the beginning of the first compliance period for the 33% RPS. SMUD strongly argues that this concept be applied more broadly than in the limited circumstances included in the Draft RPS Guidebook, allowing its use for all certified systems, whether aggregated or not, or owned by a POU

or not, and allowing pre-WREGIS tracking using the Interim Tracking System (ITS) prior to entry in WREGIS.

- Incorporation of the two Resolutions previously adopted in 2014 that provide flexibility in the RPS program.
- Adjusting the certification process so that a project's eligibility date can clearly extend back to the beginning of generation.

In addition to supporting these proposed Guidebook changes, with some alterations, SMUD has the following specific, detailed comments on the *Draft RPS Guidebook*.

A. Proposed Changes To Biomethane Requirements

New “Functionally Dedicated Pipeline” Concept: SMUD appreciates the addition of a new type of dedicated pipeline – the “functionally dedicated” pipeline, in the *Draft RPS Guidebook*. SMUD’s private carrier pipeline, which has previously been inappropriately lumped into the “common carrier” pipeline category, now is appropriately included as a type of dedicated pipeline for purposes of biomethane eligibility determinations. SMUD believes that the concept fits our pipeline well – our operation of the pipeline with respect to the current injection of biogas from the Sacramento Regional County Sanitation District is equivalent to injection into a pure dedicated pipeline per the CEC’s definition. SMUD supports the added definition of “functionally dedicated pipeline” as part of the “dedicated pipeline” definition on page 75.

However, SMUD believes that the list of attributes that a functionally dedicated pipeline must “demonstrate,” on page 6 of the *Draft RPS Guidebook*, should be modified. The first attribute, that the pipeline is “not a common carrier pipeline” is unnecessary and vague. It is unnecessary because the remaining attributes in the list are sufficient to demonstrate that the pipeline is not a common carrier pipeline. It is vague because it is unclear what is required, other than the other attributes in the list, in order to demonstrate “non-common carrier” status. The CEC’s definition of a common carrier pipeline illustrates this difficulty. This definition states that a common carrier pipeline is: “a gas conveyance pipeline that is owned or operated by a utility or gas corporation, excluding a dedicated pipeline.” Hence, demonstrating that a functionally dedicated pipeline is not a common carrier pipeline is equivalent to demonstrating that it is a dedicated pipeline, which now includes the “functionally dedicated” concept.

The fifth attribute in the list refers to a reporting obligation – that any biomethane not physically delivered not be included in the quantity of biomethane for the consuming facility on the pipeline that is reported to the CEC on an annual basis. SMUD asserts that such a reporting obligation should not be part of a presumably up-front demonstration for a biomethane contract and pipeline, but rather be monitored and addressed if appropriate during the actual reporting and verification process. Attributes

2-4 address the use of biomethane in a functionally dedicated pipeline adequately, making attribute 5 for this purpose superfluous.

In addition, there is a problem in SMUD's view with the last phrase in the fifth attribute – that the biomethane not injected into the functionally dedicated pipeline cannot be associated with "... electricity generation attributable to that quantity of biomethane." SMUD's primary use of the biogas from SRCSD when it cannot be injected into our functionally dedicated pipeline is to combust the gas without pipeline injection at the nearby Carson cogeneration facility, specifically in the duct burners of that plant. SMUD has previously described this to CEC staff, has included this non-pipeline combustion at Carson in RPS submittals, and includes this use in our adopted operation plan for the pipeline with respect to the SRCSD biogas. This phrase in the fifth attribute implies that SMUD cannot get RPS credit for the non-injected biomethane, even if combusted on-site or without use of the pipeline, in contrast to SMUD's longstanding practice and operation.

SMUD recommends removing the entire fifth attribute in the list. If that attribute is retained in the final 8th Edition RPS Guidebook, the CEC must clarify that electricity generation in another RPS-eligible way associated with the non-injected biomethane is allowed.

The sixth attribute in the list requires an annual demonstration that the pipeline is operated in a functionally dedicated manner. Again, this type of requirement in SMUD's view should be part of an annual reporting and verification step, not an up-front demonstration requirement.

SMUD also requests that the additional reporting required for the functionally dedicated pipeline concept, found on pages 55 and 56 of the Draft RPS Guidebook, be reduced substantially. SMUD does not understand why the CEC would include "functionally dedicated" pipelines in the dedicated pipeline category and then impose reporting requirements substantially greater than those required for a dedicated pipeline. Once an operational plan is provided that demonstrates functionally dedicated pipeline status, the CEC should rely on that plan, and request only changes to or exceptions to the plan.

The first reporting requirement proposed on page 55 is that entities with a functionally dedicated pipeline should annually file the new CEC-RPS-CCP form (which replaces the previous CEC-RPS-Biomethane form). However, the CEC-RPS-CCP form (CCP here stands for "common carrier pipeline") is not appropriate to use for a pipeline that is in the "dedicated" pipeline category. In fact, on the CEC-RPS-CCP form itself, the instructions state:

"This form is ONLY for reporting the use of biomethane at RPS-Certified facilities that has been delivered via a common carrier pipeline. This form is NOT to be used by RPS-Certified facilities that use biomethane generated onsite, delivered through a dedicated pipeline, or is delivered

through a functionally dedicated pipeline as defined in the RPS Eligibility Guidebook”

The Draft RPS Guidebook should not direct use of a form for a reporting obligation that the form itself states should not be used for that obligation. The information required on the CEC-RPS-CCP form is also not always appropriate or available in the functionally dedicated pipeline situation. In particular in SMUD’s case, the information on Schedule 6, the Pipeline Contracts Summary form, is not available or appropriate for the SMUD pipeline – there is no “pipeline contract” to report for this SMUD owned facility. In general, SMUD believes that a functionally dedicated pipeline as defined in the Draft RPS Guidebook will have no pipeline contract to report or provide.

The second reporting requirement requests detailed information about outages in any portion of the biomethane source/pipeline/designated facility path. In SMUD’s view, this information is unnecessary. An outage at the biomethane source will by definition result in no biomethane being injected into the pipeline. The CEC does not require any source outage information for biogas delivered in any other kind of dedicated pipeline, because it is similarly obvious that no RPS-eligible electricity can result in that case. Similarly, an outage of the pipeline itself will result in non-delivery of biogas to the designated facility, and hence no generation of RPS-eligible electricity. And, just as obviously, a failure of the designated source itself cannot provide RPS-eligible electricity. Here, the CEC seems to be requesting information that is essentially not useful for RPS purposes.

SMUD believes that the information the CEC should be interested in in a functionally dedicated pipeline situation is simply this:

- 1) Any changes to the operational plan filed for the pipeline and biogas source – no need to file anything if there are no changes;
- 2) The amount of biogas generated at the source;
- 3) The amount of biogas from the source injected into the pipeline and used at the designated facility;
- 4) The alternative use of any biogas not injected for any reason.

SMUD believes that this information can be required for functionally dedicated pipelines without the need for the CEC-RPS-CCP form or any form at all – the information does not need a new form.

Removal Of Facility Switching Prohibition: The rewriting of the biomethane requirements in the *Draft RPS Guidebook* has appropriately removed a prohibition in the Seventh Edition RPS Eligibility Guidebook that was counterproductive to RPS purposes and that was not required by AB 2196 – the law that altered biomethane use

for the RPS. SMUD applauds this removal, and would oppose any re-establishment of this provision. As SMUD has previously commented:

“AB 2196 says nothing about the “designated facility” in establishing requirements for pre-March 29th, 2012 contracts in Section 399.12.6(a)(1), nor does “change in designated facility” appear in Section 399.12.6(a)(2) describing changes that may trigger of the applicability of new biomethane rules established under section 399.12.6(b).

The CEC got this right in the Biomethane Concept Paper – switching designated facilities should be allowed, not prohibited -- and there are many legitimate reasons to structure a shift in biomethane use from one facility to another.”

“... the prohibition against switching creates uncertainty in circumstances where a facility designated for use in a biomethane application has to shut-down for an extended period. Would the contracting utility be allowed to count as eligible alternate generation while the designated facility is down, and would the utility even be allowed to count generation from the contract once the designated facility is back on line? Such a rule constrains RPS eligibility in ways that AB 2196 does not.”

“... a prohibition on switching designated facilities could prevent utilities from using biomethane in the most efficient plants possible. SMUD is aware that some POUs expect to switch the designated facilities for some biomethane contracts from their currently designated facilities to new, more efficient facilities coming online. The State generally promotes such actions to improve efficiency and keep the RPS affordable, but here the proposed Guidebook language may prevent them. The Guidebook would not appear to prevent a new biomass facility from using the same amount of fuel more efficiently to produce more renewable energy. SMUD can imagine no legitimate reason to prevent such switching.” (*SMUD comments pursuant to RPS Eligibility Guidebook Workshop*).

Clarification of “New And Amended” Language: The Draft RPS Eligibility Guidebook, on the bottom of page 6, states: “The biomethane procurement contract shall meet specific delivery requirements and, in the case of a new or amended procurement contract, provide one of three specific environmental benefits to California.” SMUD suggests that this sentence is unnecessary, as the requirements are fully and specifically detailed in the following pages. And, the plain reading of the statement could be confusing and seems inconsistent with those details. In particular, only certain amendments to existing biomethane procurement contracts trigger the requirement for specific environmental benefits to California (along with the other eligibility rules for a “new” biomethane contract), but the sentence could be interpreted

as indicating that any amendments cause this effect. SMUD recommends removal of this sentence.

Removal Of Term “Biogas” From Glossary: The Draft RPS Guidebook proposes removing the term “biogas” from the set of definitions included. SMUD suggests that this term still has purpose – to distinguish from the raw gas originally derived from organic processes at landfills, digester gas facilities, etc. and the cleaned-up, injectable gas that is pipeline quality and can thus be injected into a common carrier pipeline. While AB-2196 defined “biomethane” as including landfill gas and digester gas, SMUD believes that the CEC has the ability to interpret the legislation as not applying some of the restrictions contained therein to on-site use of landfill gas or digester gas. SMUD again encourages the CEC to take a pragmatic view of this question, and avoid the unnecessary reporting burdens imposed on landfill gas and digester gas sources not injected into a common carrier pipeline that caused many of these sources to have suspended RPS eligibility last year. The CEC can and should avoid future repeats of these time-consuming and unnecessary RPS eligibility and reporting issues for simple biogas use on-site.

Review of Biomethane Reporting Requirements: The revisions in the *Draft RPS Guidebook* move and redraft the reporting requirements for biomethane contracts under the RPS. In SMUD’s experience, these requirements have been among the most time-consuming, difficult to meet, and at times duplicative reporting requirements under the RPS. SMUD encourages a second, thoughtful review of these requirements with an eye toward reducing the reporting burden while preserving the ability of the CEC to verify the eligibility and amount of generation under the RPS.

B. Treatment Of On-site Generation Eligibility

January 1, 2011 Eligibility Date For Behind-the-meter Generation: SMUD strongly supports the concept of being able to claim generation from behind the meter RPS-eligible resources starting with the beginning of the first compliance period under the SBX1 2 RPS – January 1, 2011. The revisions in the *Draft RPS Guidebook* for the first time recognize this concept, but in a significantly limited fashion, crediting only generation tracked in WREGIS that is from aggregated facilities owned by a POU and certified prior to December 31, 2013 (see Special Cases, page 46). This limited policy leaves out significant RPS resources that should be allowed, including individually certified (not aggregated) behind-the-meter systems, RECs from facilities not owned by POUs (but where the POU owns the RECs), and generation not tracked in WREGIS initially. Not providing POUs the ability to count this generation from the start of their obligation is unfair, and could lead to POUs facing non-compliance for the first compliance period solely due to CEC limitations that are not supportable. Similar to special case 2 on page 46, POUs should be able to claim generation from any eligible and properly certified behind-the-meter system back to the beginning of the first compliance period.

In comparison to the Seventh Edition RPS Eligibility Guidebook, the Draft RPS Guidebook removes the section stating that behind-the-meter generation is ineligible for the RPS prior to May 9, 2012. SMUD strongly supports this removal. However, further clarification is required about the eligibility of behind-the-meter generation in general in the *Draft RPS Guidebook*. For example, on page vi, the *Draft RPS Guidebook* states that language has been added in the certification special case section to "... propose a better method for POU to claim electricity generation tracked in WREGIS prior to May 2012 for POU-owned aggregated facilities." The added May 2012 reference now is unrelated to anything else in the Guidebook, leading to confusion.

SMUD continues to argue that the eligibility of behind-the-meter generation, similar to that of 30-40 MW hydro that operated as part of a water conveyance system, should be found eligible for the RPS starting January 1, 2011. SMUD contends that like these specific hydro facilities and POU RPS facilities in general, POUs should be able to count generation back to this date, if certified by the end of 2013. Since POUs were not required to certify or track in WREGIS prior to SBX1 2 passage in late 2011 and the CEC's implementation regulations were not complete until November of 2013, it was essential for fair treatment of POUs that counting back to the beginning of the compliance period be allowed. Special cases 2 and 3 on page 46 continue to accomplish this. The new special case 4 simply does not go far enough to accomplish the same goal for distributed behind-the-meter facilities.

The CEC should expand special case 4 to apply to all behind-the-meter generation that meets the December 31, 2013, deadline established in special case 3. Individually certified, non-aggregated systems, whether owned by a POU or not, should have generation eligibility back to January 1, 2011, not the eligibility date established by POU certification (which appears to be the default policy for these in the *Draft RPS Guidebook*). Aggregated systems in general, whether owned by a POU or not, should be eligible back to January 1, 2011, not the date in which they are first tracked in WREGIS as special case 4 currently reads. Like larger, non-aggregated systems now tracked in WREGIS, generation should be countable prior to WREGIS tracking back to 1/1/2011 using the Interim Tracking System. That aggregation was developed for ease of tracking these small systems in WREGIS should not affect the concept that generation from the systems was eligible prior to WREGIS tracking, just like for larger systems. Use of the ITS is perfectly feasible for these systems, just like for larger systems.

SMUD strongly contends that the second 2014 flexibility resolution proposed to be incorporated in the Guidebook, a resolution that included an extension of the use of the pre-WREGIS ITS, be included in the Guidebook with a modification that removes the resolution provision that the ITS cannot be used for aggregated systems. SMUD filed ITS forms for individually certified and aggregated behind-the-meter systems that are now tracked in WREGIS as part of filing for our required 2011 and 2012 annual RPS reports in November 2013. At that time, aggregation was a clear preference for smaller DG systems, and there was not even a hint that use of the ITS would be prohibited, nearly a year later, for aggregated systems. It is unfair, retroactive rulemaking to now

go back and declare SMUD's good faith filings ineligible, especially when filing for the non-WREGIS generation from these systems individually appears to be no longer allowed using the ITS.

Consideration Of RPS Participation Barriers For Smaller RPS Eligible Systems:

SMUD supports the use of aggregated systems to reduce the burden of RPS participation for smaller generation systems such as behind-the-meter PV systems. SMUD continues to believe that the CEC should take a more comprehensive look at barriers to participation by these smaller systems. To date, the aggregation concept is the only balancing the CEC has incorporated in the RPS to offset the increased difficulty of participation for these systems. This comprehensive look should include examination of:

- 1) The need for a 2% revenue quality metering requirement for these systems. SMUD has contended that as these smaller systems are aggregated, inverter metering errors will tend to balance out, leading to a system accuracy equivalent to plus or minus 2% even if the individual system generation measured by the slightly less accurate inverter meters. In addition, the CEC should consider grandfathering installations that occurred prior to the end of 2013 – prior to clear inclusion of these systems in the RPS.
- 2) Alternatives to WREGIS tracking for these systems. Participation in WREGIS, even using aggregation, comes with transaction costs both prior to WREGIS upload and within WREGIS that can be a barrier to participation in the RPS.
- 3) Surplus generation over a year as established by SB 920. While this generation has been deemed bundled and eligible for the RPS for some time, no participation has happened. The system here is clearly not working, and the CEC should do what it can to fix it.
- 4) Utility specific rather than individual system specific “certification” and reporting regarding small distributed renewable systems. SMUD has experienced many instances of CEC staff requesting detailed, individual system information. SMUD has over 7,000 such small systems to date, most of which are not currently included in the RPS due to transaction cost barriers. California, as a whole, has well over 100,000 installations. It is clear that there is insufficient CEC and stakeholder staff and excess cost overall if all of these systems were to be included in the RPS.

New Clarity On Phasing Of Aggregate Systems: SMUD appreciates the addition of wording in the Guidebook on page 52 concerning submitting applications for aggregated systems in phases. The previous Guidebook appeared to suggest that an aggregated application should include all systems in the aggregation from the start, thereby including the potential to leave substantial amounts of generation from the first completed systems in the aggregation ineligible for the RPS.

Inclusion Of WREGIS Aggregation Limits In Guidebook: SMUD recommends against the inclusion of criterion “f” for aggregated units on page 51 of the *Draft RPS Guidebook*. This provision includes the specific 250 kW and 360 kW limitations for aggregated unit participation under the WREGIS rules. This limit is already incorporated in the first criterion, in a generic fashion leaving the specific limits up to WREGIS. These limits have been discussed in WREGIS Stakeholder Advisory Committee meetings and could be revised at some point. The problem with incorporating the numerical limits in the Guidebook is that any WREGIS revision of the limits is then in conflict with the Guidebook, requiring a subsequent Guidebook revision for full and clear California RPS application.

C. Inclusion of Resolutions For Deadline Flexibility, Creating Retroactive WREGIS Certificates, and Extending The Interim Tracking System

In general, SMUD supports the plan to incorporate Resolutions 14-0422-11 (establishing a time extension process) and 14-1007-10 (establishing a process for creating retroactive WREGIS certificates and extending the ITS) in the RPS Eligibility Guidebook. SMUD believes that these resolutions added important and necessary flexibility to the RPS program, and formalizing these provisions helps to provide market confidence that renewable procurement and investment will fully count for the program.

However, when these resolutions were adopted there was no real opportunity provided for including changes suggested by stakeholders, although serious suggestions were provided to the CEC. It appears to SMUD that the text of the Resolutions is being added pretty much verbatim to the Guidebook, with no substantive revisions in response to the stakeholder comments that had been received prior to adoption. SMUD had understood that the CEC plan was to incorporate the text of the Resolutions in an upcoming Guidebook revision, and comments could be considered and incorporated through that process.

With respect to incorporation of Resolution 14-0422-11, SMUD would call the CEC’s attention to comments filed by CMUA prior to the resolution’s adoption. These comments suggested clarifications that would improve the flexibility mechanism, including:

- Clarifying how RECs will be created and treated under the extension process;
- Clarifying the eligibility date that would result when an extension is granted; and
- Providing a non-exhaustive list of potential circumstance in which the extension process could be used.

In addition, the CMUA comments suggested that the CEC should “... consider applying the proposed extension process to other deadlines in the RPS program” This

additional flexibility was partially accomplished through the subsequent adoption of Resolution 14-1007-10, but SMUD suggests that as part of Guidebook incorporation, the CEC carefully review the RPS program deadlines that are in place and appropriately include in the extension process any ministerial deadline that, if missed, could result in otherwise perfectly eligible RPS generation being not counted for any RPS entity and for the State as a whole. In this process, the CEC should be striving to fully count RPS generation where possible, while ensuring that no double counting occurs. SMUD does not believe that such extensions will be commonplace and cause an extensive CEC workload to address, particularly in comparison to the workload involved in handling those cases where eligibility is denied for good faith procurement.

With respect to incorporation of Resolution 14-1007-10, again comments by ten RPS stakeholders, including SMUD, were submitted to the CEC prior to adoption, but no alterations to the resolution terms were allowed. SMUD finds it hard to believe that the CEC found none of the specific comments in the ten letters helpful, as the CEC included the resolution terms in the *Draft RPS Guidebook*.

In particular, many parties commented on the relatively difficult audit requirements that were incorporated in the part of Resolution 14-1007-10 that addressed applications for creating retroactive WREGIS Certificates for RPS-eligible generation. Generally, the comments suggested that these requirements amounted to duplicative verification or verification steps that were relatively impossible to guarantee, such as requiring letters from "... the administrator of each state regulatory or voluntary program ..." documenting that the RECs in question were not used to satisfy the requirements of those other programs (other than California's RPS). Comments generally suggested that the "open-ended" nature of this requirement be closed in some fashion. For example, SMUD suggested that:

"SMUD contends [that] since the proposal is to allow certificates to be created in WREGIS, a letter is not necessary from any programs that also require use of WREGIS during the time period of the generation in question – there should be no chance of double counting in these instances. The audit requirement should be modified so that letters are only required from state or voluntary programs that themselves do not require use of WREGIS. This will vastly simplify the process of auditing the proposed retroactive certificate creation without increasing risk of double counting." (*SMUD comments on Resolution 14-1007-10, October 3, 2014*)

SMUD encourages the CEC to review the comments received with respect to the Retroactive WREGIS Certificate creation process proposed in Resolution 14-1007-10 and incorporate useful changes such as this one.

In addition, SMUD believes that the text incorporated in the Guidebook should clarify the timing of the required audit report. The text on page 25 of the Draft RPS Guidebook indicates that if the "... request [presumably a request to the CEC to start the retroactive certificate creation process] is approved by the Executive Director, the authorized representative of the generating facility shall submit an audit report to the

Executive Director within 90 days of the date of the request ...” This process could require an applicant to start the auditing process prior to knowing whether their request would be approved – potentially a waste of resources. SMUD suggests that the requirement be changed to “...within 90 days of approval ...”

Also, there may be some confusion since the text of the resolution was moved during the proposed incorporation into the Guidebook, so that the previous paragraph now discusses the “request” by the Energy Commission to WREGIS to create the retroactive certificates and invoice the authorized representative. There are at least two requests involved – one by an RPS obligated entity to the CEC and presumably a subsequent request or requests by the CEC to WREGIS. There is also the potential for two audits – one required by the CEC in the proposed text and a second required by WREGIS. Some clarity as to timeline of the steps involved would be useful. Do the steps follow in precise order or do some of them overlap? That is, can or should an audit process be started prior to receiving CEC approval (see paragraph above)? Can a CEC request to WREGIS occur prior to receiving an audit report? Will there be a separate WREGIS audit after a CEC request?

With respect to the second part of Resolution 14-1007-10, SMUD again reiterates that comments received on this part of the Resolution back in October 2014 should be fully considered as the text is incorporated in the Guidebook. In particular, SMUD strongly objects to clause 5 on page 27 that states that: “The ITS shall not be used to report generation or procurement data from aggregated generation facilities.”

SMUD questions the need to incorporate this second part of Resolution 14-1007-10 in the *Draft RPS Guidebook* at all. SMUD believes that the opportunity to use the ITS extension that was granted in that Resolution is no longer available to stakeholders, and hence it is not necessary to include in a “going forward” guidebook. However, if the CEC believes that incorporation of the ITS portion of the Resolution language is necessary in the Guidebook for purposes of clearly allowing and reviewing ITS requests received last year under the extension, then SMUD believes that the language should be incorporated in a different place, and without clause 5. The present placement, under the heading “WREGIS” is inappropriate. Since these provisions cannot be used going forward, SMUD suggests that, if incorporated at all, they be moved to an appendix or to the Administrative section at the end of the Guidebook.

As mentioned in Part B above, SMUD contends that the proposed prohibition against using the ITS for aggregated systems should be removed. SMUD filed ITS forms for individually certified and aggregated behind-the-meter systems that are now tracked in WREGIS as part of filing for our required 2011 and 2012 annual RPS reports in November 2013. At that time, aggregation was a clear preference for smaller DG systems, and there was not even a hint that use of the ITS would be prohibited, nearly a year later, for aggregated systems. It is unfair, retroactive rulemaking to now go back and declare SMUD’s good faith filings ineligible, especially when filing for the non-WREGIS generation from these systems individually appears to be no longer allowed using the ITS.

D. General Changes To Eligibility And Certification Requirements

Addition Of New Incremental Hydro Language: SMUD supports the addition of another method for including “incremental hydro” generation and other changes to the hydro language in the Draft RPS Guidebook. SMUD believes that the incremental hydro provisions should be simplified and extended to allow additional applications to include this eligible resource in the RPS program. Hence, SMUD supports the comments of CMUA regarding allowing POU’s full access to the potential methods without explicit FERC applications.

Change To Eligibility Date For Certification Applications: SMUD supports the proposed change to determination of the generation eligibility date associated with an application for certification. Previously, a generating facility that was not pre-certified ran the risk of losing initial months of generation, since certification is not allowed until the start of facility operation, and the eligibility date for beginning to count generation was the certification application date (unless pre-certified). With the proposed change, eligibility can be assured from the start of commercial operation, even if not pre-certified. SMUD agrees with CMUA that pre-certification is still useful for some purposes, but the proposed change should reduce the need for pre-certification.

Withdrawal Of HCO Certification: The *Draft RPS Guidebook* discusses “old certification types” on pages 50 and 51 and states on page 51 that once the CEC: “... has completed its review of the historic carryover for California RPS, the certification for these “Historic Carryover” facilities will be withdrawn for facilities that are no longer generating for current RPS compliance. SMUD agrees that the HCO certification should be and can be withdrawn for those facilities that no longer contributed to RPS generation after 2010. However, SMUD suggests that the CEC clarify that any generator that was used for historic carryover and still has generation being procured under the RPS in 2011 and subsequent years will not have certification withdrawn or will be covered under another type of current certification.

Reporting Requirements For Minor Certification Changes: SMUD appreciates the inclusion of language on pages 48-49 allowing simpler RPS certification amendments for minor information changes, such as a “short” CEC-RPS-1 form with only certain sections filled in, or even simply a letter on utility letterhead for certain very minor changes for facilities that are utility-certified. SMUD believes that the reporting of these kinds of minor contact information and similar data that does not affect the eligibility, generation type or amount, etc. of a facility should be further expanded. SMUD recommends that in addition to utility-certified facilities, non-utility certified facilities should be allowed to make very minor changes without filing a new CEC-RPS-1 form, even if shortened. SMUD suggests that these changes could be made even more informally, for example by e-mail with CEC staff validation. E-mails can be saved and filed by CEC staff to document such minor changes and the staff validation of such. In general, SMUD supports reducing the reporting burden and the formality of reporting

minor changes in order to reduce workload on both the part of stakeholders and CEC staff.

Deadlines For Submissions: SMUD appreciates the clarification of deadlines and submission dates provided on pages 67 and 68 of the *Draft RPS Guidebook*. SMUD suggests one change here that will help to conform reporting requirements between electronic and mailed hardcopy reports. Electronic submissions are allowed up to 11:59 p.m. Pacific time on the due date. This differs from mailed hardcopy submissions, which must be postmarked on or before the due date. Since the CEC generally requires both an electronic and a hardcopy submission before an application is deemed “complete” and filed, these filing deadlines are connected in fact, but do not make complete sense as written. For example, if a hardcopy submittal must be postmarked by the due date, which in almost all cases must be prior to the midnight hour, it seems like the time allowed for electronic submittals up to midnight is potentially unusable. SMUD suggests focusing these deadlines on the electronic submittal – the most useful in terms of entry into the CEC database and usability of the information provided. The CEC should continue to allow up to 11:59 p.m. on the due date for this submittal – this can be tracked without CEC personnel required to actively monitor the submittal. In person submittals and mailed hardcopy submittals should be considered as “follow-up”, signed verifications of the submitted information, and hence should be allowed to be delivered and or postmarked the day following the due date.

Certification Tables (Tables 4 and 6): SMUD believes that further changes may be necessary to the revised tables summarizing certification types and RPS ID suffixes. These are still somewhat confusing.

Station Service: SMUD requests that the CEC clarify in their new definition of station service load that the phrase: “... all energy consumption necessary for the generation of electricity that can be supplied by the facility itself ...” does not include any energy used at the facility that is needed when the facility itself is not generating – such as nighttime lighting load for a solar facility. An expansion of the last sentence in the first paragraph providing examples of what energy use is not station service will suffice to clarify treatment of such loads.

Change To Multi-fuel Calculation: SMUD supports the change to the amount of generation that can be considered renewable for multi-fuel facilities that partially use fossil fuels. Inclusion of a 2% allowance for fossil use for facilities that use at least 90% renewable fuel will facilitate operation of these facilities without undue fear of losing some renewable value, while preserving the concept that only “de minimus” amounts of fossil fuel use should count as renewable.

Flexibility to Un-retire and Retire Additional RECs: SMUD appreciates the clarification of flexibility to both un-retire and to retire additional RECs in WREGIS, consistent with the 36-month REC retirement window (for the RPS) and other REC criteria. SMUD believes that the limits on this flexibility may need to be revised to reflect the time it takes for the CEC to verify a compliance report. RECs that are retired for

compliance but for which the CEC determines should not have been retired, either because they are ineligible or because their retirement would violate a Product Content Category requirement for the retiring LSE should be able to be un-retired and used for another valid purpose, even if the CEC takes longer than one year to verify LSE compliance. Similarly, additional RECs may need to be retired after one year from the compliance report filing if the CEC takes longer than one year to verify compliance and determines that some RECs retired should not have been included.

Thank you again for the opportunity to comment.

/s/

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