

DOCKETED

Docket Number:	16-RPS-01
Project Title:	Developing Guidelines for the 50 Percent Renewables Portfolio Standard
TN #:	210542
Document Title:	Notice of Proposed Change to Renewables Portfolio Standard Guidelines
Description:	Business Meeting, March 9, 2016, to present Notice of proposed Change to Renewables Portfolio Standard Guidelines
Filer:	Judi Carter
Organization:	California Energy Commission
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CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814

Main website: www.energy.ca.gov



In the matter of:) Docket No. 16-RPS-01
)
Developing Guidelines For the) Notice of Business Meeting
50 Percent Renewables Portfolio Standard) RE: RPS Implementation
)

Notice of Proposed Change to Renewables Portfolio Standard Guidelines

The California Energy Commission will conduct a Business Meeting on:

Wednesday, March 9, 2016

10:00 a.m.

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street

1st Floor, Arthur Rosenfeld Hearing Room

Sacramento, California

(Wheelchair Accessible)

Remote Access Available by Computer or Phone via WebEx™
(Instructions below)

As part of the March 9, 2016, Business Meeting, the Energy Commission will consider adopting staff's recommendation to establish a process that would allow the Executive Director to approve requests from local publicly owned electric utilities (POUs) to move surplus retired renewable energy credits (RECs) from a specified compliance period to the next compliance period; and to update the certification appeal process in the *RPS Eligibility Guidebook* to reflect amendments to the Energy Commission's complaint and investigation process in Title 20, California Code of Regulations, section 1230, et seq. The amendments to these regulations took effect on January 1, 2016. Since the certification appeal process references these regulations, it is necessary to update the certification appeal process.

Background

The Energy Commission has adopted guidelines, as currently set forth in the *RPS Eligibility Guidebook, Eighth Edition* to address requirements and processes for using Western Renewable Energy Generation Information System (WREGIS) to verify generation of certified facilities and compliance with the RPS. In addition, the Energy Commission requires POUs to submit their annual RPS reports by July 1 of each year for retirements of RECs made for the previous calendar year. RECs have a shelf life of 36-months from the month of generation and

POUs may request that WREGIS withdraw their previously retired RECs within 12-months of the REC retirement date, consistent with WREGIS Operating Rules.

In addition, the *RPS Eligibility Guidebook* establishes a process for appealing the denial or revocation of an application for RPS certification. This appeal process is specified in section VII.C of the *RPS Eligibility Guidebook*, which requires an appeal to be processed as a "request for investigation pursuant to the Energy Commission's regulations for complaints and investigations, Title 20, California Code of Regulations, section 1230, et seq."

Purpose

POUs may need to withdraw retired RECs beyond the allowed time period under different circumstances. For example, POUs may have mistakenly retired RECs and not discovered the error until after the 12-month deadline to withdraw RECs has passed; or, changes could be made to a POU's retail sales numbers during the verification process that lower its RPS target and result in surplus RECs. In situations like these, POUs may not be able to carry the RECs forward due to statutory restrictions, and the RECs are effectively stranded.

Currently, there is no process, either in WREGIS or the *RPS Eligibility Guidebook*, that would allow a POU to move surplus retired RECs from one compliance period to the next. To address this issue, staff is proposing a process that would allow the Executive Director or his designee to approve a POU's request to move the surplus retired RECs from one compliance period to the next, if certain criteria are met. This process is described in Attachment A.

The revisions to the certification appeal process are being proposed to update this appeal process to be consistent with the recent amendments to Title 20, California Code of Regulations, section 1230, et seq. The proposed revisions are described in Attachment B.

If adopted by the Energy Commission, the process in Attachment A for moving surplus retired RECs and the revisions in Attachment B for the certification appeal process will be incorporated into the next revision of the *RPS Eligibility Guidebook*.

Public Comment

The Energy Commission encourages public comments on the proposed process to allow moving of surplus retired RECs from a specified compliance period to the next, and on the proposed revisions to the certification appeal process.

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 should be submitted to the Energy Commission's e-commenting online system no later than **5:00 p.m. on March 4, 2016**.

1. Go to the Energy Commission's website: <http://www.energy.ca.gov/e-filing/>.
2. Click "Comment on a Proceeding" in the Additional Information box.
3. Type "16-RPS-01" into the Select a Proceeding field then hit Enter.
4. Click "Select" to Select a Proceeding.
5. Click "Continue" to Add a Comment.
6. Commenters are required to input their full name, email address, and comment title. Comment title should be "Jane Doe or Company Name Comment re RPS Implementation".

7. Type comments into the "Comment Text" field or upload a document with comments. Comments should be in a downloadable, searchable format such as Microsoft® Word (.doc or .docx) or Adobe® Acrobat® (.pdf).
8. Enter the CAPTCHA that is used to prevent spamming on the website. Then click on "Agree & Submit your Comment".

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/chief_counsel/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 (for example, 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.

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

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 16-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 Alana Mathews, Public Adviser, at PublicAdviser@energy.ca.gov or (916) 654-4489, or 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 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 or (916) 654-4989.

If you have questions on the subject matter of this agenda item, please contact Lynette Green at Lynette.Green@energy.ca.gov or (916) 653-2728.

Remote Attendance

The Business Meeting is broadcast via WebEx, the Energy Commission's on-line meeting service. To listen to the meeting and view any presentations, please click the following link or paste it into your browser:

<https://energy.webex.com/energy/onstage/g.php?t=a&d=927458175>

You may also go to <https://energy.webex.com/ec> and enter Meeting Number **927 458 175**.
The meeting password is **mtg@10am**.

To participate by telephone, please call toll free 1-888-823-5065 on Business Meeting days after 10:01 a.m. (PDT). The pass code for the meeting is "Business Meeting" and the call leader is Jerome Lee. If you plan to speak about a specific item, please give the operator the item number.



David Hochschild
Lead Commissioner

Date: February 26, 2016

Attachments A and B

Electronic Mail Lists: renewable listserv

ATTACHMENT A

Process for Requesting Surplus Retired RECs Be Withdrawn From a Specified RPS Compliance Period and Used for the Following RPS Compliance Period

1. An authorized representative of a POU may request from the Energy Commission's Executive Director approval to withdraw surplus retired RECs from a specified RPS compliance period and use them for the POU's following RPS compliance period.
2. The POU or WREGIS account holder representing the POU shall be registered and in good standing with WREGIS at the time of the request.
3. The surplus retired RECs in questions shall be "surplus," meaning that they are in excess of what the POU needs to satisfy its RPS procurement target and portfolio balance requirements for the RPS compliance period for which the RECs were retired.
4. The surplus retired RECs in question shall be tracked in WREGIS and retired into the POU's WREGIS retirement account.
5. The surplus retired RECs in question must be retired within the RPS compliance period immediately following the compliance period for which the RECs were surplus. (For example, the RECs were retired in March 2014 to satisfy the POU's RPS requirements for the 2011-2013 compliance period, but were in excess of what the POU needed to satisfy its RPS requirements for the 2011-2013 compliance period.)
6. If the request is approved, the surplus retired RECs in question may be applied only to the POU's RPS compliance period immediately following the compliance period for which the RECs were retired.
7. Surplus retired REC may be used to satisfy a POU's RPS procurement target or portfolio balance requirements for only one RPS compliance period.
8. A POU may make only one request per RPS compliance period to withdraw surplus retired RECs from one compliance period and use them for the following RPS compliance period.
9. A POU request shall be submitted in writing to the Executive Director at the following address:

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

10. A POU request shall include the following information:

- a. The name and address of the POU;
- b. The name and address of the authorized POU representative submitting the request;
- c. The year(s) within the specified RPS compliance period from which the surplus retired RECs will be withdrawn;
- d. The years(s) within the following RPS compliance period where the surplus retired RECs will be used;
- e. The WREGIS Certificate serial numbers of the surplus retired RECs which will be withdrawn from the specified RPS compliance period and used for the following RPS compliance period;
- f. An explanation of the circumstances that gave rise to the request;
- g. The request must provide a description of the financial consequences or other consequences to the POU if the request is denied;
- h. Documentation, if available, to support the information provided in items (b) through (g); and
- i. An attestation by the authorized representative of the POU declaring that the information contained in the request and any supporting documentation is true, correct, and complete to the best of the representative's knowledge.

11. If a request is incomplete, the Executive Director may either request additional information or return the request unprocessed.

12. The Executive Director may approve a POU's request to withdraw surplus retired RECs from one RPS compliance period and use them for the following RPS compliance period, if he or she finds the POU has demonstrated that good cause exists for approving the request. In determining whether good cause exists, the Executive Director may consider, without limitation, whether the POU was diligent in submitting a request upon learning that a mistake was made when retiring RECs, whether the POU's failure to correct the mistake in a timely manner was caused by circumstances beyond its control, and whether the POU will suffer financial consequences or other hardships if the request is denied.

13. The Executive Director shall not approve a POU's request to withdraw surplus retired RECs from one RPS compliance period and use them for the following RPS compliance period under any of the following circumstances:

- a. The request was submitted to the Executive Director after the Energy Commission has adopted the Verification Report for the RPS compliance period in which the surplus retired RECs in question were retired;
 - b. The request, if approved, would allow the POU to use the surplus retired RECs in question to satisfy its RPS procurement target or portfolio balance requirements for multiple RPS compliance periods; or
 - c. The request, if approved, would allow the POU or another party to use the surplus retired RECs in question to satisfy the renewables portfolio standard of another state or provincial government, or to satisfy another regulatory program or renewable energy obligation, or to satisfy a renewable obligation under a voluntary program.
14. The request, if approved, shall not exempt the POU from complying with any eligibility and reporting requirements of the RPS Guidebook.
 15. The request, if approved, shall not exempt the POU from complying with any requirements of the *Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities*, as set forth in the California Code of Regulations, Title 20, section 3200, et seq., including the 36-month retirement restriction for RECs and excess procurement limitation pursuant to sections 3202 (c) and 3206 (a)(1), respectively.
 16. This process applies only to POUs.

ATTACHMENT B

Revisions to Appeal Process in Section VII.C of the RPS Guidebook, Eighth Edition, to Address Amendments to Regulations in CCR, Title 20, Section 1230, et seq.

The revisions that follow to Section VII.C are shown in underline and strikeout font.

C. Reconsideration of RPS Certification

Pursuant to Public Resources Code section 25747, applicants and awardees of RPS certification may appeal the Energy Commission's denial or revocation of RPS certification under the *RPS Guidebook*. Appeals will be considered as provided in this section only upon a showing that factors other than those described in the *RPS Guidebook* were applied by the Energy Commission in denying or revoking RPS certification.

1. Executive Director Reconsideration

An applicant or awardee may petition the Executive Director for reconsideration if his or her application for RPS certification was denied or the RPS certification revoked. The petition for reconsideration shall be in writing and shall be submitted, together with any supporting documentation, to the Office of the Executive Director at the following address within **30 days** of the date of the notice of RPS certification denial or revocation.

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

The petition shall specify the basis for the appeal, state why the petitioner believes the RPS certification denial or revocation is improper given the eligibility criteria for RPS certification, explain any supporting documentation filed with the petition, identify any legal authority or other basis supporting the petitioner's position, and identify the remedy sought.

If the petition for reconsideration is complete, the Executive Director shall direct staff to perform an evaluation of the petition. Within 30 days of receiving a complete petition, the Office of the Executive Director shall provide a written response to the petition that identifies the action the Executive Director intends to take and the basis for that action. This action may include 1) denying the petition based on the lack of merit, lack of

jurisdiction, or insufficient evidence, 2) conducting further investigation, 3) correcting or modifying prior staff action, or 4) taking other appropriate action, including rejecting the petition for being incomplete. issue a decision based on the petition and the written response of Energy Commission staff.

If the Executive Director denies the petition for lack of merit, lack of jurisdiction, or insufficient evidence. If petitioner disagrees with the decision of the Office of the Executive Director, the petitioner may appeal the denial decision to the Energy Commission in accordance with Section VII.C.2: Energy Commission Appeals.

2. Energy Commission Appeals

Within **30 days** of the date of the ~~decision of the Office of the Executive Director's~~ written response denying the petition, the appealing party may file a letter of appeal to the Energy Commission Chair. The letter of appeal shall be submitted to the Energy Commission Chair and processed as an appeal from a request for investigation pursuant to the Energy Commission's regulations in for complaints and investigations, Title 20, California Code of Regulations, section 1232.5-1230, et seq. The letter of appeal shall state the basis for challenging the Executive Director's denial. include the information specified in Title 20, California Code of Regulations, 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 *RPS Guidebook* that the appealing party believes were applied incorrectly in denying or revoking RPS certification. Energy Commission staff shall be designated the respondent in the letter of appeal.

In addition, ~~to the information required by Title 20, California Code of Regulations, section 1231,~~ the letter of appeal shall include a copy of the petition for reconsideration, ~~and all supporting documentation submitted with the petition,~~ and a copy of the Executive Director's written response. written decision of the Office of the Executive Director.

Within 45 days of the filing of a complete letter of appeal, the Energy Commission Chair shall issue a written order sustaining the Executive Director's denial, modifying it, overturning it, or referring the matter to an Energy Commission committee or the full Energy Commission for further evaluation.

An applicant or awardee seeking to file a petition for reconsideration or appeal pursuant to this section may contact the Public Adviser's Office for information on the filing process. The contact information for the Public Adviser's Office is:

California Energy Commission
Public Adviser's Office
1516 9th Street, MS-12
Sacramento, CA 95814-5512
e-mail: PublicAdviser@energy.ca.gov