

BEFORE THE CALIFORNIA ENERGY COMMISSION

California Energy Commission

DOCKETED

11-RPS-01

TN # 74538

FEB 17 2015

**In the matter of:
Developing Regulations and Guidelines
for the 33 Percent Renewables Portfolio
Standard**

Docket No. 11-RPS-01

**RE: Guideline Revisions for RPS
Implementation**

**NORTHERN CALIFORNIA POWER AGENCY COMMENTS ON
STAFF DRAFT RENEWABLES PORTFOLIO STANDARD
ELIGIBILITY GUIDEBOOK, EIGHTH EDITION**

The Northern California Power Agency (NCPA)¹ provides these comments on the *Staff Draft Renewables Portfolio Standard Eligibility Guidebook, Eighth Edition* (Draft Revisions), released for comments on January 16, 2015. The Draft Revisions reflect significant changes to the overall format of the RPS Eligibility Guidebook, as well as several substantive modifications to the current version. The RPS program is an important tool in California's efforts to reduce greenhouse gas emissions and improve air quality across the state. As noted in recent statements by Governor Brown and reflected in the proposed scope of the 2015 Integrated Energy Policy Report, how the state views and utilizes renewable energy resources will be developing and changing in the coming years. As such, it is imperative that the RPS Eligibility Guidebook provide clarity to market participants regarding the use of renewable resources for the RPS program, and also ensure that the RPS program maximizes the utilization of all eligible resources to the greatest extent possible.²

NCPA appreciates staff's recognition of key elements that stakeholders have raised for consideration since the RPS Guidebook scoping workshop last year. The Draft Revisions properly incorporate the following changes into the RPS Eligibility Guidebook:

- extended use of the interim tracking systems;

¹ NCPA is a not-for-profit Joint Powers Agency, whose members include the cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, as well as the Bay Area Rapid Transit District, Port of Oakland, and the Truckee Donner Public Utility District, and whose Associate Member is the Plumas-Sierra Rural Electric Cooperative.

² NCPA supports staff's attempt to revise and streamline the current guidebook format, but does not address all of the changes in the Draft Revisions proposed by Staff. For the final guidebook revisions, NCPA urges the Commission to include a detailed explanation of the proposed revisions, including the rationale for the revisions in order to help stakeholders better understand the basis for the proposed changes.

- a process for requesting the creation of retroactive renewable energy credits (RECs);
- extensions of certification application deadlines;
- recognition of the postmarked date for timely submission of compliance filings; and
- recognition of an earlier eligibility date under certain conditions.

In addition to these changes, the Eighth Edition of the RPS Eligibility Guidebook should also include the following modifications:

- clarification of the provisions relevant to inspection of facilities;
- clarification regarding the circumstances and REC eligibility relevant to revocation of RPS certification;
- inclusion of provisions clarifying the eligibility of RECs generated during the pendency of an extended certification deadline;
- clarification regarding which compliance filings and document submissions may be submitted only via electronic mail; and
- recognition of the importance of utilizing energy storage for RPS purposes.

Additionally, prior to finalizing any revisions to the RPS Forms, stakeholders should have an opportunity to review the forms in a format that allows for testing the functionality. Each of these issues is addressed in greater detail below.

COMMENTS ON PROPOSED AND NECESSARY REVISIONS

Use of the Interim Tracking System through December 31, 2013 – Section III.A.1.b:

The Draft Revisions properly include provisions allowing for the Extension of Deadline for POU's to Use the Interim Tracking System, approved by the Commission in 2014. Inclusion of the provisions of Section III.A.1.b allows publicly-owned utilities (POUs) to count the generation procurement from the otherwise RPS-eligible facility, but for which WREGIS certificates were not timely created, towards their RPS obligation and avoid significant financial losses that would result should they have been precluded from using this premium resource to meet their RPS compliance obligation. NCPA appreciates the Commission's responsiveness to the concerns raised by stakeholders regarding the extended use of ITS, and inclusion of this provision in the RPS Guidebook.

Requests for Creation of Retroactive RECs – Section III.A.1.a: The RPS Guidebook should properly include the recently adopted provision that establishes a process by which facility representatives can request the creation of retroactive RECs through WREGIS. This provision is critically important to ensuring that RECs are not "lost" for purposes of California's RPS program. In addition to including this provision in the RPS Guidebook, NCPA recommends that the provisions be modified to: (1) include a list of the evaluation criteria that

will be used by the Executive Director in reviewing a request, and the reasons why a request may not be approved, and (2) refine the audit provisions to exclude the multiple verifications required in the audit report, and rather verify only that WREGIS has not already issued or retired a REC for the generation at issue. Minor modifications to the proposed process that address the criteria upon which a request can be denied, streamline the required audit, and include stated review timelines and deadlines for submission of additional information, if necessary, will enhance the efficacy of this provision for both stakeholders and the Commission.

Extension of Certification Application Deadline – Section VII.D.2: The Draft Revisions incorporate the April 2014 Resolution creating a process to extend and waive application deadlines for RPS certification based on certain criteria. NCPA supports inclusion of this process in the RPS Guidebook, as it is necessary to ensure that all of the state’s RPS eligible facilities are properly included in the program, and further ensure that facility operators, owners, or those with procurement contracts are not adversely impacted by circumstances beyond their control. However, in order to provide clarity and avoid confusion, the process should be revised to address the treatment of renewable energy that is generated during the period between the original deadline for certification and the time in which the waiver and extension is granted. To the extent that the failure to have the facility timely certified results in the generation of renewable energy for which a REC could not be created, the process to extend and waive the deadline should explicitly address how a REC will be created, and how such energy is to be counted toward RPS compliance. This should also include clarification regarding the proper compliance period for which such energy would be counted. Providing this clarification in the process itself is critical to afford facility operators (and those purchasing renewable energy from the impacted facilities) with certainty regarding extension of the certification deadline.

Deadlines and Use of Postmarked Date – Section VII.A.5: NCPA appreciates that the Draft Revisions recognize timely receipt of compliance filings based on the postmark on the document, rather than receipt of a hard-copy at the Commission’s offices. This change provides compliance entities – some of which are hundreds of miles from the Commission’s Sacramento headquarters – the full amount of time to submit required filings. In addition, NCPA urges staff to review the myriad documents that are required for reporting purposes, and clarify which documents may be submitted only electronically, and clearly indicate the job title of the person designated to receive the filings. These clarifications would streamline the reporting process and avoiding the submission of unnecessary and duplicative documents.

Proper Notice for Inspection of Facilities – Section VII.B.1: A new provision in the audit section would authorize the Commission to “conduct facility inspections to verify compliance with the RPS requirements.” While the existing provisions already contemplate “on-site inspection and audit” of business records, it is important to note that facility inspections are distinctly different from a document review. To the extent that there are aspects of the physical generating facility that CEC staff must inspect to verify compliance with the RPS rules, such

inspections must be done only with adequate notice to the facility operators to ensure that they may be conducted in a safe manner, and without unduly interfering with the operation of the facility. The Draft Revisions should include provisions regarding a minimum of two weeks' notice before such an inspection will be conducted, and NCPA welcomes the opportunity to work with staff on crafting language that addresses the concerns of both sides.

Facility Eligibility Date – Section IV.A.2.a: The Draft Revisions include a provision that calculates the eligibility date based on certain conditions other than the date the application is submitted to or approved by the Commission. This revision allows entities to maximize the amount of generation eligible for the RPS program, and should be incorporated into the Eighth Edition.

Revocation of RPS Certification – Section VII.D.1: Provisions regarding revocation of RPS certifications have been reordered in the Draft Revisions, but do not appear to made substantive revisions to the provision. However, in order to improve the clarity of this provision, and avoid instances where the regulatory interpretations may differ over time, an additional provision should be added to Section VII.D.1 that clarifies the instances under which the CEC may review a facilities' existing RPS certification. Facility owners and load serving entities contracting for RPS eligible resources must have certainty regarding the viability of the RECs they are purchasing. Renewable energy facilities that are already certified should be required to meet the standards under which they are certified for the life of the plant. After-the-fact changes in the law or RPS implementation protocols should not adversely impact these facilities, nor trigger a potential revocation of certification. Accordingly, the RPS Guidebook should explicitly note that revocation of RPS certification may only occur when there has been a: (1) a substantial change to the facility that directly impacts the renewable resource, (2) a change in the law governing RPS eligibility that the legislature explicitly applies retroactively, or (3) a determination that there was false and inaccurate claims in the original application for certification. In the event of any of these circumstances, the Executive Director can take the appropriate steps to review and revoke a facility's RPS certification if warranted. In the event that a facility's RPS certification is revoked, such revocation should not impact the RECs generated prior to the revocation. For clarity, the Guidebook should explicitly note that revocation of certification will render future generation ineligible for the RPS program, unless and until the facility is recertified. However, any such revocation will not retroactively invalidate RECs created prior to the date of revocation.

Energy Storage – Section III.F: The Seventh Edition of the RPS Eligibility Guidebook "recognizes the importance of storage technologies for renewable energy resources and recognizes that there are many different storage technologies and methods to store both renewable and nonrenewable energy."³ The Draft Revisions would strike this reference, and

³ RPS Guidebook, 7th Edition, p. 3.

revise the energy storage discussion to include just two types of energy storage devices that may be considered “additions or enhancements” to facilities for RPS purposes. It is undisputed that energy storage provides myriad benefits to the electric grid. However, those ancillary benefits should not preclude the Commission’s full consideration of the renewable energy attributes and benefits that can be achieved by the use of energy storage devices. NCPA urges the Commission to continue to explore more extensive ways to recognize energy storage technologies as RPS-eligible resources. Expanding the application of energy storage technologies in this manner will further accelerate the development of energy storage technologies that go beyond providing just GHG and grid management benefits. It will also be an important tool to help the state expand its renewable energy procurements targets, help to increase the implementation of RPS-energy, and reduce the costs of some resources.

RPS Forms: In addition to the proposed changes to the Guidebook, Staff has proposed several changes to the RPS reporting forms. While the changes appear to be primarily ministerial, because the draft forms are in a format that does not allow stakeholders to test the functionality of the various cells and formulas, it is not possible to determine with certainty that there are no substantive changes that would impact the operation of the forms. Accordingly, NCPA is supportive of a Staff-led webinar that would allow stakeholders an opportunity to work with an excel version of the forms, and discuss with staff all proposed changes, including the rationale behind the recommended revision.

CONCLUSION

NCPA appreciates the opportunity to provide these comments to the CEC, and looks forward to working with staff on crafting changes to the Eighth Edition of the RPS Eligibility Guidebook. Please do not hesitate to contact the undersigned or Scott Tomashefsky at 916-781-4291 or scott.tomashefsky@ncpa.com with any questions.

Dated this 17th day of February, 2015.

Respectfully submitted,



C. Susie Berlin, Esq.
LAW OFFICES OF SUSIE BERLIN
1346 The Alameda, Suite 7, #141
San Jose, CA 95126
Phone: 408-778-8478
E-mail: berlin@susieberlinlaw.com

Attorneys for the:
Northern California Power Agency