

California Municipal Utilities Association

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December 12, 2012

California Energy Commission
Dockets Office, MS-4
1516 Ninth Street
Sacramento, CA 95814-5512

Re: CMUA Comments on the Working Group Meeting on RPS Reporting and Verification

The California Municipal Utilities Association (CMUA) would like to thank the California Energy Commission (CEC) for the opportunity to provide comments on the Joint California Public Utilities Commission (CPUC)/CEC Staff Working Group Meeting on Renewable Portfolio Standard (RPS) Reporting and Verification (working group meeting), held on November 30, 2012.

An overarching concern in regard to the CEC RPS Reporting & Verification process is the potential cost of compliance that may be placed on the end-use consumers of publicly owned utilities (POUs). This cost of compliance includes both administrative burdens and the potential for payments for renewable energy in excess of those required for compliance with the RPS as set out in SBX1-2. Furthermore, the regulatory uncertainty and costs associated with the reporting and verification process impose significant burdens on POU's, and ultimately their customers. The RPS Reporting and Verification discussion should be tied to the RPS Enforcement Rule development process, as the potential cost associated with this added administrative burden must be assessed in the RPS Enforcement Regulation Staff Report. Also, any added definition/clarity suggested below by CMUA needs to be formally addressed in the draft RPS Enforcement Rule.

I. COMMENTS ON THE WORKING GROUP MEETING

A. Retirement of RECs

CMUA believes that the definitions and interpretations regarding the "retirement" of renewable energy credits (RECs) should be more fully discussed and refined. During the working group meeting, the participants discussed the process, timing, and options involved in designating a REC for compliance in a particular compliance period. This issue is significant because utilities make procurement decisions based on the assumption that the procurement will be available to be counted in a specific compliance period. If these assumptions are incorrect, it could result in inadvertent under- or over-procurement of RPS-eligible energy. The CEC should very clearly state its interpretation of the process for assigning RECs to a particular compliance period. Because of the significance and complexity of this issue, it would be beneficial to hold

further discussions on this topic to develop complete clarity in advance of any further revisions in the written regulations.

SBX1-2 sets up three distinct dates relevant to the designation of a REC for RPS compliance: (1) the initial date of generation of the energy associated with the REC; (2) the date on which the REC is retired in WREGIS; and (3) the compliance period toward which the REC is credited for compliance. SBX1-2 does not require that the date on which a REC is retired must also define the compliance period in which the REC will be credited. Instead, the utility may credit the retired REC for compliance in an earlier or later compliance period, subject to certain restrictions.

For example, if a REC is generated in October, November or December of 2013 and a POU retires that REC on April 1, 2014, under SB1X-2, that POU could credit that REC for compliance in the first compliance period or hold that REC for RPS compliance in a future compliance period. In such a case, that REC would have been “procured” in the first compliance period and “retired” within 36 months, as required by Public Utilities Code section 399.26(a)(6).¹ This approach is consistent with the functioning of the current WREGIS system, which typically does not generate a WREGIS certificate until at least 90 days after the month of generation of the energy associated with the REC. All renewable energy generated in 2013 will show an associated REC vintage date of 2013, and should be able to count toward compliance in compliance period 1. If the CEC staff interprets SBX1-2 to prohibit the crediting of any RECs generated in late 2013 toward compliance period 1, simply because those RECs will not be registered in or retired from WREGIS until 2014, then staff has effectively changed the definition of compliance period 1, by eliminating the last three or four months of calendar year 2013. Furthermore, many POUs are on a two-month billing cycle and will not be certain of their 2013 annual loads until March or April of 2014. Utilities should be permitted to make good faith efforts to procure sufficient RECs during 2013 for compliance period 1, based on known and projected retail loads and the performance of contracted-for renewable resources, and then use the first three months of 2014 to “true-up” their renewable portfolios for compliance period 1.

B. Hourly Scheduling

CMUA remains very concerned with the CEC staff’s proposal to require hourly tracking of a portfolio content category (PCC) 1 resource that is scheduled into a California Balancing Authority Area (CBAA) without substituting electricity from another source. Such a requirement is not mandated by the statute, would be unreasonably burdensome to administer, and would impose unnecessary costs on California consumers.

1. Hourly Tracking is Not Mandated by SBX1-2

Section 399.16(b)(1)(A) describes the requirements for this subcategory of PCC1:

are scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another

¹ Unless otherwise noted, all code references are to the California Public Utilities Code.

source. The use of another source to provide real-time ancillary services required to maintain an hourly or subhourly import schedule into a California balancing authority shall be permitted, but only the fraction of the schedule actually generated by the eligible renewable energy resource shall count toward this portfolio content category.

This statutory provision permits a resource that is located outside of a CBAA to qualify for PCC1 if that resource is scheduled into a CBAA. Unlike a PCC2 resource, which relies on energy from a substitute source, this PCC1 resource cannot use substitute energy. Despite this limitation on substitute energy, the statute does permit ancillary services to be provided by another source, although the ancillary services are not counted as RPS eligible. Accordingly, SBX1-2 creates two essential limitations: (1) no use of substitute energy; and (2) generation associated with ancillary services will not qualify as RPS-eligible. Neither of these limitations requires hourly tracking of schedules. In fact, SBX1-2 does not mandate that a utility track and compare metered generation in each individual hour against the schedule and then re-categorize any metered generation exceeding the hourly schedule into PCC2 or PCC3, and the verification process should not require it either. Because it is not clear that such metered generation in excess of an hourly schedule would qualify for PCC2, it is highly likely that such “excess generation” would fall into PCC3, unnecessarily increasing costs to consumers in California.

2. Hourly Tracking is Unreasonably Burdensome

The CEC staff’s current proposal to require POUs to track each hour of generation would impose a severe administrative burden on this subcategory of PCC1 electricity products because existing software for tracking transactions, both at the utilities and in WREGIS, is not set up for this level of specificity. This burden is not required by statute. Further, it is a burden far in excess of the requirements of any other subcategory of PCC1 procurement, and is a burden that outweighs any potential benefits. CMUA recommends that CEC staff continue to discuss these matters with CMUA’s individual members so that these burdens are fully understood.

C. Portfolio Content Category Checklist

At the working group meeting, Iberdrola Renewables proposed that the CEC formally adopt a checklist for each PCC (or subcategory) that would include the essential elements necessary to qualify for that category. CMUA strongly supports the concept of developing such a checklist and agrees with Iberdrola’s proposal that the checklist should be included as an appendix to the RPS Eligibility Guidebook. While an upfront showing of consistency with the checklist requirements would not function as an absolute guarantee of a particular PCC designation, such a showing should provide strong evidence of compliance, absent some extraordinary deviation from the requirements. As described in Iberdrola’s presentation, such assurances could provide additional certainty to the markets. CEC and CMUA staff should work with other interested parties to immediately begin developing these checklists.

D. Required WREGIS Subaccounts

CMUA urges the CEC and CPUC to reconsider the creation of numerous WREGIS subaccounts. CEC staff previously proposed requiring utilities to retire RECs into four separate WREGIS subaccounts. At the working group meeting, CEC staff expanded this proposal to eight WREGIS subaccounts. Under this proposal, the PCC1 subaccount would be broken into three separate accounts and two additional accounts would be added: (1) historic carry-over; and (2) RECs that will not be claimed for RPS compliance. CMUA understands that the expanded verification role for CEC staff will present significant new challenges and CMUA supports any efforts to streamline and simplify CEC staff responsibilities. However, CMUA is concerned that the proposal to maintain numerous WREGIS subaccounts may actually lead to greater confusion without any clear benefits. Each new subaccount creates another obligation for utility staff and also more opportunity for simple errors and potentially disputes. During the working group meeting, CEC staff stated that utilities would not be required to correct errors in the designation of a REC for a particular WREGIS subaccount. This means that there will likely be numerous differences between the REC designations actually reported to the CEC and the REC designations in the WREGIS subaccounts, which creates the potential for further confusion and conflicting reports. The proposal to create additional subaccounts should only be adopted if there is a clear benefit that outweighs the risks of confusion with a clear showing of precisely what benefit these additional subaccounts would provide.

E. Power Content Label

CMUA believes that recent legislative changes, including SBX1-2, will require modifications to the Power Content Label (“PCL”). The current PCL can be confusing for customers because the methodology for calculating the PCL is different from the requirements of the RPS, resulting in reports that show two different mixes of renewables, one for RPS reporting and one for the PCL.

The CEC should align and streamline the PCL reporting requirements with the RPS reporting requirements. In the interim, reporting for the RPS should be crafted to include (to the maximum extent possible) the same information that is provided under the PCL and that information should be reported to the CEC in a single document.

F. Static and Contract Information Form

As stated above, CMUA supports the CEC staff’s efforts to streamline and simplify the reporting process. To the extent that certain data is unlikely to change from year to year, it is sensible to report this information upfront and then update the information on an annual basis. CMUA cautions the CEC staff that, given the ongoing regulatory process, any reporting requirements in this form should only reflect the clear requirements of the SBX1-2.

Additionally, it was noted during the working group meeting that the draft form inadvertently excludes biomethane from the dropdown list in the “technology” column. Accordingly, the form should be revised to include this resource in the list of options.

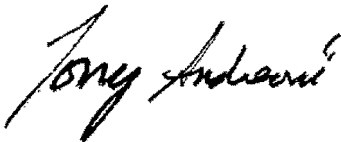
G. RPS Database and Interim Verification Process

CMUA recognizes that the CEC is currently in the process of developing a database for the RPS verification process. In developing this database, the CEC should ensure that the database has sufficient flexibility to accommodate changes in both the interpretation of SBX1-2 and likely future changes to the RPS requirements. As noted in Section A. above, there still appears to be some uncertainty as to how RECs are used and retired, how the Portfolio Content Categories are determined, and other features. The accounting system should not “lock-in” any pre-determined outcome until adopted by the CEC, and should not make future changes in policy prohibitively difficult. However, it is highly likely that this database will not be fully operational and completely debugged for several more years. Until that time, the CEC will rely on an interim verification process. CMUA strongly requests that the CEC consider the administrative burdens that will be involved in compliance with this interim process. In spite of the limited time period that it will be used, the interim process may still present significant costs and challenges for the utilities.

II. CONCLUSION

CMUA appreciates the efforts by the CEC staff in engaging the POUs in this process. CMUA staff and members look forward to additional discussions on our concerns raised in this comment letter. CMUA requests that CEC staff hold a POU meeting/webinar to discuss these issues further.

Sincerely,

A handwritten signature in black ink that reads "Tony Andreoni". The signature is written in a cursive, flowing style.

Tony Andreoni, P.E.
Director of Regulatory Affairs