

STATE OF CALIFORNIA

STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION

WHEREAS, the California Energy Commission is charged with designing and implementing an accounting system to verify compliance with California's Renewables Portfolio Standard (RPS), to ensure that electricity generated by an eligible renewable energy resource is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, and to verify retail product claims in this state or any other state pursuant to Public Utilities Code section 399.25; and

WHEREAS, the California Energy Commission implemented two tracking systems to carry out its responsibilities under Public Utilities Code section 399.25 – the Western Renewable Energy Generation Information System (WREGIS), which was developed in consultation with other western states and provinces to track generation from facilities in the Western Interconnect, and the Interim Tracking System (ITS), which was developed for use on an interim basis while WREGIS was being developed; and

WHEREAS, WREGIS became operational in June 2007 and electronically tracks generation from RPS certified electrical generation facilities by issuing a renewable energy credit (REC), termed a WREGIS Certificate, for each megawatt-hour of renewable generation that is reported to the system; and

WHEREAS, the California Energy Commission has adopted guidelines, as currently set forth in the *Renewables Portfolio Standard Eligibility Guidebook, Eighth Edition* (RPS Guidebook), to address the requirements and processes for certifying electrical generation facilities for the RPS and for using WREGIS and the ITS to track and verify compliance with the RPS; and

WHEREAS, the RPS Guidebook describes how annual REC retirement data submitted to the Energy Commission by load serving entities (LSE), including local publicly owned electric utilities (POUs), will be analyzed, and how procurement claims made by LSEs for each RPS compliance period will be verified; and

WHEREAS, the RPS Guidebook allows LSEs to unretire previously retired RECs consistent with WREGIS Operating Rules and other requirements, including the requirements that RECs be retired within 36 months of the initial date of generation of the associated electricity; and

WHEREAS, WREGIS Operating Rules allow for the withdrawal of RECs from a WREGIS retirement subaccount if the REC was retired within 12 months of the date of the withdrawal request and other criteria are met; and

WHEREAS, the RPS Guidebook does not currently recognize the financial consequences to a POU if it retires and reports surplus RECs to the Energy Commission for the POU's RPS compliance period, but cannot withdraw the surplus RECs from its WREGIS retirement account because the 12-month deadline for doing so under the WREGIS Operating Rules has passed; and

WHEREAS, to address this issue, staff is recommending a process that would allow a POU to request that surplus RECs retired and reported to the Energy Commission for a specified RPS compliance period ("surplus retired RECs") be withdrawn and used for the following RPS compliance period, based on the process and criteria specified in Attachment A; and

WHEREAS, on February 26, 2016, the California Energy Commission issued a public notice in accordance with Public Resources Code section 25747 that identified and discussed staff's recommended process and criteria in Attachment A, and offered stakeholders and interested member of the public an opportunity to comment on the recommended process and criteria; and

WHEREAS, the California Energy Commission's legal office has considered the application of the California Environmental Quality Act (CEQA) to the adoption of staff's recommended process and criteria in Attachment A and concluded that the adoption of this process and criteria is exempt from CEQA, because it is not a "project" subject to CEQA pursuant to Title 14, California Code of Regulations, section 15378 (b)(2), in that it deals with the continuation of administrative and maintenance activities related to general policy and procedure making, and because the action is exempt under the "common sense" exception of Title 14, California Code of Regulations, section 15061 (b)(3), where it can be seen with certainty that there is no possibility the action may have a significant effect on the environment; and

WHEREAS, the California Energy Commission has considered staff's recommended process and criteria in Attachment A for allowing a POU to request approval to withdraw surplus retired RECs from one RPS compliance period and use them for the

POU's following RPS compliance period, and finds that the adoption of the recommended process and criteria in Attachment A is exempt from CEQA for the reasons concluded by legal counsel, and accepts and approves the recommended process and criteria for purpose of implementing the RPS; and

THEREFORE BE IT RESOLVED, the California Energy Commission hereby adopts staff's recommended criteria and process for allowing a POU to request approval to withdraw surplus retired RECs from one RPS compliance period and use them for the POU's following RPS compliance period.

The Executive Director, or his or her designee, is hereby authorized and directed to implement the adopted process and criteria specified in Attachment A.

CERTIFICATION

The undersigned Secretariat to the California Energy Commission does hereby certify that the foregoing is a full, true, and correct copy of a RESOLUTION duly and regularly adopted at a meeting of the California Energy Commission held on March 9, 2016.

AYE:

NAY:

ABSENT:

ABSTAIN:

Tiffani Winter,
Secretariat

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 questions 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.