

**Comments to the  
California Energy Commission**

**In the Matter of:  
Consideration of Adoption of Guidebooks on Renewable  
Portfolio Standard Implementation**

Docket No. 03-RPS-1078  
RPS Proceeding  
And  
Docket No. 02-REN-1038  
Renewable Energy Program

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Introduction

PPM Energy, Inc. (PPM) respectfully submits the following comments to the [Renewable Portfolio Standard Eligibility Guidebook](#), Publication Number 500-04-002FD (the "manual"). These comments are submitted pursuant to the Notice to Consider Adoption of Guidebooks on Renewable Portfolio Standard Implementation.

PPM's Comments

It appears from later text in the manual that there was an intent to insert a numeral 1 before the words "The facility" at the bottom of page 16. This should be added.

Item 2 on page 17 seeks to add several requirements that are not set forth in state statute. Public Utilities Code 399.16 provides:

"The commission may consider an electric generating facility that is located outside the state to be an eligible renewable energy resource if it meets the criteria described in Section 399.12 [Section 399.12 is set forth in Appendix A to these comments.] and all of the following requirements:

(a) It is located so that it is, or will be, connected to the Western Electricity Coordinating Council (WECC) transmission system.

(b) It is developed with guaranteed contracts to sell its generation, and demonstrates delivery of energy, to a retail seller or the Independent System Operator.

(c) It participates in the accounting system to verify compliance with the renewables portfolio standard by retail sellers, once established by the State Energy Resources Conservation and Development Commission pursuant to subdivision (b) of Section 399.13.”

The items set forth in 2.c. and 2.d. on page 17, are not provided as requirements under the statute, and so PPM believes they should be deleted from the manual. These requirements may be absent from the statute because, while California's environmental laws, though highly desirable, are not within the power of California to enforce in the territory of other states and nations. These provisions give rise to commerce and full faith and credit clause issues, among others under the U.S. Constitution.

The item set forth in 2.g. on page 17 is not provided as a requirement under the statute, and PPM also believes it should be deleted from the manual. The language is so vague that it may provide enough regulatory risk to make financing a California Renewable Portfolio Standard (RPS) eligible project difficult to impossible.

Questions the language in 2.g. open include:

“Does the California Energy Commission (CEC) seek the authority to set a requirement in the future that will disqualify an out-of-state facility that had previously qualified?” And, “Would this broad, possibly retroactive power include the right to set as a "condition" being located within California?”

Affording this power to the CEC could constitute a taking giving rise to commerce clause issues under the U.S. Constitution.”

The paragraph following item 2.g. reads:

"All generators must deliver their power to an in-state market hub (also referred to as “zone”) or in-state substation (also referred to as “node) located within the CA ISO control area of the WECC transmission system. The specific in-state delivery location will be designated by the contracting IOU under the power purchase agreement between the IOU and renewable supplier."

PPM believes this paragraph should be deleted. This requirement is not set forth in the statute and could inhibit the delivery of cost effective renewables into the state. California is not an electrically isolated island. The power needs to be

delivered to the purchasing utility, but the purchasing utilities have the ability (physically and contractually) to receive energy at many locations, in and out of the state of California. Utilities only need to receive the energy on the electrical system where it is convenient for the parties; the manual should not require that the parties surrender this contractual flexibility to a requirement to deliver power in California.

The flexibility provided for in the language of statute allows developers, utilities, and the California ISO to create products that work for the electric system. However, section 2.g. may add congestion to the California grid. An example of the problem in the wording of this section includes: COB is a major California market hub, but is physically located a few miles across the California border in Oregon. Section 2.g. would not allow renewable energy delivered to this major California market hub to be eligible for the RPS. See Appendix B for names and locations of major California market hubs.

The same considerations apply to item 3.b. on page 17. The only requirement should be to deliver to the IOUs, at a point to which the utility or ISO agrees.

On page 18, "in the CA ISO control area" should be deleted from item 1. Power can be delivered to the ISO or the IOU at substations or hubs outside the CA ISO control area.

### PPM's Conclusions

PPM appreciates the CEC's desire to assure that renewable energy used to meet the California RPS should make a positive electrical and environmental contribution to the state's generation mix. However, we fear that the current draft eligibility standards will make renewable energy more expensive and more difficult to integrate into the California energy system.

PPM Energy asks the CEC to accept our proposed changes and allow the California ISO, utilities, and developers the flexibility to integrate renewable energy using the numerous existing transmission paths, market hubs, and delivery rights the energy system uses daily to deliver energy into California markets.

## Appendix A

399.12. For purposes of this article, the following terms have the following meanings:

(a) "Eligible renewable energy resource" means an electric generating facility that is one of the following:

(1) The facility meets the definition of "in-state renewable electricity generation technology" in Section 383.5.

(2) A geothermal generation facility originally commencing operation prior to September 26, 1996, shall be eligible for purposes of adjusting a retail seller's baseline quantity of eligible renewable energy resources except for output certified as incremental geothermal production by the Energy Commission, provided that the incremental output was not sold to an electrical corporation under contract entered into prior to September 26, 1996. For each facility seeking certification, the Energy Commission shall determine historical production trends and establish criteria for measuring incremental geothermal production that recognizes the declining output of existing steamfields and the contribution of capital investments in the facility or wellfield.

(3) The output of a small hydroelectric generation facility of 30 megawatts or less procured or owned by an electrical corporation as of the date of enactment of this article shall be eligible only for purposes of establishing the baseline of an electrical corporation pursuant to paragraph (3) of subdivision (a) of Section 399.15. A new hydroelectric facility is not an eligible renewable energy resource if it will require a new or increased appropriation or diversion of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code.

(4) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Stanislaus County and was operational prior to September 26, 1996. Output from such facilities shall be eligible only for the purpose of adjusting a retail seller's baseline quantity of eligible renewable energy resources.

(b) "Retail seller" means an entity engaged in the retail sale of electricity to end-use customers, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3 subject to the following conditions:

(A) An electric service provider shall be considered a retail seller under this article for sales to any customer acquiring service after January 1, 2003.

(B) An electric service provider shall be considered a retail seller under this article for sales to all its customers beginning on the earlier of January 1, 2006, or the date on which a contract between an electric service provider and a retail

customer expires. Nothing on this subdivision may require an electric service provider to disclose the terms of the contract to the commission.

(C) The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) "Retail seller" does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing power consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(C) A local publicly owned electrical utility as defined in subdivision (d) of Section 9604.

(c) "Renewables portfolio standard" means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure pursuant to Sections 399.13 and 399.15.

## Appendix B

