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Re: Renewables Portfolio Standard Eligibility Guidebook Revisions
Docket No. 05-RPS-1078
Docket No. 03-RPS-1078
Docket No. 02-RPS-1038

Dear Commissioners,

Bottle Rock Power Corporation ("BRPC") hereby submits comments regarding CEC Staff's proposed changes to the Renewables Portfolio Standard Eligibility Guidebook ("RPS Guidebook"), as outlined in the notice released in November 2005 and discussed at the Committee Workshop on December 7, 2005.

BRPC appreciates the California Energy Commission("CEC") Staff's hard work and dedication toward implementing the California Renewables Portfolio Standard Program ("RPS Program") created by Senate Bill 1078 in 2002 and the Renewable Energy Resources Program created by SB 183 in 2003 ("SEPs Program"). Renewable Energy is an important component of a reliable and affordable electricity supply in California. The RPS Program and SEPs Program reflect important, new legislation that will continue to advance renewable energy in California. CEC Staff's efforts and work to sort through the labyrinth of programs and often confusing and overlapping terms and requirements is very commendable. BRPC does not wish any of its comments and recommendations to suggest that is does not truly appreciate the fine work of the CEC Staff.

Introduction

Bottle Rock Power Corporation owns and is re-powering a shut-down geothermal power plant located in the Known Geothermal Resource region in Northern California, the Bottle Rock Power Plant ("BRPP"). As a prospective geothermal source of renewable energy, the application of the RPS Program and the SEPs program to BRPP is of particular importance. Unfortunately, BRPP does not conveniently fit into one of the three categories provided in the RPS Guidebook for geothermal facilities. BRPC recognizes that BRPP's circumstances are very unique and is working with CEC Staff to identify a way to meet the objectives and provisions of the RPS program within the confines of the RPS Guidebook. BRPC anticipates that it and the CEC Staff will find a means of certifying BRPP under the RPS Program.

The Bottle Rock Power Plant project is very unique because:

a) It is a geothermal plant, a category receiving special treatment in numerous places in the renewable energy statutes;
b) It is currently shutdown and not operational; and
c) It has never sold power to any customer. All of its power production was used by its owner, the Department of Water and Power for its own loads in the California Water Project.

Simply put, BRPC is re-starting and re-powering a geothermal facility that was shut down and never sold power to a single customer.

There are several ways that these very unique characteristics of BRPP conflict with wording and interpretations in the RPS Guidebook to create consequences not intended or provided for by the laws that implemented the RPS Program and SEPs Program. While BRPP will be proceeding with an application for RPS certification using CEC Staff's recommendations, BRPC requests certain changes that will resolve pending issues regarding program eligibility, which likely will not be resolved by BRPC's application. More important, making these changes will allow for proper treatment of BRPP in the RPS Program and SEPs Program.

Definition of Repowered for Geothermal Facilities that are Shutdown

Currently, the RPS Guidebook requires that the "prime generating equipment" be replaced under the "re-powered facilities" section of the guidebook. For geothermal facilities, the RPS Guidebook defines "prime generating equipment" to include the "entire steam generator,

including the turbine rotors, shaft, stationary blades, and any gear assemblies." Eligibility for the RPS Program has no relation to "repowering" under the guiding statute, Public Utilities Code, section 399.12. Being "repowered" is, however, a means of qualifying for funds under SEPs Program. Under Public Resources Code section 25743(c), a repowered facility is eligible for funding as a source of new in-state renewable electricity if the "capital investment to repower the existing facility equals at least 80 percent of the value of the repowered facility."

BRPC will be making a very significant capital investment to repower BRPP. Currently, BRPC anticipates investing approximately $30 Million to achieve an approximate 23 MW capacity. BRPP, however, will not involve a complete change out of the steam turbines rotor, stationary blades, and shaft. Luckily, while having to refurbish and probably repair the rotor, blades and shaft, their change out probably will not be necessary. However, the shutdown status of BRPP requires significant expenditure to bring back the steam wells and refurbish the entire system. Clearly, the repowering of a currently shutdown and not-operational facility should be allowed to be considered "repowered" under Public Resources Code section 25743 if the facility meets the statutory 80% criteria.

Thus, BRPC recommends that the definition of "repowered" for geothermal facilities in the guidebook be modified to allow a geothermal facility that is currently shutdown and not operational to be considered "repowered" solely using the 80% criteria as provided in the statute.

Incremental Geothermal Production

Because RPS Program eligibility includes a category of "incremental geothermal," there is confusion over the difference between a "re-powered" geothermal facility and a geothermal facility that was completely shutdown and is re-powered to become operational again. The key to understanding that difference is to recognize that the "incremental geothermal" category applies only to RPS Program eligibility under Public Utilities Code section 399.12 and not to the eligibility of a re-powered facility to qualify for Supplemental Energy Payments under Public Resources Code section 25743.

BRPC finds that the paragraph on page 12 of the RPS Guidebook describing the "Incremental Geothermal" category is generally accurate if it is interpreted to mean that a facility could be both "incremental geothermal" under Public Utilities Code section 399.12 and "repowered" under Public Resources Code section 25743, depending on the independent application of each of those statutes to the facility.

Eligibility of Re-powered, Fully Shutdown Geothermal Facilities under RPS and SEPs Programs

Public Resources Code section 25743 ("Section 25743") provides criteria for Supplemental Energy Payments ("SEPs") eligibility. Section 25743(c) provides certain "re-powered" facilities the right to qualify for SEPs. The eligibility for a completely different program, the RPS Program, is provided for in Public Utilities Code section 399.12 ("Section 399.12"). For geothermal facilities, Section 399.12 allows a geothermal facility that originally commenced "operation" prior to September 26, 1996 to be eligible to adjust the baseline quantity of renewable electricity. The geothermal baseline eligibility provision in Section 399.12 has a key additional requirement that considers whether the power was ever sold to an "electrical corporation." This extra provision, while facially applying to the question of incremental geothermal power, makes clear that the legislature was differentiating between power previously sold commercially and power never sold before. In the case of BRPP, this is the final fact that makes BRPP very unique, since it never sold power.

CEC Staff has indicated that it will accept BRPC as a "baseline" facility. To do so, BRPC must check the box indicating that BRPC commenced "commercial operations" prior to September 26, 1996. While that will resolve issues that BRPC has had relative to understanding how it is to become certified under the RPS Program, that path may lead to issues regarding how to qualify BRPP as "re-powered" for SEPs eligibility since it will have been placed in a category at odds with the "repowered definition of the SEPs program. This problem is driven in part by the mixing together of the two programs in one application, a step that perhaps is administratively necessary. Clearly, however, BRPP is not only capable of qualifying for RPS, but should be capable of attempting to qualify for SEPs as well. BRPP should not be prevented from consideration for all programs to which it is statutorily entitled. This problem possibly is best resolved by recognizing BRPP as a new facility under the RPS Program. Alternatively, BRPP could expressly be recognized as "existing" for RPS but "re-powered" for SEPs. This latter option, however, seems inconsistent and thus, BRPC requests that the RPS Guidebook be modified to recognize certain geothermal repowerings in a way that meets the requirements of Section 399.12.

BRPC recommends that the re-start of a fully, shut-down geothermal facility that never sold power at any time be classified as a "new" facility that commences operation when it is started up again and sells power for the first time. Such an interpretation is consistent with both Section 399.12 and Section 25743. Then, BRPP would constitute a facility that commences commercial operation after January 1, 2002. It would properly be eligible for RPS under Section 399.12; and

it would be eligible for SEPs under Section 25743, assuming it meets the requirements under that section.

This change could be accomplished by making a note in box 11 on page 4 of the CEC- RPS -1 form, which reads:

> "Re-started, re-powered geothermal facilities that were fully shutdown and never sold their power to an "Electrical Corporation" as that term is defined in Public Utilities Code Section 218, shall treat the date of commencing commercial operations as the date the facility commences commercial operation following the re-start."

Conforming statements should also be added to pages 11 and 12 of the RPS Guidebook.

Conclusion

Bottle Rock Power Corporation respectfully requests the CEC Staff and Renewables Committee to consider adjusting the definition of repowered geothermal facilities and adding language regarding the date of commencement of commercial operations for the re-starting and re-powering of shutdown geothermal facilities. Making these changes is in keeping with the intent and provisions of the renewable energy programs and is merited to avoid unjust disqualification of Bottle Rock Power Plant from the programs.

Very truly yours,

John A. McKinsey

JAM/mws