WATER RECLAMATION
SOLID WASTE MANAGEMENT

# COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

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California Energy Commission
Dockets Office, MS-4
Re: Docket No. 11-RPS-01
1516 Ninth Street
Sacramento, CA 95814-5512

Dear Commissioners:

**Comments of the County Sanitation Districts of Los Angeles County on the 33 Percent Renewables Portfolio Standard Pre-Rulemaking Draft Regulations**
**Renewables Portfolio Standard, Docket Number 11-RPS-01**

The California Energy Commission issued the *33 Percent Renewables Portfolio Standard Pre-rulemaking Draft Regulations* (Draft Regulations) in February 2012. These Draft Regulations address the legislative requirements of SB X1-2, which increased California's Renewables Portfolio Standard (RPS) goal to 33 percent by 2020 and expanded the RPS requirements to include publicly owned electric utilities (POUs) as well a retail sellers. The County Sanitation Districts of Los Angeles County (Sanitation Districts) respectfully submit the following comments in response to the Draft Regulations.

The primary recommendation of the Sanitation Districts is that the criteria for Portfolio Content Category One (Category 1) not include a requirement that the renewable electricity product be procured as bundled. This recommendation is consistent with the language of SB X1-2 and the intent of the legislation.

## I. DESCRIPTION OF THE SANITATION DISTRICTS

The Sanitation Districts are an organization of 23 independent special districts that provide wastewater treatment and solid waste management for 5.4 million residents of Los Angeles County. The Sanitation Districts treat approximately 460 million gallons per day of wastewater at 11 wastewater treatment plants and accept 9,000 tons per day of solid waste at three active landfills. These facilities, along with three closed landfills, produce biogas as a natural byproduct of the wastewater treatment and solid waste management processes. This biogas is captured and used to produce electricity. Currently, the Sanitation Districts produce 80 MW of RPS-eligible electricity from biogas at five power plants. Of this amount, 57 MW are sold under contract to Southern California Edison and Noble Americas Energy Solutions, and 23 MW are consumed onsite at the Sanitation Districts' facilities. The generation facilities that provide power for onsite consumption are CEC certified as RPS eligible and are registered in WREGIS. In addition, three wastewater treatment plants that do not currently produce electricity have the potential to produce an additional one to two MW for use onsite.



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## II. COMMENTS

### A. Proposed Portfolio Content Category Criteria

#### 1. Portfolio Content Category 3

Proposed Section 3203 of the Draft Regulations establishes the criteria for the Portfolio Content Categories in the RPS program. The Portfolio Content Categories are legislated in SB X1-2 under Section 399.16 of the Public Utilities Code. The statutory definition of Category 3 in §399.16(b)(3) of SB X1-2 is as follows:

> Eligible renewable energy resource electricity products, or any fraction of the electricity generated, including unbundled renewable energy credits, that do not qualify under the criteria of paragraph [Category] (1) or (2).

The reference to unbundled RECs in §399.16(b)(3) is directly modified by the phrase "that do not qualify under the criteria of paragraph (1) or (2)." This modification clearly stipulates that the unbundled RECs that belong in Category 3 are only those that do not already qualify for Category 1 or 2. In this way, Category 3 is a catchall for products that do not qualify for Category 1 or 2 based on their criteria. Therefore the statutory definition of Category 3 does not preclude unbundled RECs from being included in Category 1.

The criteria for Category 3 in the Draft Regulations closely mirror the statutory definition of Category 3 in SB X1-2:

> All unbundled renewable energy credits and other electricity products located within the WECC transmission grid and generated by RPS-certified facilities that do not meet the requirements of either Portfolio Content Category 1 or Portfolio Content Category 2 fall within Portfolio Content Category 3.

Similar to SB X1-2, these Category 3 criteria contain a phrase that modifies the reference to unbundled RECs. Here also, the unbundled RECs that belong in Category 3 are only those "that do not meet the requirements of either Portfolio Content Category 1 or Portfolio Content Category 2". Therefore in accord with SB X1-2, the Draft Regulations' Category 3 criteria do not preclude unbundled RECs from being including in Category 1.

#### 2. Portfolio Content Category 1

In contrast to the criteria for Category 3, the criteria for Category 1 in the Draft Regulations do not mirror the statutory definition of Category 1 in §399.16(b)(1) of SB X1-2. The Draft Regulations state that, "Portfolio Content Category 1 electricity products must be procured as and remain bundled in order to be classified in Portfolio Content Category 1." Nowhere in SB X1-2 does the law state that Category 1 products must be procured as bundled. Section 399.16(b)(1) only references "Eligible renewable energy resource electricity products" that meet either of a variety of criteria including, "Have a first point of interconnection with a California balancing authority, have a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area, or are scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source."

In fact, SB X1-2 explicitly removed the delivery requirement for RPS eligibility by amending Public Resources Code §25471 to remove references to delivery. In addition, nothing in the criteria of §399.16(b)(1) suggests that a Category 1 product must be a bundle of energy and RECs. If the Legislature had intended to limit Category 1 to bundled transactions, it could have done so. Instead, it defined Category 1 in terms of the resources that are directly or effectively connected to a California balancing authority (CBA). It follows by logic that any eligible renewable energy resource electricity product that meets the interconnection criteria of § 399.16(b)(1) must qualify for inclusion in Category 1, regardless of whether it is a bundled or unbundled product. Therefore it is consistent with SB X1-2 to remove the bundled procurement requirement from the Category 1 criteria in the Draft Regulations.

**B. SB X1-2 Policy Goals and Benefits**

The portfolio content requirements were designed to ensure that California receives the "unique benefits" of the RPS program listed in § 399.11 of SB X1-2. Renewable energy resources that are interconnected with a CBA at the transmission or distribution level provide these unique benefits regardless of whether they are selling the RECs associated with the output of their plants in a bundled transaction or in a separate sale of RECs. These benefits include:

- Displace fossil fuel consumption within the state;
- Reduce emissions of greenhouse gases associated with electrical generation;
- Help meet the state's need for a diversified and balanced energy generation portfolio;
- Help meet the state's resource adequacy requirements; and
- Contribute to the safe and reliable operation of the electrical grid.

Renewable energy resources that are interconnected with a CBA at the transmission or distribution level and produce renewable power for onsite consumption also help fulfill the program objectives listed in SB X1-2 under Section 25740.5 of the Public Resources Code:

- Increase the quantity of California's electricity generated by renewable electrical generation facilities located in this state, while protecting system reliability, fostering resources diversity, and obtaining the greatest environmental benefits for California residents.
- Support emerging renewable technologies in distributed generation applications that have the greatest near-term commercial promise and that merit targeted assistance.

By contrast, RECs in Category 3 (i.e., those from facilities that do not have their first point of interconnection to a CBA or a distribution system within a CBA) do not fulfill these objectives or offer these benefits to California. That difference is precisely why transactions for RECs from facilities qualifying as Category 1 resources should be grouped with other transactions that provide comparable benefits to California, and only those transactions for RECs from facilities that are not Category 1 resources should be classified as Category 3 transactions.

Renewable resources that produce energy for onsite consumption also contribute to Governor Brown's Clean Energy Jobs Plan (Plan), which calls for the state to produce an additional 12,000 MW of renewable "localized electricity generation", defined as onsite or small energy systems located close to where energy is consumed[1]. The Plan highlights the benefits of localized generation, stating that it "can be constructed quickly (without new transmission lines) and typically without any environmental impact."

[1] *See* http://www.jerrybrown.org/sites/default/files/6-15%20Clean_Energy%20Plan.pdf

As a whole, it is stated that the plan "will produce a half a million new jobs in the next decade". Including renewable generation that is consumed on the site of the resource in Category 1 will help encourage the growth of localized generation, furthering the goals of Governor Brown's Plan and creating California jobs.

### C. Onsite Renewable Generation from Biogas Can Play a Significant Role in the Achievement of California's RPS Goals

A 2009 Staff Paper from the California Energy Commission[2] recognizes the significant potential that exists at California wastewater treatment plants to expand onsite biogas power resources. The Staff Paper estimates that the existing biogas-fueled combined heat and power renewable electricity generation capacity at California wastewater treatment plants is 35 MW. This renewable generation capacity is almost entirely consumed onsite at the wastewater treatment plants to offset their power purchases from the electricity grid. The Staff Paper also estimates that an additional 90 MW of renewable capacity is available based on the anaerobic digestion of conventional wastewater solids and an additional 450 MW of capacity is available through co-digestion of other high strength organic wastes, such as food and dairy waste.

Since the wastewater treatment process consumes a significant amount of energy, most of this biogas-powered generation would be consumed onsite. Establishing criteria that include these electricity products in Category 1 would allow the full renewable value of these products to be monetized. However, maintaining the bundled procurement requirement for Category 1 would impose a low value on onsite-consumed electricity products that are from resources that meet the criteria of §399.16(b)(1). Early indications received by the Sanitation Districts are that Category 3 RECs have very little value and that few retail sellers and POUs are interested in Category 3 purchases. Therefore placing all onsite-consumed renewable electricity products in Category 3 will likely suppress the development of biogas-powered generation capacity at California wastewater treatment plants and could cause some existing facilities to shut down.

In contrast, early indications are that Category 1 products have a high value, which is likely to be sustained over time as the percentage requirements for Category 1 purchases increase. Therefore placing onsite-consumed electricity products generated from eligible renewable resources in Category 1 would help create the financial support needed to:

- Significantly expand new biogas-powered onsite renewable generation capacity at California wastewater treatment plants;
- Enable existing biogas facilities to stay in operation;
- Enable existing biogas facilities to upgrade and modernize; and
- Enable existing biogas facilities to meet new more stringent air quality requirements.

This support for biogas-powered generation at California wastewater treatment plants will also decrease the need for remote renewable facilities and associated transmission, all while helping California meet its RPS goals.

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[2] Kulkarni, Pramod. 2009. *Combined Heat and Power Potential at California's Wastewater Treatment Plants.* California Energy Commission. CEC-200-2009-014-SF.

## III. CONCLUSION

SB X1-2 places products from eligible renewable resources connected to a CBA at the transmission or distribution level in Category 1. The Sanitation Districts respectfully urge the Commission to examine the statutory language carefully and to conclude that transactions for renewable energy produced by an RPS-eligible generator that is interconnected with a CBA at the transmission or distribution level are Category 1 transactions, regardless of whether they are procured as a bundle or separately as RECs. Furthermore, the Sanitation Districts recommend that the bundled procurement requirement be removed from the Category 1 criteria contained in the Draft Regulations. This recommendation is consistent with the intent of the legislation and will ensure that eligible renewable energy that is consumed onsite has a mechanism to be counted for compliance with the new RPS goals. Recognizing that renewable self-generation within the areas of the California balancing authorities provides the same benefits to California as bundled transactions will stimulate even more investment in biogas-powered generation facilities at California wastewater treatment plants, help fulfill the RPS objectives and provide benefits to California at large.

Very truly yours,

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