

BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA

In the matter of:

Developing Regulations and Guidelines for the
33 Percent Renewables Portfolio Standard
(RPS)

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Docket No. 11-RPS-01
RE: RPS Implementation

**COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND POWER
(LADWP) TO PROPOSED PROCESS TO ALLOW CREATION OF RETROACTIVE
RENEWABLE ENERGY CERTIFICATES (RECs) AND EXTEND THE DEADLINE FOR
THE INTERIM TRACKING SYSTEM (ITS) FOR THE RPS**

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Dated: October 3, 2014

**BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA**

In the matter of:

Developing Regulations and Guidelines for the
33 Percent RPS

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Docket No. 11-RPS-01

RE: RPS Implementation

**COMMENTS FROM LADWP TO ALLOW CREATION OF RETROACTIVE RECs AND
EXTEND THE DEADLINE FOR THE ITS FOR THE RPS**

The LADWP is pleased to support the California Energy Commission (CEC) staff's proposed process to allow for the creation of retroactive RECs and extend the deadline for the ITS for the RPS. LADWP submits these comments in accordance with the Notice of a Business Meeting recently posted by the CEC.

INTRODUCTION

The City of Los Angeles (City of LA) is a municipal corporation and charter city organized under the provisions set forth in the California Constitution. LADWP is a proprietary department of the City of LA, pursuant to the Los Angeles City Charter, whose governing structure includes a Mayor, a fifteen-member City Council, and a five-member Board of Water and Power Commissioners (Board). LADWP is the third largest electric utility in the state, one of five California Balancing Authorities, and the nation's largest municipal utility, serving a population of over four million people, LADWP is a vertically integrated utility, both owning and operating the majority of its generation, transmission and distribution systems. LADWP has annual sales exceeding 23 million megawatt-hours (MWhs) and has a service territory that covers 465 square miles in the City of LA and most of the Owens Valley. The transmission system serving the territory totals more than 3,600 miles and transports power from the Pacific Northwest, Utah, Wyoming, Arizona, Nevada, and California to Los Angeles. LADWP appreciates the opportunity to comment on Resolution No. 14-1007-10 regarding the Notice of Proposed Process to Allow Creation of Retroactive RECs and Extend the Deadline for the ITS for the RPS.

THE CREATION OF RETROACTIVE RECS IS A GOOD CONCEPT

LADWP remains committed to transitioning to a greater use of renewable energy in a cost-effective manner while maintaining grid reliability. LADWP has been urging the CEC to allow for retroactive RECs due to a variety of concerns, including the ability to use the ITS while transitioning to Western Renewable Energy Generation Information System (WREGIS), but also to address the delay in time it took for the CEC staff to review and respond to LADWP's applications for grandfathered resources by allowing LADWP to purchase RECs and apply them retroactively. In addition, WREGIS Operating Rules do allow for the creation of retroactive RECs and it makes sense to simply incorporate and align those rules already created with those the CEC seeks to create. This comment letter will address specific points within the proposed CEC Resolution, and then will address broader concepts to help the CEC consider the administration of the needed retroactive RECs fairly.

SPECIFIC COMMENTS

Page 2 of the proposed resolution:

***WHEREAS**, to address this issue staff is recommending a process that would allow the Energy Commission's Executive Director or his designee to request that WREGIS create retroactive RECs in accordance with the WREGIS Operating Rules and subject to any specified conditions, based on the following criteria and process:*

- 3. A request for creation of retroactive RECs shall be made only once for a generating facility. Multiple requests for the same generating facility are not permitted.*

Comment: The CEC should allow for the creation of multiple retroactive RECs for generating facilities that are certified on a unit-by-unit basis such as a 40 Megawatt (MW) Water Supply or Conveyance System for hydroelectric generation. Further, WREGIS

RECs are already produced on a unit-by-unit basis. As such, the CEC should consider aligning its proposal with those of WREGIS. Therefore, LADWP proposes this change:

3. *A request for creation of retroactive RECs shall be made only once for any single generating facility or unit in WREGIS. Multiple requests for the same generating facility or unit are not permitted.*

4. *A request for creation of retroactive RECs shall be made by an authorized representative of the generating facility as reflected in facility's certificate of RPS certification issued by the CEC.*

Comment: The CEC should consider a request for creation of retroactive RECs made by an authorized representative of the generating facility, and not only by the authorized representative as reflected in the RPS certification issued by CEC. This practical clarification is needed because there may be staff changes at the generating facility that would not be reflected in the original issuance of the RPS certification.

Page 3 of the proposed resolution:

8. *The authorized representative of the generating facility shall submit an audit report to the Executive Director within 90 days of the date of the request, if the request is approved by the Executive Director. The audit report shall meet the following criteria.*
 - a. *The audit report shall be prepared by an independent accountant or certified internal auditor in accordance with standards of the American Institute of Certified Public Accountants. The audit report shall summarize the auditor's findings.*
 - b. *The auditor shall verify that the renewable energy credits, as defined in Public Utilities Code section 399.12 and the Renewables Portfolio Standard Eligibility Guidebook, associated with the generation for the vintage month(s) and year(s) specified in Item 6.d have not been sold, traded, or otherwise*

transferred to any other individual or entity or used to satisfy any state regulatory or voluntary program. This verification shall be satisfied as follows:

- 1) The auditor shall determine whether the renewable energy credits in question would have been eligible to satisfy any state regulatory or voluntary program. If so, the auditor must obtain the following:*
- 2) A letter from the administrator of each state regulatory or voluntary program documenting that the renewable energy credits in question were not used to satisfy that program; or*
 - a) A letter from the administrator of each state regulatory or voluntary program documenting that the renewable energy credits in question were tracked for purposes of that program, but have been retired without having been claimed to satisfy the requirements of that program.*
 - b) The auditor shall confirm that the renewable energy credits in question were not sold, traded, or otherwise transferred to any other individual or entity. The auditor shall satisfy this criterion by reviewing contracts, invoices and other accounting documents prepared for, by or on behalf of the generating facility, and confirming that the renewable energy credits in question were not sold, traded, or otherwise transferred to any other individual or entity, or used to satisfy any state regulatory or voluntary program.*
- 3) If the renewable energy credits in question have already been sold, traded, or otherwise transferred to other individuals or entities, the auditor shall identify the name and address of these other individuals and entities and the corresponding amounts, vintages, and transaction dates of the transferred renewable energy credits.*

Comment: The CEC began the development of WREGIS to ensure that an eligible renewable energy resource is counted only once for the purpose of meeting the RPS. This is needed to verify the retail product claims of the RECs for California and not the REC for any other state. WREGIS established a system in which renewable energy

credits can only be generated once and retired once. In addition, the WREGIS Administrator is required to notify the program administrator (CEC) in writing and, if possible, via telephone of the proposed withdrawal from the Account Holder's Retirement Subaccount.

Therefore, the CEC should consider simplifying the audit procedure as follows:

- 1) *The auditor shall determine whether the renewable energy credits in question would have been eligible to satisfy any state regulatory or voluntary program not required to participate in WREGIS.*

Page 5 of the proposed resolution:

10. *Retroactive RECs, if created by WREGIS, shall not be used to satisfy an RPS procurement requirement if the authorized representative of the generating facility fails to submit an audit report as specified in Item 8.*

Comment: As commented above, WREGIS established a system in which renewable energy credits can only be generated once and retired once. Therefore, if WREGIS is the sole tracking system for renewable energy credit generation and retirement, additional audit investigations and reports are not necessary. The CEC should consider eliminating the audit report requirement.

WHEREAS, *to reduce the number of requests for the creation of retroactive RECs staff is recommending that the CEC extend the deadline for Publicly Owned Utilities (POUs) to use the ITS from October 2012 to report procurement of generation occurring through December 31, 2013, subject to the following requirements:*

1. *A POU shall report procurement data not tracked in WREGIS by submitting a completed CEC-RPS-Track form to the Energy Commission no later than 30 calendar days after the Energy Commission adopts the resolution extending the ITS deadline.*

2. *To report e-Tag data not available in WREGIS, a POU reporting through the ITS shall submit a completed CA-RPS e-Tag Summary Report with the CEC-RPS-Track form.*

Comment: The CEC-RPS-Track forms and CA-RPS e-Tag forms identified in items 1 and 2 are already submitted to the CEC as part of the compliance forms required under the Enforcement Procedures for the RPS for POUs. This information has been submitted as part of the LADWP compliance form.

3. *When the ITS is used for reporting procurement, the generating facility (or POU, if the generating facility is owned by the POU) shall report monthly generation data to the Energy Commission on the CEC-RPS-GEN form for the entire previous calendar year for which any WREGIS data are unavailable.*

Comment: CEC should consider eliminating this requirement because the CEC-RPS-Track forms submitted by utilities provide the same data.

5. *The ITS shall not be used to report generation or procurement data from aggregated generating facilities. Generation and procurement data for aggregated generating facilities shall be reported using WREGIS.*

Comment: The CEC should consider eliminating this restriction and continue to allow reporting of generation and procurement data for aggregated generating facilities. This supports the solar distributed generation investments made by utilities to meet the RPS requirement. In addition, the current registration process for distributed generation is burdensome as noted by WREGIS in Appendix F of its Operating Rules, therefore continued use of ITS would ensure the environmental attributes (or RECs) count towards RPS.

GENERAL COMMENTS

The CEC should allow for the creation of retroactive RECs due to a delay in the CEC staff's ability to certify resources timely, especially when the certification is delayed beyond a compliance period. As a governmental agency, LADWP understands when

there is a lack of resources and lack of staffing coupled with new requirements and applications to implement a new program, such as the demands the California Renewable Energy Resources Act (SBX1-2) has placed on the CEC. However, a POU should not suffer because, with the passage of SBX1-2, the Legislature has not commensurately provided adequate resources to the CEC to administer its programs.

A POU is neither afforded a process directly by the CEC's identified administrative process, nor directly under Title 20, Sections 1231 or 1237 of the California Code of Regulations to allow it to apply RECs retroactively once it has received certification; though, after compliance period has ended. Therefore, the creation of retroactive RECs should be allowed for resources applied for certification, but due to the delay in time it took for the CEC staff to review and respond to the application, the certification was not received until after the end of a compliance period.

Commensurately with this same concept:

- The CEC should allow a POU to revise its compliance reports to include the RECs retroactively created and
- The CEC should allow a procedure to retire and unretire RECs to then include retroactive RECs with the compliance reports. These additional processes would allow a POU to adequately and fairly account for its RECs from all its certified resources.

Dated: October 3, 2014

Respectfully Submitted,



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