California Energy Commission
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April 3, 2015

**Via e-mail (docket@energy.ca.gov; RPS33@energy.ca.gov)**
California Energy Commission
Dockets Office, MS-4
Re: Docket No. 14-RPS-01
1516 Ninth Street
Sacramento, Calif. 95814-5512

**Re: Docket No. 14-RPS-01, Amendments to Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities**

Dear Ms. Chisholm:

We are an informal coalition made up of the following non-profit mutual-benefit corporations, community groups, community associations, businesses and residents: Oak Hills Property Owners Association, Lucerne Valley Economic Development Association (LVEDA), Lucerne Valley Market/Hardware, Morongo Basin Conservation Association, California Desert Coalition, Basin and Range Watch, Mojave Communities Conservation Collaborative, Alliance for Desert Preservation, Brian Hammer, Marina D. West, Pat Flanagan, Tony Malone, Jeff McKellar, Lisa McKellar and John Smith. Together, we represent a broad spectrum of the groups, residents, businesses and recreationists in the High Desert of San Bernardino County who share a common interest in supporting a sustainable future, while safeguarding against activities that may harm the High Mojave Desert.

In its Notice of Proposed Action (the "NPA"), the California Energy Commission [the "CEC"] states that it "proposes to modify existing regulations establishing enforcement rules and procedures for the Renewables Portfolio Standard (RPS) for local publicly owned electric utilities (POUs) under Article 16 (commencing with section 399.11) of Chapter 2.3 of Part 1 of the Public Utilities Code," as well as in Public Utilities Code sections 9507 and 9508. The NPA announced that CEC staff will hold a "workshop/hearing" on April 9, 2015, and states that "[i]f

possible, please submit written comments to be considered at the staff workshop/hearing by April 2, 2015." Pursuant to the NPA, we jointly respectfully submit the following comments concerning changes that we believe are warranted to the rules and procedures for the California Renewables Portfolio Standard Program (the "RPS").

We recommend that the above-referenced regulations (Title 20, Division 2, Chapter 13 -- Sections 3200-3208 -- and Chapter 2, Article 4 -- Section 1240 -- of the California Code of Regulations) should be modified by the CEC to allow renewable energy credits ("RECs") generated by customer-side distributed generation ("DG") to be classified as Portfolio Content Category ("PCC") 1, both for purposes of Public Utilities Code Section 399.16(b)(1) and for purposes of Section 3202 of the aforesaid regulations. In that respect, we endorse, adopt and incorporate by this reference, the positions, statutory construction and policy arguments stated in the comment letter, dated July 28, 2014, submitted by the Alliance for Solar Choice (the "TASC") to the CEC in the above-referenced CEC Proceeding No. 14-RPS-01 (the letter was submitted on TASC's behalf by the law firm of Keyes, Fox & Wiedman, and will be referred to as the "TASC Letter").

The TASC Letter states, among other things, that:

(1) classifying RECs arising from customer-side DG as PCC 1 would have the benefit of giving "compliance entities an additional compliance tool with which to achieve current RPS goals, thereby reducing compliance costs, and also facilitate compliance with future increases in renewable procurement . . ." (DG RECs are currently viewed by the CEC and CPUC as falling within the PCC 3 category because they are considered "unbundled");

(2) allowing RECs from customer-owned DG to assist in meeting California's current and future RPS goals "will harmonize the RPS program with the state's interest in creating a sustainable market for distributed generation which has been facilitated by a number of state policies," such as the A.B. 32 GHG-reduction goals, California Solar Initiative, the New Solar Homes Partnership, the Governor's 12,000 MW DG target and achievement of zero net energy goals;

(3) from "a public policy standpoint, it is unequivocal that DG systems deployed on the customer side of the meter fulfill all of the objectives the RPS was intended to achieve. These resources are located in-state, are clearly delivering energy to end use customers in California and thus provide the full spectrum of economics [sic] development, environmental, reliability and hedging benefits that motivate the RPS program;" and

(4) the characterization by the CEC and CPUC of RECs arising from DG as PCC 3 "dramatically reduces their value," and hence their "ability to facilitate utility achievement of

RPS goals at reduced costs . . ." – categorizing such RECs as PCC 1 would "significantly expand the supply of new renewable generation that would be readily available to meet both current and future RPS requirements, thus lowering the cost of reaching the state's long-term climate goals."

We agree that this state should, in order to harness growing investment in DG, do away with its welter of statutes, rules, decisions and guidebook directives – which are unique in the entire U.S. – that effectively relegate customer side of the meter generation and the associated RECs to second-class status.

It is axiomatic that a MW generated by a DG system has just as much energy and "green" value as a MW generated by a utility-scale renewable energy facility in terms of fulfilling the goals of the RPS and of the other above-referenced state mandates, that DG power generated on California rooftops obviously has its first point of interconnection in California (which is the *sina qua non* of categorization under PCC 1 for purposes of Public Utilities Code Section 399.16), and that hence DG fulfills the intent behind Section 399.16 by causing the energy benefits thereof to flow directly to California customers. But, notwithstanding these undeniable realities, the CEC and the CPUC have read artificial distinctions into Public Utilities Code Section 399.16(b)(1) and into Section 3202 of the Regulations which have had the effect of disqualifying DG RECs from being counted toward the RPS goal.[1]

No persuasive justifications present themselves for a policy that is inimical to the achievement of the state's environmental programs and mandates, and that is out of step with prior decisions.[2] Discriminating against DG RECs results in an irrational bias in favor of utility-scale renewable energy generators and the IOUs that carry their power to the transmission grid -- by making only their RECs relevant to RPS compliance and the related market -- and this

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[1] For example, PUC Decision No. 11-12-052 ruled that DG RECs should be categorized as PCC 3. According to the statutory analysis in the TASC Letter, with which we concur, neither Public Utilities Code Section 399.16(b)(1) nor Section 3202 of the Regulations contain any prohibitions against utilizing customer-side RECs for RPS compliance within PCC 1, and neither of them prohibit "unbundled" RECs that otherwise meet the PCC 1 standards from being considered PCC 1. We also endorse the concept, as stated in the TASC Letter, that unbundled RECs could be defined, for purposes of the PCC 3 category, as RECs sold separately from energy produced on a *wholesale* basis.

[2] For instance, the CPUC ruled, on p. 3 of its Decision 05-05-011 (May 5, 2005), that ". . . we hold that the RECs associated with renewable distributed generation on the customer side of the meter should be treated equivalently to the other types of renewable generation we addressed in D.03-06-071 [central-station generation]."

interferes with the robust competition that would otherwise be presented by DG system owners holding PCC 1 RECs.

In refraining from according PCC 1 status to these RECs, the CEC and CPUC have introduced a substantial inefficiency and inequity into the energy/REC markets in favor of the increasingly obsolete model of centralized renewable energy generation, which has capital costs, and environmental and human costs associated with industrialization, that are far in excess of the cost of paying DG owners a reasonable fee for their RECs.[3]

To accord PCC 1 status to DG RECs would enable the markets to operate as intended for the benefit of all Californians. This is critical because achievement of the RPS and GHG reduction goals is based primarily on a market-based approach (see, for example, PUC Decision No. 07-01-018). The environmental and economic interests of the people of this state will be served only when the energy/REC markets are allowed to operate as even playing fields for all energy producers, large and small.

Deep thought must be given to the lasting damage to human and natural communities that would result from incentivizing construction of centralized renewables and transmission lines. The RPS is probably the single most influential criterion in countless land use planning and decision-making processes now under way. In these proceedings, typically the RPS "mandate" is cited as the reason to tilt the playing field strongly in favor of utility-scale renewable energy projects, regardless of their environmental, social and economic price tag. This is the unfortunate byproduct of an obsolete definition and application of eligibility criteria. Again, it is undeniable that a megawatt of energy from a neighborhood of rooftop solar panels is just as green – actually, greener – than a megawatt of energy from an industrial-sized wind or solar project in the California desert.

The CEC's decision in this proceeding, though it will address only regulations pertinent to POUs, will clearly have wider implications given that it will involve an interpretation of, and

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[3] The comparative advantage of DG renewable over utility-scale energy projects is becoming more and more pronounced, and there is nothing to suggest that this trend will end. Utility-scale renewable projects are very expensive, they entail enormous transmission costs, and they create big environmental problems. In contrast, the costs of manufacturing and installing "rooftop" solar have decreased dramatically and steadily. All of the innovation, money, and regulatory momentum are moving toward DG, which is expected by all knowledgeable observers to soon supplant centralized energy production as the state's primary source of power. The first sentence of the CEC's Distributed Generation Strategic Plan aptly sums up this state of affairs quite nicely: "We are at the threshold of reinventing the electric power system."

amplification on, Public Utilities Code Section 399.16, which is germane to all energy suppliers, including IOUs, ESPs and CCAs. We urge that the CEC determine that, in all circumstances involving DG generation, including where energy is used exclusively for onsite consumption, the associated RECs should be deemed PCC 1, particularly given that to do otherwise would (as stated in the TASC Letter) "stymie the ability of stakeholders to harness customer interest in DG resources to meet state climate change goals and contrary to clearly articulated state policy seeing to support customer-sited DG."[4]

The time is now for the CEC to revise the restrictions on how DG is measured, monitored and traded, so that DG takes its place as one of the important constituents of the RPS.

We greatly appreciate your time in considering all of the foregoing.

Very truly yours,

**Non-profit mutual-benefit corporations, community groups, community associations and businesses:**

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[4] We also urge the CEC to exert the full weight of its authority to do away with the array of complicated requirements/applications for certification, eligibility, registration and metering, with respect to the CPUC, the CEC and WREGIS, that are pre-conditions to a DG owner's participation in the RPS program. For instance, a single streamlined application could be provided to DG system purchasers at the time of purchase. Further, expensive and sophisticated WREGIS-certified meters should be dispensed with altogether for DG system owners, in favor of establishing some reasonable approximation of typical DG system outputs. As acknowledged in PUC Decision 05-05-011 (p. 7), "[w]hile it is desirable to keep the RPS rules consistent for all technologies, it may not be feasible to establish metering requirements for all of the DG systems we wish to see participating in the RPS program . . . Alternatively, we may wish to establish a separate standard for smaller or less sophisticated DG facilities that could provide a reasonable approximation of those facilities' renewable output."

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