Union of Concerned Scientists
ucsusa.org Two Brattle Square, Cambridge, MA 02138-3780 t 617.547.5552 f 617.864.9405
1825 K Street NW, Suite 800, Washington, DC 20006-1232 t 202.223.6133 f 202.223.6162
2397 Shattuck Avenue, Suite 203, Berkeley, CA 94704-1567 t 510.843.1872 f 510.843.3785
One North LaSalle Street, Suite 1904, Chicago, IL 60602-4064 t 312.578.1750 f 312.578.1751

California Energy Commission
DOCKETED
14-RPS-01
TN # 75735
MAY 11 2015

May 11, 2015

California Energy Commission
Docket Office
Docket No. 14-RPS-01
1516 Ninth Street
Sacramento, CA 95814
Submitted via email to: docket@energy.state.ca.us

Re: Initial UCS comments on the Commission's Proposed Modification of Regulations Establishing Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities

Docket Office:

Please find the enclosed comments from the Union of Concerned Scientists regarding the proposed modifications to RPS enforcement procedures for the POUs.

Sincerely,

Laura Wisland
Senior Energy Analyst, UCS
500 12th Street, Suite 340
Oakland, CA 94607
510-843-1872
lwisland@ucsusa.org

Printed on 100% post-consumer recycled paper

Initial UCS comments on the Commission's Proposed Modification of Regulations Establishing Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities

The Union of Concerned Scientists ("UCS") appreciates the opportunity to provide the California Energy Commission ("CEC") with comments on the Proposed Modification of Regulations Establishing Enforcement Procedures for the Renewables Portfolio Standard ("RPS") for Local Publicly Owned Electric Utilities ("POUs"), which were released March 27, 2015.

1. Section 3201: CEC's proposed amendment to the definition of "bundled"

The CEC is proposing to define the electricity products associated with generation from POU-owned renewable generation facilities that serve onsite load as bundled, and therefore qualify as a Portfolio Content Category ("PCC") 1 product as long as it meets the requirements of Section 3203(a) of the CEC's RPS Enforcement Procedures.

In the *Draft Amendments to the Regulations for Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities* that the CEC released in July 2014, the rulemaking asked the question:

Are there circumstances when it would not be appropriate to classify electricity generation from a POU-owned DG system as PCC 1?

UCS responded to this issue in comments submitted on July 28, 2014 and reiterates its position here. First, UCS believes that it is important to track RPS-eligible generation using a WREGIS-grade meter. It does not appear that anything in these proposed modifications would change the way that RPS-eligible electricity generation is tracked, but UCS feels the issue is worth mentioning given the way net-metered generation is currently tracked.

Adopting the CEC's proposed amendment to the current definition of "bundled" would allow POU-owned net-metered renewable energy generation to count towards PCC 1, thereby representing a significant change in the rules of the RPS program that would only pertain to POUs. Since the California Public Utilities Commission (CPUC) has determined that net-metered electricity generation is not a PCC 1 product, adopting the CEC's proposed change to the definition of "bundled" would result in an uneven playing field for retail sellers and POUs. Since this issue is a point of focused discussion at the California Legislature in the context of proposed legislation that would increase the RPS to 50% by 2030, UCS strongly suggests the CEC hold off on any changes to how net-metered electricity is treated in the RPS program until after the Legislature has had a chance to address this issue for all load serving entities in the state.

In addition, UCS's July 2014 written comments pointed out that electricity generated by a net-metered facility would most likely reduce a POU's retail sales, which reduces that POU's RPS obligation. Any future policy reform that would allow onsite generation from a net-metered facility to count as a PCC 1 resource in the RPS would need to ensure that the utility was not receiving two forms of credit for each unit of net-metered generation: one credit for reducing retail sales and another for contributing towards an RPS obligation.

It does not appear that these new proposed modifications to RPS enforcement procedures contain a solution to the "double credit" problem. The CEC received substantial public comment on this issue last July, and several parties brought up the concern during the April 9, 2015 public workshop on the March proposed modifications.

UCS does not think it is appropriate for the CEC to move forward on its proposed amendments to the definition of "bundled" in Section 3201 until the Legislature has had a chance to address this issue for all load serving entities, and until issue of onsite generation impacting both RPS compliance and retail sales is resolved.

2. Section 3204: RPS Procurement Requirements

Senate Bill ("SB") 591 established Public Utilities Code section 399.30(k), which provides a limited RPS procurement exemption to a "local publicly owned utility that receives greater than 50 percent of its annual retail sales from its own hydroelectric generation that is not an eligible renewable energy resource."

The CEC's *Initial Statement of Reasons* explains that "The circumstances surrounding MEID [Merced Irrigation District] and its generation from New Exchequer Dan are such that it may not be possible for MEID to actually use the hydroelectric generation from the New Exchequer Dam to satisfy its own retail sales load."[1] Since the CEC believes that the intent of SB 591 was to reduce Merced's RPS obligation, the CEC 's proposed amendments to Section 3204 10(A) would not require to Merced to actually use the generation from New Exchequer to qualify for the RPS exemption in 399.30(k).

UCS does not believe that the CEC's proposed amendment is supported by the statute. The language in 399.30(k) clearly states that the criterion for the exemption is "a local publicly owned utility that *receives* greater than 50 percent *of its annual retail sale* from its own hydroelectric generation that is not an eligible renewable energy resource." (emphasis added). If a local POU

[1] California Energy Commission, *Proposed Modification of Regulations Establishing Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities*, Initial Statement of Reasons, March 27, 2015, p.8

cannot prove that it meets the criteria in 399.30(k), it should not be eligible for the exemption provided by 399.30(k).

The intent behind SB 591 was to reduce Merced's RPS obligation because it owned large hydropower assets that it planned to use to meet its retail sales obligation. The Senate Energy Committee analysis on SB 591 states: "This bill limits the RPS procurement obligation for a POU that owns and operates a hydroelectric facility that came into service in 1967, and for which the POU will take the generation rights in 2014, to the electricity demands unsatisfied by that hydroelectric generation."[2] In the first paragraph of the Senate Energy Committee analysis on SB 591, titled "Author's Purpose" it states: "The author argues that MID [Merced] should only have to procure renewables for the generation needs not met by the hydroelectric facility that it owns."[3]

Large hydropower does not qualify for the California RPS for several reasons that are not germane to these comments. Through the process to pass and enact SB 591, Merced made the case that it would be unfair to have to sell its own hydropower generation in order to make room for renewables in its electricity portfolio. Merced made the argument that if it used the generation from New Exchequer to meet retail sales and was also forced to meet the RPS compliance requirement in full, it would have more electricity than necessary to meet retail sales needs.

UCS does not believe that the statute supports allowing Merced to reduce its RPS obligation simply because it might sell electricity from a hydropower generation asset to another utility. One of the primary purposes of the RPS program is to change utility procurement practices so that over time, the state as a whole depends on additional sources of clean, carbon-free electricity generation. If Merced sells its hydroelectricity from New Exchequer to another utility, it is purchasing other sources of non-renewable power to satisfy its own retail sales needs. The CEC's proposed amendment would enable Merced to avoid purchasing renewables and purchase fossil-fueled electricity to meet unmet electricity needs.

Finally, UCS agrees with the CEC that "There are no explicit provisions in Section 399.30(k) exempting a qualifying POU from the portfolio balance requirements."

---

[2] SB 591 Senate Energy Committee Analysis, April 2, 2013, available at: http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0551-0600/sb_591_cfa_20130328_142005_sen_comm.html

[3] *Id*.

Conclusion

UCS thanks the CEC for the opportunity to submit these initial comments and looks forward to additional participation in this proceeding.

Sincerely,

Laura Wisland