City of Arts & Innovation

California Energy Commission
DOCKETED
13-RPS-01
TN # 70344
APR. 16 2013

April 16, 2013

California Energy Commission
Dockets Office, MS-4
Docket No. 13-RPS-01
RPS Proceeding
1516 Ninth Street
Sacramento, CA 95814-5512

RE: THE CITY OF RIVERSIDE COMMENTS ON PROPOSED REGULATIONS: ESTABLISHING ENFORCEMENT PROCEDURES FOR THE RENEWABLES PORTFOLIO STANDARD FOR LOCAL PUBLICLY OWNED ELECTRIC UTILITIES

The City of Riverside (Riverside) appreciates the opportunity to provide comments on the *Proposed Regulations: Establishing Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities* (Proposed Regulations), issued on March 1, 2013. Riverside believes that significant progress has been made from the previous version of the draft regulations and is particularly thankful of CEC staff's willingness to engage in open dialogue with the municipal community in general, and Riverside in particular, on our issues and concerns. The comments below provide Riverside's remaining concerns and recommendations.

A. General Comments

Riverside fully supports the comments provided by California Municipal Utilities Association (CMUA) and Southern California Public Power Authority (SCPPA) in this proceeding and urges the Commission to incorporate them in the final regulations.

B. Grandfathered Electricity Products

Riverside remains very concerned and urges the Commission to reconsider its stand on the categorization of pre-June 1, 2010 RPS contracts. The current draft regulations disallow such existing RPS contracts to count toward the categorization (category 1, 2 and 3) and only allow the counting toward the overall RPS requirements. Such a restriction penalizes Riverside for its early actions taken prior to SB X1-2 to procure in-state renewable resources before there was a mandate to do so. In addition, such restriction does not foster any new renewable project development in the short term due to the long lead time necessary to develop renewable projects in state and may result in non-compliance toward the RPS requirements in the short term (Compliance Periods 1 and 2).

Since 2003, Riverside has engaged in significant renewable resource procurement even in the absence of a legislative mandate. Riverside's procurement has been almost exclusively from renewable resources located within California (Category I RPS resources). Riverside anticipates that such existing in-state RPS resources will be able to meet a significant portion of Riverside's Compliance Period 1 and 2 RPS obligations (86% for Compliance Period I obligation and 76% for Compliance Period 2 obligation). However,

even with such high percentages of in-state renewable resource procurement already, Riverside will be required to procure additional in-state, higher priced, renewable resources under the draft regulations which will likely cause Riverside to have almost all of its renewable resources from in-state resources. This additional cost burden is highly unreasonable and does not seem to have any sound justification for several reasons:

1. There is no realistic expectation that any new uncommitted, in-state renewable resource can be developed and brought online in the next three years. Thus, the rationale of mandating procurement of in-state renewable resources as a means to incent new project development does not hold true. Instead it will serve as a financial penalty to utilities that have to compete to procure scarce in-state renewable resources from existing resources;

2. It may cause a higher likelihood of failure by the utilities to meet their RPS compliance obligations in the short term (Compliance Period I and 2) due to the very limited supply of in-state renewable resources in the short term and potentially subject such utilities to financial penalties with no commensurate benefit of promoting renewable project development

Such an outcome is highly undesirable and unwarranted and sends the wrong message in discouraging early actions that are consistent with the RPS policy goals. Therefore, Riverside urges the Commission to reconsider its stand on the categorization of pre-June 1, 2010 RPS
Resources.

C. Historic Carry-Over Provisions

Riverside appreciates that the Commission recognizes the importance of historic carry-overs for the municipal community and incorporates it in the Proposed Regulations as one of the optional compliance measures.

Riverside also appreciates that the Commission provided additional clarity regarding how such historic carry-overs should be calculated, eligibility criteria, timing to make the claims etc.,.

However, Riverside is concerned about the 36-month retirement requirement introduced in Section 3206 (a) (5) (E) of the most recent draft of the Proposed Regulations. This provision appears to be a new provision from the previous drafts of Regulations and its intent and applicability is unclear at best and outright impractical and infeasible at worst.

As this section currently reads, it seems to indicate that even if all the other qualification provisions in Section 3206 (a) are satisfied, the only Renewable Energy Credits ("RECs") that would qualify as historic carry-overs must have already been "retired" by the POU via CEC promulgated REC retirement systems (WREGIS or ITS) within 36 months of generation of the RECs. Such result, if left unchanged, would be impractical, infeasible and outright unfair to the POU and therefore should be deleted.

In Riverside's case, our City Council adopted voluntary policies to promote the use of renewable resources to serve Riverside's retail customers well before the SB X1-2 mandates. Since 2003, Riverside has been proactively implementing the forward looking voluntary RPS policies established by our City Council by procuring in-state eligible renewable resources to serve our retail customers. Riverside's preliminary assessment indicates that Riverside may have up to 700,000 MWhs of pre-January 1, 2011 renewable energy purchases or about 35% of Riverside's retail loads that would be eligible for historic carry-overs. Such purchases would clearly satisfy the historic carry-over provisions *but for the 36-month retirement requirement*.

To be clear, Riverside's pre-2011 RPS policy fully committed Riverside to use the RECs generated solely for compliance of Riverside's RPS program as evidenced by Riverside's actions below:

1. Since the inception of Power Content Label (PCL) reporting in 2001, Riverside has only reported RECs that have been internally verified and attested to by affirmative actions of Riverside's Public Utilities Board and City Council. Such internal verification process is explicitly allowed in the PCL protocols in lieu of independent third party verification and provided the assurance that Riverside intended to use the RECs for Riverside's RPS program and not resell the RECs;

2. For CY 2005 through 2009, Riverside also voluntarily reported to California Climate Action Registry to account for greenhouse gas emissions of Riverside's resources, including renewable resources, and Riverside has consistently hired third party independent verifiers to validate Riverside's resource content GHG claims, further evidencing Riverside's commitment to fully verify the validity of its resource mix;

3. In 2008, Riverside began using the WREGIS to account for Riverside's RECs and has been retiring RECs registered in WREGIS on an annual basis until directed by the CEC to not retire RECs until RPS regulations are finalized.

All the above actions taken by Riverside were consistent with the intent of solely using the RECs for RPS compliance purposes as verified internally and attested to by Riverside's local regulatory authority (Board and City Council) and/or via CEC sanctioned means (WREGIS). Nevertheless, a substantial amount of Riverside's pre-January 1, 2011 RECs have not been registered in either WREGIS or ITS, as such requirement did not exist at the time most of these RECs were generated. Such retroactive application of the 36-month REC retirement requirement--*solely* via CEC sanctioned protocols (WREGIS or ITS)--will unjustly penalize the early actions undertaken by Riverside, using processes that are functionally equivalent to the CEC's sanctioned processes, to the severe detriment of Riverside's customers.

Due to the potentially significant and detrimental financial impact to Riverside's ratepayers caused by the after-the-fact, retroactively punitive regulations (e.g., those currently contemplated by the Grandfathering and Historical Carryover provisions) early action policies pursued by Riverside will likely cease. Current plans to establish goals that surpass the mandated 33% RPS will not be recommended.

Adhering to the literal and irrational interpretation of the statute sends the wrong message and discourages and penalizes early actions that were and are consistent with the RPS policy goals.

Riverside strongly urges the Commission to reconsider the policy ramifications of its RPS regulations, and adopt sensible, practical, and equitable policies to achieve the intent of the statute as suggested in CMUA's and SCPPA's comments, and ensure that utilities advocating and implementing future policies to advance further California's laudable goals to reduce greenhouse gases are not harmed, but rather are encouraged and/or rewarded.

Respectfully submitted,

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