



Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

September 22, 2010

Mary Nichols, Chairwoman
Mr. James Goldstene, Executive Officer
Mr. Gary Collord
California Air Resources Board

Submitted via email to: gcollord@arb.ca.gov

Subject: UCS comments on the ARB Proposed Regulation for a Renewable Electricity Standard (RES)

Dear Chairwoman Nichols and Executive Officer Goldstene:

The Union of Concerned Scientists (UCS) appreciates the opportunity to provide the following comments on the California Air Resources Board (ARB) proposed regulation for a 33 percent Renewable Electricity Standard (RES) by 2020. UCS is a science-based nonprofit that has been working on renewable energy policy development and implementation in California for over 15 years. UCS advocates for renewable energy policies that drive the development of new clean energy resources in a way that, to the maximum extent possible, reduce the state's reliance on fossil-fueled sources of electricity, improve air quality and reduce heat-trapping greenhouse gas emissions.

UCS is extremely supportive of a 33 percent by 2020 renewable energy requirement and believes the most effective way to encourage new renewable energy investment is to establish a 33 percent renewable energy requirement in statute. UCS acknowledges the considerable time and effort ARB staff, assisted by staff from state energy agencies, has put into developing the proposed RES regulation, but maintains that as long as the RES can be scaled back or reversed when a new administration, the RES is at best, a stop-gap measure for a statutory renewable energy requirement that will establish needed market certainty through legislation. Without an RES codified in statute, renewable energy investors will likely lack the market certainty they need to build projects to serve California renewable energy requirements and may seek out more stable markets in other states.

UCS's primary concern with the proposed RES regulation is its overly generous allowance of renewable energy credit (REC) purchases that are not accompanied by energy deliveries to satisfy 100 percent of RES compliance obligations. UCS refers to these purchases as "REC-only" purchases.

In its AB 32 Scoping Plan, the ARB established a direct link between a 33 percent renewable energy requirement and environmental benefits for the state: "Increased use of renewables will decrease *California's* reliance on fossil fuels, thus reducing emissions of greenhouse gases from the Electricity



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sector.”¹ (*Emphasis added*) The only way that a renewable energy requirement would reduce California’s reliance on fossil fuels is if the renewable energy generation required by the regulation reduces the demand to generate or import fossil fuels to satisfy in-state electricity demand. When a RES compliance obligation can be satisfied by simply purchasing credits that certify renewable energy was generated somewhere on the western grid, the state’s resource portfolio becomes no greener and utilities continue to buy and/or generate fossil-based power to meet their electricity demand. Therefore, REC-only purchases ensure no reduction in California’s reliance on fossil fuels, and therefore no air quality improvements. Since the proposed RES regulation allows 100 percent of compliance to be met with REC-only purchases, UCS believes the proposed regulation is inconsistent with ARB’s intent for the 33 percent renewables standard in the AB 32 Scoping Plan, and will do virtually nothing to diversify the state’s current electricity portfolio or improve air quality.

In its proposed RES, ARB never explains how a 100 percent REC-only regulation will provide resource diversity and air quality benefits. However, ARB’s environmental and economic analyses of the proposed RES regulation suggest that a 100 percent REC-only regulation is not significantly different, from an air quality perspective, from a 33 percent RES scenario where the entire increase from 20 percent to 33 percent renewables is met with in-state generation. This is apparently because the REC-only and in-state only scenarios were modeled with E3’s RES Calculator, which relies on current renewable energy contracting activity. So far (and without the current ability to purchase REC-only contracts), the utilities plan to satisfy the majority of their future renewable energy requirements with resources located inside California. The Calculator assumes that essentially *all* of the currently contracted renewable energy facilities will actually get built. This seriously flawed assumption leads to an overestimate of the amount of in-state generation that will be used to satisfy a 33 percent RES, and therefore an underestimate of the environmental impact of a 100 percent REC-only regulation. Many of the in-state projects in the RES Calculator lack necessary permits and/or project financing, and will not end up being built. In its Technology Assessment section of the proposed RES regulation, ARB acknowledges that “To date, 7 percent of the approved contracts have been terminated and a number of other projects have fallen behind their projected schedule.”² Since the Calculator assumes too many projects will be built in California regardless of whether the regulation includes no restrictions on REC-only purchases, the environmental comparison between a 100 percent REC-only scenario and an all in-state scenario appear insignificant.

If the Board decides to move forward with adopting an RES regulation, UCS would urge the ARB to implement an RES that will provide the state with resource diversity, public health, and economic benefits by imposing a reasonable limit on the amount of REC-only purchases that can be used to meet a 33 percent RES requirement. UCS believes that allowing a regulated entity to satisfy up to 25 percent of

¹ Climate Change Scoping Plan, California Air Resources Board, December 2008, p.45.

² Proposed Regulation for a California Renewable Energy Standard, California Air Resources Board, June 2010, p.V-10.



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its RES compliance obligation with REC-only contracts strikes an appropriate balance between the flexibility that REC-only contracts provide and the additional benefits of procuring renewables from facilities that will delivery energy directly into the California grid. With a possible exception for only the smallest regulated entities, the RES should *not* allow regulated entities to rely entirely upon REC-only purchases for 100 percent of their RES compliance obligations. Even with aggressive investments in energy efficiency, load serving entities will still have to procure actual energy deliveries to serve customer load. Therefore, heavy reliance upon REC-only transactions may do very little to change the energy resource mix in California.

In closing, while we appreciate the Board's interest and desire to promote investments in renewable energy, we suggest the Board may want to re-think the value of adopting an RES regulation, and instead adopt a resolution urging the Legislature and Governor to work post-haste in getting 33 percent RPS legislation passed and signed before the end of this calendar year.

Thank you for the opportunity to provide these comments. If you have any questions, please do not hesitate to contact me at lwisland@ucsusa.org or 510-809-1565.

Sincerely,

Laura Wisland
Clean Energy Analyst

cc: CARB Board Members
Robert Fletcher, Chief, Stationary Source Division Chair, Renewable Electricity Standard Committee