

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814

Main website: www.energy.ca.gov

California Energy Commission

DOCKETED**14-RPS-01****TN # 76111****SEP 25 2015**

In the matter of:

Amendments to Regulations Specifying
Enforcement Procedures for the
Renewables Portfolio Standard
for Local Publicly Owned Electric Utilities

) Docket No. 14-RPS-01
)
) HEARING
) RE: Enforcement Procedures for
) the Renewables Portfolio Standard
) for Publicly Owned Electric Utilities
)

**Notice of Changes to Proposed Regulations, Notice of
Hearing, and Notice of 15-Day Comment Period
Regarding
Modification of Regulations Establishing Enforcement
Procedures for the Renewables Portfolio Standard for
Local Publicly Owned Electric Utilities**

The California Energy Commission will conduct a hearing to consider adoption of the proposed modification of regulations establishing enforcement procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities on:

WEDNESDAY, August 12, 2015

10 a.m.

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street

First Floor, Art Rosenfeld Hearing Room

Sacramento, California

(Wheelchair Accessible)

Audio from this meeting will be broadcast over the Internet.

For details, please go to:

www.energy.ca.gov/webcast

Concurrent with this notice, the Energy Commission is also publishing changes to the text of the proposed modifications to the regulations that were previously made available for 45-day public comment period ending May 11, 2015. These changes, known as 15-Day Language, are available on the Energy Commission's website at http://www.energy.ca.gov/portfolio/pou_rulemaking/2014-RPS-01/ and are shown in

bold double underline/double strikeout format relative to the language of the proposed modifications to the regulations as published on March 27, 2015.

The 15-Day Language is proposed to address comments received during the 45-day public comment period. Additionally, the 15-Day Language for section 1240 of the Energy Commission's regulations includes minor changes to align the language of section 1240 with changes being proposed to section 1230 through 1236 as part of a separate rulemaking to update the Energy Commission's existing process and procedures regulations in accordance with Order Instituting Informational Proceeding No. 10-1201-20.¹

At the August 12, 2015 hearing, the Energy Commission will consider adoption of the proposed modifications to the regulations with the changes as reflected in the 15-Day Language.

Background

The Energy Commission's enforcement regulations for the Renewables Portfolio Standard (RPS) for Local Publicly Owned Electric Utilities (POUs) were adopted on June 12, 2013, pursuant to Public Utilities Code section 399.30, as enacted by Senate Bill X1-2 (Stats. 2011, 1st Ex. Sess., ch. 1) and subsequently revised by Assembly Bill 2227 (Stats. 2012, ch. 606, sec. 8). Public Utilities Code section 399.30 (m) directs the Energy Commission to adopt regulations specifying procedures for the enforcement of the RPS for POUs and requires that the regulations include a public process under which the Energy Commission may issue a notice of violation and correction against a POU for failure to comply with the RPS, and for referral of violations to the California Air Resources Board (ARB) for penalties.

The regulations were approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on August 28, 2013, and took effect on October 1, 2013. The regulations are codified in the California Code of Regulations, Title 20, sections 1240 and 3200 – 3208. The regulations establish the rules and procedures the Energy Commission will use to assess a POU's procurement actions and determine whether those actions meet the RPS procurement requirements in the law. The regulations require POUs to submit various information and reports to the Energy Commission, so the Energy Commission may verify and determine compliance with the RPS, and, if appropriate, issue a notice of violation and correction for a POU's failure to comply and refer the violation to the ARB for potential penalties.

¹ The Energy Commission established two dockets to address this proceeding. The initial docket number was 10-SIT-OII-1 and was followed by docket number 14-OII-01. Information on this proceeding is available on the Energy Commission's website at <http://www.energy.ca.gov/title20/2014prerulemaking/>. Refer also to the Initial Statement of Reasons for the Modification of Regulations Establishing Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities, pp. 13-14, available at http://www.energy.ca.gov/portfolio/pou_rulemaking/2014-RPS-01/2015-04-09_workshop/ISOR_RPS_modified_regulations_45_day_language.pdf

Public Utilities Code section 399.30 was subsequently amended by Senate Bill 591 (SB 591, Stats. 2013, ch. 520)² after the regulations were adopted by the Energy Commission. SB 591 modifies the RPS requirements for a qualifying POU. Specifically, SB 591 adds a new subdivision (k) to Public Utilities Code section 399.30, which establishes a limited procurement exemption for a “local publicly owned electric 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.” If this criteria is satisfied the POU may limit its RPS procurement obligations for a given compliance period to the lesser of: 1) the portion of the POU’s retail sales not met by its own hydroelectric generation, 2) the procurement obligations applicable to other POUs under Public Utilities Code section 399.30 (c), or 3) the amount of procurement capped by the POU’s cost limitations adopted in accordance with Public Utilities Code section 399.30.

On March 12, 2014, the Energy Commission adopted an Order Instituting Rulemaking to initiate a rulemaking proceeding to consider modifications to its regulations to implement SB 591 and, to the extent necessary, clarify existing provisions in the regulations. In addition to the modifications needed to implement SB 591, the Energy Commission has identified several areas in the regulations that need clarification. These areas of clarification are related to the following: i) the definitions of “bundled,” “resale,” and the “Western Electricity Coordinating Council,” ii) the requirements for qualifying electricity products procured under agreement executed prior to June 1, 2010, iii) the requirements for electricity products qualifying as dynamic transfers, iv) the portfolio content category classification of electricity products from POU-owned resources, v) the excess procurement rules related to amended contracts, vi) the application of optional compliance measures, vii) select reporting requirements, and viii) procedural provisions for complaints of noncompliance.

The need for these clarifications is based in part on the inquiries received from stakeholders since the regulations were adopted in 2013 and from the comments received in response to a pre-rulemaking public workshop held on July 11, 2014.

On March 27, 2015, the Energy Commission published the Notice of Proposed Action (NOPA)³ for the proposed modifications to the regulations in the California Regulatory Notice Register and published the proposed modifications to the regulations, also referred to as the 45-day language Express Terms, on its website and in mailings to interested persons. The NOPA indicated that if substantial, sufficiently related modifications are made to the original 45-day language Express Terms, the modified text will be made available to the public for at least 15 days before the Energy Commission adopts the final version of the regulations.

² SB 591 amended Public Utilities Code section 399.30, subdivision (k), and renumbered subsequent subdivision, so that former Public Utilities Code section 399.30, subdivisions (k) – (n) became subdivisions (l) – (o), respectively.

³ http://www.energy.ca.gov/portfolio/pou_rulemaking/2014-RPS-01/2015-04-09_workshop/NOPA_RPS_modified_regulations_45_day_language.pdf

This Notice of Changes is provided in accordance with the NOPA and Government Code Section 11346.8, and provides notice of the 15-Day Language and an additional public comment period on such language. The 15-Day Language and related rulemaking documents can be obtained from the contact person designated below or from the Energy Commission website at:

www.energy.ca.gov/portfolio/pou_rulemaking/2014-RPS-01/.

Should the Energy Commission determine that substantial, sufficiently related modifications to the 15-Day Language are needed, consideration of the proposed modifications to the regulations will be continued to a future public hearing. In that case, revised 15-Day Language will be prepared and notice of the revisions and the future public hearing provided separately.

Public Comment and Review Period

The public comment period for the 15-Day Language is from July 6, 2015, through 5:00 p.m. on July 21, 2015.

Written comments should be submitted to the Dockets Unit no later than 5:00 p.m. on July 21, 2015. The Energy Commission appreciates receiving written comments at the earliest possible date to ensure ample opportunity to evaluate the comments. All written comments will become part of the public record of this proceeding. Additionally, written comments may be posted to the Energy Commission's website for the proceeding.

The Energy Commission encourages comments by e-mail. Please include your name and any organization name. Comments should be in a downloadable, searchable format such as Microsoft® Word (.doc) or Adobe® Acrobat® (.pdf). Please include **Docket No. 14-RPS-01** and indicate 15-Day Language for POU RPS Regulations in the subject line. Please submit comments to docket@energy.ca.gov and RPS33@energy.ca.gov to ensure that staff receives a copy.

If you prefer, you may send a paper copy of your comments to:

California Energy Commission
Docket No. 14-RPS-01
Docket Unit
1516 Ninth Street. MS-4
Sacramento, CA 95814-5504

Written comments will be also accepted at the August 12, 2015, hearing, but are encouraged to be submitted in advance. The Energy Commission will also accept oral comments during the hearing, but comments may be limited to three minutes per speaker. Any comments will become part of the public record in this proceeding.

Public Participation

The Energy Commission's Public Adviser's Office is available to assist any person who wishes to participate in this proceeding. For assistance, please call Alana Mathews, the Public Advisor, at (916) 654-4489, or toll-free in California at (800) 822-6228, or e-mail publicadviser@energy.ca.gov.

If you have a disability and require assistance to participate in either the staff workshop/hearing or the Energy Commission adoption hearing, please contact Lou Quiroz at (916) 654-5146 at least five days in advance of the workshop/hearing or the adoption hearing.

Media inquiries should be sent to the Media and Public Communications Office at mediaoffice@energy.ca.gov or (916) 654-4989.

If you have questions on the 15-Day Language or the subject matter of this proceeding, please contact Angela Gould by e-mail at angela.gould@energy.ca.gov or by phone at (916) 654-4881.

Remote Attendance

For remote attendance instructions, see the August 12, 2015, Business Meeting agenda at: www.energy.ca.gov/business_meetings/.

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