

**CALIFORNIA ENERGY COMMISSION**

1516 Ninth Street  
Sacramento, California 95814

Main website: [www.energy.ca.gov](http://www.energy.ca.gov)

California Energy Commission

**DOCKETED****14-RPS-01****TN 76195****SEP 29 2015**

In the matter of:	)	Docket No. 14-RPS-01
	)	
Amendments to Regulations Specifying	)	HEARING
Enforcement Procedures for the	)	RE: Enforcement Procedures for
Renewables Portfolio Standard	)	the Renewables Portfolio Standard
for Local Publicly Owned Electric Utilities	)	for Publicly Owned Electric Utilities
	)	

**NOTICE OF HEARING  
FOR CONSIDERATION AND POSSIBLE ADOPTION**

**MODIFICATIONS 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 adopting the proposed modifications to the regulations establishing enforcement procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities on:

**WEDNESDAY, October 14, 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](http://www.energy.ca.gov/webcast)

## 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 POU's 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 POU's 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.

Public Utilities Code section 399.30 was subsequently amended by Senate Bill 591 (SB 591, Stats. 2013, ch. 520)<sup>1</sup> 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 POU's 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

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<sup>1</sup> 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.

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)<sup>2</sup> 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.

On June 6, 2015, the Energy Commission published changes to the text of the proposed regulations in 15-Day Language in accordance with the NOPA and Government Code section 11346.8. Public comments on the 15-Day Language were due to the Energy Commission by July 21, 2015.

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 Participation**

At the October 14, 2015, hearing, the Energy Commission will consider adopting the proposed modifications to the regulations with the changes as reflected in the 15-Day Language.

Written comments will be accepted at the 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.

The Energy Commission encourages comments by e-mail. Please include your name and any organization name in your e-mail. Comments should be in a downloadable, searchable format such as Microsoft® Word (.doc) or Adobe® Acrobat® (.pdf). Please

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<sup>2</sup> [http://www.energy.ca.gov/portfolio/pou\\_rulemaking/2014-RPS-01/2015-04-09\\_workshop/NOPA\\_RPS\\_modified\\_regulations\\_45\\_day\\_language.pdf](http://www.energy.ca.gov/portfolio/pou_rulemaking/2014-RPS-01/2015-04-09_workshop/NOPA_RPS_modified_regulations_45_day_language.pdf)

include **Docket No. 14-RPS-01** and indicate POU RPS Regulations in the subject line. Please submit comments to [docket@energy.ca.gov](mailto:docket@energy.ca.gov) and [RPS33@energy.ca.gov](mailto: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

The Energy Commission's Public Adviser's Office provides the public assistance in participating in Energy Commission proceedings. If you want information on how to participate in this forum, please contact the Public Adviser, Alana Matthews, at [PublicAdviser@energy.ca.gov](mailto:PublicAdviser@energy.ca.gov) or (916) 654-4489 or toll free at (800) 822-6228.

If you have a disability and require assistance to participate, please contact Lou Quiroz at [lquiroz@energy.ca.gov](mailto:lquiroz@energy.ca.gov) or (916) 654-5146 at least five days in advance.

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

## **Staff Contact**

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](mailto:angela.gould@energy.ca.gov) or by phone at (916) 654-4881.

## **Remote Attendance**

For remote attendance instructions, see the October 14, 2015, Business Meeting agenda at [www.energy.ca.gov/business\\_meetings/](http://www.energy.ca.gov/business_meetings/).

## **Availability of Documents**

Documents and presentations for this meeting will be available online at: [http://www.energy.ca.gov/portfolio/pou\\_rulemaking/2014-RPS-01/](http://www.energy.ca.gov/portfolio/pou_rulemaking/2014-RPS-01/)

Date: September 29, 2015

Mail List: Renewable