

DOCKET

11-RPS-01

DATE

RECD. Sept 23 2011

STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the matter of:)
) Docket: 11-RPS-01
Developing Regulations and)
Guidelines for the 33 Percent)
Renewables Portfolio Standard) Order No. 11-0713-04

ORDER INSTITUTING RULEMAKING PROCEEDING

I. PURPOSE OF THE PROCEEDING

The California Energy Commission hereby institutes a rulemaking proceeding pursuant to Public Resources Code sections 25210 and 25213 and Title 20, California Code of Regulations, Section 1222 (a). This proceeding will serve two separate, but related purposes. The first purpose is to develop and adopt regulations specifying procedures for the enforcement of Renewables Portfolio Standard (RPS) procurement requirements on local publicly owned electric utilities (POUs) pursuant to Public Utilities Code, Section 399.30, as enacted by Senate Bill X1 2 (SBX1 2, stats. 2011, 1st Ex. Sess., ch.1). The second purpose is to amend the Energy Commission's existing RPS eligibility guidelines to address changes in the law as a result of SBX1 2.

SBX1 2 increases the RPS procurement requirements from 20 percent by 2010 to 33 percent by 2020, expands these requirements to include POU's, revises the responsibilities of the California Public Utilities Commission (CPUC) with respect to retail sellers of electricity, and gives the Energy Commission new regulatory responsibilities with respect to POU's. These new responsibilities include establishing the RPS eligibility of renewable energy resources for POU's, monitoring the RPS compliance of POU's, and adopting regulations specifying procedures for the enforcement of RPS procurements requirement on POU's. SBX1 2 does not authorize the Energy Commission to take enforcement actions against POU's, but instead, permits it to issue a notice of violation and correction against a POU and to refer the violation to the California Air Resources Board (CARB) for enforcement actions. Under SBX1 2, all electricity retailers in the

state, including investor-owned utilities, multijurisdictional utilities, electricity service providers, community choice aggregators and POU, must adopt new RPS goals of 20 percent of retail sales from eligible renewable energy resources for the compliance period beginning January 1, 2011, and ending December 31, 2013, 25 percent for the compliance period ending December 31, 2016, and 33 percent for the compliance period ending December 31, 2020 and thereafter.

II. DELEGATION OF AUTHORITY TO THE RENEWABLES COMMITTEE

The Commission's Renewables Committee (consisting of Presiding Member Commissioner Carla Peterman and Associate Member Vice-Chair James Boyd), or a successor committee with similar powers and duties appointed pursuant to Public Resources Code section 25211 ("the Committee"), shall preside over this proceeding. The Committee may hold workshops and hearings as it deems appropriate and shall take all actions necessary and appropriate to comply with all applicable legal requirements of the Public Resources Code and the Administrative Procedure Act (APA), including the submission, after an Energy Commission hearing, of all necessary documents to the Office of Administrative Law (OAL) for the adoption of regulations.

In conducting this proceeding the Committee and Energy Commission staff shall collaborate with the CPUC and CARB on RPS-related issues pertinent to these agencies. If necessary, the Committee may establish collaborative guidelines to facilitate the participation of CPUC and CARB staff in the proceeding.

III. SCOPE OF THE PROCEEDING

This proceeding will address both the adoption of POU enforcement regulations, subject to the rulemaking requirements of the APA, and the adoption of amendments to the existing RPS eligibility guidelines, which are exempt from the APA pursuant to Public Resources Code section 25747. The RPS eligibility guidelines describe the Energy Commission's requirements and process for certifying eligible renewable energy resources for the RPS and also describe how the Energy Commission will track and verify compliance with the RPS. The amendments to these RPS eligibility guidelines will apply to all electricity retailers in the state, including POU.

To address the differences in the substantive and procedural requirements for the adoption of regulations and guidelines, the Committee may, if it deems appropriate, divide the proceeding into phases and establish the scope of each phase, following

one or more scoping workshops if necessary, and with appropriate attention to staffing needs and resources.

This proceeding is intended to address the Energy Commission's new regulatory responsibilities under SBX1 2 and will replace the Energy Commission's existing RPS proceeding, *Implementation of Renewables Portfolio Standard Legislation*, Docket No. 03-RPS-1078, for purposes of amending the RPS eligibility guidelines and preparing any legislative or policy reports going forward. Work on legislative and policy reports commenced under the *Implementation of Renewables Portfolio Standard Legislation* proceeding, such as work on the RPS Verification Reports for the 2008, 2009 and 2010 compliance years, will continue under Docket No. 03-RPS-1078.

The RPS eligibility guidelines adopted as part of the *Implementation of Renewables Portfolio Standard Legislation* proceeding, including the *Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition*, and the *Overall Program Guidebook for the Renewable Energy Program, Third Edition*, are incorporated into and made a part of this rulemaking proceeding along with the record created for these RPS eligibility guidelines.

The docket established as part of this rulemaking proceeding will effectively continue the docket established for the *Implementation of Renewables Portfolio Standard Legislation* proceeding, Docket No. 03-RPS-1078.

IV. PUBLIC PARTICIPATION

The Energy Commission encourages full and free public participation. Any person present at any hearing or workshop shall be afforded a reasonable opportunity to make oral comments on the subject matter of the proceeding. Petitions to intervene are not necessary. The Committee shall issue one or more notices indicating the date of any hearings or workshops in the proceeding. Any person may file written comments on subject of this proceeding as specified in a Committee notice. All written comments must be received at the following address by the date specified in the Committee notice:

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California Energy Commission
1516 Ninth Street, MS 4
Sacramento, California 95814-5512

The Executive Director shall ensure that this order and every order and notice issued by the Committee, including notices of the time and place for all hearings and workshops, are distributed to all interested persons. The Executive Director shall also ensure that drafts of proposed regulations and guidelines are made available to interested persons and the Public Adviser sufficiently in advance of consideration or adoption by the Commission to allow timely public participation. The initial distribution list for this proceeding shall include all individuals and parties identified on the distribution list for Docket No. 03-RPS-1078.

The Energy Commission's Public Adviser is available to help any person who wants to participate in this proceeding. Please call (916) 654-4489 or toll-free in California at (800) 822-6228, or write to pao@energy.state.ca.us.

CERTIFICATION

The undersigned Secretary to the Commission does hereby certify that the foregoing is a full, true and correct copy of a Resolution duly and regularly adopted at a meeting of the California Energy Commission held on July 13, 2011

AYE: Weisenmiller, Boyd, Douglas, Peterman

NAY: None

ABSENT: None

ABSTAIN: None



HARRIET KALLEMEYN

Secretariat