



33% RPS Draft Regulations for Publicly Owned Utilities

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DOCKETED

11-RPS-01

TN # 68615

NOV 16 2012

Public Workshop

July 30, 2012



Agenda

- Schedule
- Changes to Draft Regulations Sections
 - Qualifying Electricity Products
 - Portfolio Content Categories
 - RPS Procurement Requirements
 - Procurement Plans and Enforcement Programs
 - Optional Compliance Measures
 - Compliance Reporting for POUs
 - RPS Enforcement



Schedule

Event	Date
Public Workshop	July 30, 2012
Public Comment Period	July 25 – August 13, 2012
Revision/Internal Review of Regulations and OAL Documents	August 17 – October 5, 2012
Submit Package to OAL	October 9, 2012
45-day Public Comment Period	October 19 – December 3, 2012
Public Hearing	December 4, 2012
Additional 15-day Comment Period	January 18 – February 4, 2012
CEC Adopts Regulations	Mid-February 2013



Qualifying Electricity Products

- Three types:
 - Contract or ownership on or after June 1, 2010: classify in portfolio content categories (PCCs) and apply PCC percentages
 - Contract or ownership before June 1, 2010 **and** met CEC's RPS rules in place at that time: count in full
 - Contract or ownership before June 1, 2010 and **did not meet** CEC's RPS rules in place at that time: classify in PCCs (i.e., do not count in full), but PCC percentages do not apply*

**Note: Items in red differ from last version of Draft Regulations, posted February 17*



Qualifying Electricity Products, continued

- Products from contracts or ownership prior to June 1, 2010, that are purchased and resold must be classified in PCCs with percentages applied **unless** the resale is explicitly included in the original contract terms
- All RECs must be retired within 36 months of generation of the associated electricity to be claimed for the RPS



Portfolio Content Categories

- PCC 1
 - Facility must be interconnected to CA balancing authority, interconnected to a distribution system to serve CA BA end users, have generation scheduled into CA BA, or have dynamic transfer agreement with CA BA
 - Electricity and REC must be bundled
 - If a resale, must be for future generation and RECs only, and must otherwise meet the requirements of PCC 1



Portfolio Content Categories, continued

- PCC 2
 - Facilities first point of interconnection outside CA
 - Substitute energy incremental to POU
 - Substitute energy procured after RE
 - Substitute energy scheduled into CA BA in same calendar year as RE is generated
 - **Energy may not be sold back to RPS facility**
 - If a resale, for future generation and RECs only, and otherwise meet the requirements of PCC 2



Portfolio Content Categories, continued

- PCC 3
 - All unbundled RECs
 - Any other electricity products that do not meet criteria of PCC 1 or PCC 2



RPS Procurement Requirements

- 2011-2013 compliance period (average of 20%)
 - Average of 20% of 2011-2013 retail sales
- 2014-2016 compliance period (25% by 2016)
 - Sum of 20% 2014, 20% 2015, and 25% 2016 retail sales
- 2017 -2020 compliance period (33% by 2020)
 - Sum of 25% 2017, 25% 2018, 25% 2019, and 33% 2020 retail sales



RPS Procurement Requirements, continued

- No separate reasonable progress requirement
- Deficits from one compliance period not applied to another
- PCC 3 RECs in excess of the calculated limit shall not be counted towards a POU's RPS procurement target



RPS Procurement Requirements, continued

- PCC allocation requirements:
 - Applied to the portion of retired RECs associated with a post-6/1/10 contract or ownership agreement that is claimed toward the RPS procurement target



RPS Procurement Requirements, continued

- PCC allocation requirements, continued:
 - PCC 1: 50% for 2011-2013, 65% for 2014-2016, then 75%
 - PCC 3: 25% for 2011-2013, 15% for 2014-2016, then 10%
 - PCC 2: No requirement



RPS Procurement Requirements, continued

- Exceptions/special circumstances
 - 399.30 (h) POU: in compliance with all RPS procurement requirements (Trinity)
 - 399.30 (j) POU: retail sales for RPS calculations based on average of last seven years (PWRPA and Eastside Power Authority)



RPS Procurement Requirements, continued

- Exceptions/special circumstances,
continued
 - 399.30 (k) POU: in compliance with all RPS procurement requirements **if** all retail sales are met by their hydro each year; if not, must meet unmet sales **up to soft target** with RE (CCSF)
 - Do not need to meet PCC allocation requirements for RE procurement
 - Must meet 67% of sales with hydro for 5 years preceding compliance period



Procurement Plans and Enforcement Programs

- Each POU must adopt a procurement plan by 1/1/13 detailing how the POU will achieve its RPS procurement requirements
 - POUs described in PUC Section 399.30 (k) must also include forecast of hydro generation
 - No other information is required of all other POUs
 - POUs no longer required to provide Energy Commission procurement plan revisions by January 1 each year



Procurement Plans and Enforcement Programs, continued

- Each POU must adopt an enforcement program by 1/1/12 detailing actions the POU will take if RPS procurement requirements are not met
- Any action taken by a POU on a procurement plan or enforcement program must be publicly noticed and all information provided to the governing board related to the procurement plan must also be provided to the Energy Commission



Optional Compliance Measures

- POUs may adopt any of the following:
 - Excess procurement
 - PCC 3: May not be applied toward future compliance period as excess procurement; **PCC 3 that exceeds the allocation requirement for that compliance period will be subtracted from excess procurement calculation**



Optional Compliance Measures, continued

- Excess procurement, continued:
 - Contracts less than 10 years duration: will be subtracted from excess procurement calculation, unless from “count in full” resources; may be applied toward future compliance period
- Cost limitations (enforcement waived if cost of compliance would exceed limitation)
 - POUs shall ensure that limitation prevents disproportionate rate impacts, costs of all procurement credited toward achieving RPS are counted, and no indirect expenses are included



Optional Compliance Measures, continued

- Cost limitations, continued
 - POU shall rely on most recent procurement plan, estimated procurement expenditures, and likelihood of project delay/cancellation
 - **Must be reported in dollars expended during the compliance period**
 - **If cost limitation adopted, POU must also report the estimated cost to comply with the RPS**
 - **In applying cost limitation rules, may only apply those factors or types of costs used in setting the cost limitation**



Optional Compliance Measures, continued

- Delay of timely compliance (enforcement waived for conditions beyond POU's control) due to:
 - Inadequate transmission capacity
 - Permitting, interconnection or other procurement delays, or an insufficient supply of RE
 - Unanticipated curtailment of RE to address needs of balancing authority



Optional Compliance Measures, continued

- Portfolio **balance requirement** reduction
 - POU's may reduce the minimum allocation requirement for PCC 1
 - PCC 1 requirement for any compliance period after 12/31/16 may not be reduced below 65%
 - Reduction must be due to cost limitation or delay of timely compliance conditions
 - Reduction must be adopted at publicly noticed meeting; notice must include details of and reasons for the reduction



Optional Compliance Measures, continued

– Historic carry-over

- Procurement generated before 1/1/11 that was not applied to a POU's RPS compliance, or any other compliance or voluntary claim, may be applied to RPS procurement requirement for a compliance period
- Will be calculated based on RPS targets consistent with those for retail sellers
- Will be calculated beginning 1/1/04, or the first year for which RPS was adopted by POU
- RECs used for historic carry-over must be retired within 36 months of generation



Optional Compliance Measures, continued

- Optional rules must be adopted within compliance period for which they will be used; adoption date of optional rules may be considered by Commission when hearing a complaint against a POU
- Consideration of optional rules must be noticed 30 days in advance; adopted optional rules must be submitted to Commission within 30 days; however, Commission will not consider rule's compliance at that time



Optional Compliance Measures, continued

- In determining a POU's RPS compliance, the Commission will not consider the application of any optional compliance measures adopted by a POU that the Commission determines does not comply with statute or the regulations



Compliance Reporting for POUs

- Annual Report
 - Must be submitted by 6/1/13, and by 6/1 of each year after
 - Must include POU identifying information, **identified issues that may affect RPS compliance,** and annual progress information
 - **Format will be specified by the Commission, but the annual report information may be combined with other existing reports that contain the same information and are also supplied to the Commission**



Compliance Reporting for POUs, continued

- Compliance Report
 - Must be submitted by 6/1/14, 6/1/17, 6/1/21, and by 6/1 of each year after
 - Must include procurement classified by PCC; documentation verifying PCC claims; POU's RPS target; excess procurement calculated (if any); **historic carry-over and excess procurement claimed (if any)**; and, if any RPS procurement requirement was not met, documentation justifying the application of RPS compliance options



Compliance Reporting for POUs, continued

- Compliance Report, continued
 - POU must report the generation it wishes to claim toward the RPS procurement target for the purposes of calculating portfolio balance requirements
 - If POU applies adopted cost limitation measures, both the cost limitation and the cost of compliance with all RPS procurement requirements must be reported in the form of dollars expended during the compliance period



RPS Enforcement

- Complaint
 - Brought by Commission staff against a POU for failure to meet an RPS requirement, or any RPS regulation, order or decision
 - Complaint will contain a statement of facts on which complaint is based; statute, regulation, order or decision upon which complaint is based; action Commission is requested to take; and, authority for Commission to take such action



RPS Enforcement, continued

- Answer
 - POU must file answer within 45 days of service of complaint
 - Must include all data, reports, analyses, and any other relevant information to any claims made in answer
- Response
 - Commission must file within 15 days of receipt of answer; POU may reply within 10 days



RPS Enforcement, continued

- Hearing
 - Held 30 days or more after filing of response; must be publicly noticed
 - May be held before full Commission, a designated committee, or a hearing officer
 - If not held before the full Commission, proposed decision must be forwarded to the full Commission within 45 days of hearing
 - Decision of full Commission is final



RPS Enforcement, continued

- Referral
 - Commission staff forwards notice of violation and record of proceedings to the ARB for their determination of penalty
- Any person or entity may participate in a proceeding (ex., may submit public comment regarding a complaint), but shall not be a party to the proceeding