

DOCKETED

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Project Title:	Amendments to Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities
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Document Title:	Presentation from September 10 2019 Lead Commissioner Pre Rulemaking Workshop
Description:	The document enclosed is the presentation from the September 10, 2019 Lead Commissioner Pre-Rulemaking Workshop on the Implementation Proposal for Renewables Portfolio Standard Long-Term Procurement Requirement for Local Publicly Owned Electric Utilities.
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Lead Commissioner Pre-Rulemaking Workshop on Implementation Proposal for Renewables Portfolio Standard Long-Term Procurement Requirement

Arthur Rosenfeld Hearing Room
September 10, 2019



Katharine Larson
Renewable Energy Office
California Energy Commission



Housekeeping

- Extra handouts available on back table
- Restrooms located on 1st floor
- Vending machines on 2nd floor
- Emergency evacuation procedures
- WebEx participation
- Court reporter
- Written comments due **September 24, 2019 by 5:00 PM**. Comments may be submitted directly to the docket via the CEC e-filing system at <https://efiling.energy.ca.gov/Lists/Docketlog.aspx?docketnumber=16-RPS-03>



Workshop Agenda Overview

- Background
- Long-Term Procurement Requirement
 - Topic 1: Long-term procurement implementation options
 - Topic 2: Proposed characterization of long-term procurement
 - Break for lunch
 - Topic 3: Early compliance with the LTR
- Plan Forward
- Public Comment
- Closing Remarks



Background on California's RPS₁

- Renewables Portfolio Standard (RPS) establishes increasingly progressive renewable energy procurement targets for retail electricity sellers and local publicly owned electric utilities (POUs)
- Jointly administered by CEC and California Public Utilities Commission (CPUC)



Background on California's RPS₂

- CEC responsibilities include adopting regulations specifying RPS enforcement procedures for POUs
- June 2013: CEC adopted *Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities* (RPS POU Regulations)
 - Effective October 1, 2013
- October 2015: CEC adopted modified regulations
 - Effective April 12, 2016



Recent RPS Legislation

- **Senate Bill (SB) 350 (2015)**
 - Increased RPS requirements to 50 percent by 2030, established long-term procurement requirement, revised rules for excess procurement, among others
- **SB 1393 (2016)**
 - Revised RPS exemption for large hydroelectric generation and POU reporting requirements, among others
- **SB 100 (2018)**
 - Increased RPS requirements to 60 percent by 2030 and revised RPS exemption for large hydroelectric generation, among others
- **SB 1110 (2018)**
 - Provided partial RPS exemption for POUs with publicly owned gas-fired power plants under limited conditions



CEC Initial Pre-Rulemaking Activities

- CEC adopted Order Instituting Rulemaking on January 13, 2016, to implement SB 350
- Conducted initial pre-rulemaking activities in August 2016
 - *Pre-Rulemaking Amendments to the Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utility* (August 2016 Draft)
 - Public workshop
- Pre-rulemaking activities temporarily suspended, resumed in early 2019



Long-Term Procurement Requirement (LTR)

- Established by SB 350 and affects all POUs and retail sellers
- Public Utilities Code (PUC) section 399.13 (b) requires at least 65 percent of the procurement a retail seller counts for the RPS requirements of a compliance period to come from its:
 - Contracts of 10 years or more in duration
 - Ownership
 - Ownership agreements
- POU governing boards required to adopt consistent requirements in PUC 399.30 (d)(1)



Long-Term Procurement Requirement

- Long-term procurement requirement (LTR) effective January 1, 2021, but PUC section 399.13 (a)(4)(B) provides for voluntary early compliance beginning January 1, 2017
 - Allows for concurrent early use of the SB 350 excess procurement rules
- PUC section 399.30 (d)(1) requires POUs to adopt consistent requirements with section 399.13 (a)(4)(B)



Long-Term Procurement Requirement

- CEC seeks additional input on potential implementation of the LTR for POU's
 - Received public comments on August 2016 Draft
 - CPUC implementation of LTR for retail sellers in Decision (D).17-06-026 differs in part from August 2016 Draft
 - Additional implementation issues identified
- Developed staff paper and discussion questions to facilitate stakeholder and public input



Today's Workshop Format

- **Organized into three topic areas:**
 - Implementation of the long-term procurement requirement
 - Characterization of long-term procurement
 - Early compliance process
- **Each topic includes:**
 - Staff presentation
 - Roundtable discussion with POU stakeholders
 - Public comment



Public Comment

Oral Comments

- Comments in the room limited to 3 minutes
- Please turn in a blue card to speak
- Line up in front of microphone and state name and affiliation for the court reporter (provide business card if possible)
- Comments via WebEx:
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Public Comment

Written Comments

- Submit according to direction in the Workshop Notice available at https://ww2.energy.ca.gov/portfolio/pou_rulemaking/2016-RPS-03/

Due September 24, 2019, at 5:00 PM



Topic 1: Potential Implementation Options for Long-Term Procurement Requirement

Statute provides:

“[...] Beginning January 1, 2021, at least 65 percent of the procurement a retail seller counts toward the renewables portfolio standard requirement of each compliance period shall be from its contracts of 10 years or more in duration or in its ownership or ownership agreements for eligible renewable energy resources.”

“The governing board of a local publicly owned electric utility shall adopt procurement requirements consistent with subparagraph (B) of paragraph (4) of subdivision (a) of, and subdivision (b) of, Section 399.13.”



Topic 1: Potential Implementation Options for Long-Term Procurement Requirement₂

- Current RPS procurement requirements for POUs
 - RPS procurement target
 - Portfolio Balance requirement (PBR)
 - Consists of portfolio content category (PCC 1) minimum and PCC 3 maximum components
- Compliance for RPS procurement requirements evaluated separately
 - PCC 3 maximum limits amount of PCC 3 procurement that counts toward RPS procurement target, but PBR and procurement target can be independently satisfied



Topic 1: Potential Implementation Options for Long-Term Procurement Requirement₃

- Potential options to implement LTR:
 - Independent Compliance: LTR compliance evaluated separately and has no impact on POU compliance with procurement target and PBR
 - Dependent Compliance*: LTR compliance is precondition for POU compliance with procurement target and PBR

*Differs from August 2016 Draft



Option 1: Independent Compliance₁

Evaluating Compliance

- LTR calculated as:
 $65\% \times (\text{Lesser of procurement target or RECs applied})$
- Compliance evaluated by comparing LTR and long-term RECs applied



Option 1: Independent Compliance₂

Evaluating Compliance

- LTR compliance required to satisfy RPS procurement requirements, but compliance evaluated separately
- POU with insufficient long-term procurement may incur deficit in LTR
 - May be subject to enforcement processes in RPS regulations for LTR deficit



Option 1: Independent Compliance Excess Procurement

- RECs retired but not applied are not subject to 65% requirement
- All RPS procurement requirements, including LTR, must be satisfied for POU to bank excess procurement*
- Excess procurement subject to LTR in compliance period during which it is applied, not banked

*Differs from August 2016 Draft



Option 1: Independent Compliance

Optional Compliance Measures

- POU with deficit in LTR may adopt and apply cost limitations, subject to statutory and regulatory requirements
 - Cost limitations may consider cost of long-term procurement
- Delay of timely compliance* and PBR reduction not available

*Differs from August 2016 Draft



Option 2: Dependent Compliance*

Evaluating Compliance

- LTR initially calculated same as Option 1:
 $65\% \times (\text{Lesser of procurement target or RECs applied})$
- Compliance evaluated by comparing LTR and long-term RECs applied
 - If LTR not met, disallow short-term RECs until the long-term RECs applied account for 65 percent of RECs applied*

*Differs from August 2016 Draft



Option 2: Dependent Compliance*₂

Evaluating Compliance

- LTR compliance always required prior to assessing compliance with procurement target and PBR*
- POU with insufficient long-term procurement requirement may incur deficit in procurement target and/or PBR due to disallowance of short-term RECs*
 - May be subject to enforcement processes in RPS regulations for deficit in procurement target and/or PBR

*Differs from August 2016 Draft



Option 2: Dependent Compliance* Excess Procurement (same as Option 1)

- RECs retired but not applied are not subject to 65% requirement
- All RPS procurement requirements, including LTR, must be satisfied for POU to bank excess procurement*
- Excess procurement subject to LTR in compliance period during which it is applied, not banked

*Differs from August 2016 Draft



Option 2: Dependent Compliance* Optional Compliance Measures

- POU cannot incur deficit in LTR under dependent compliance option*
 - Optional compliance measures not applicable to LTR
- POU may incur deficit in RPS procurement target and/or PBR as a result of applying insufficient long-term procurement*
 - May adopt and apply cost limitations, delay of timely compliance, and/or PBR reduction measures to address deficits, subject to statutory and regulatory requirements

*Differs from August 2016 Draft



Comparison of Independent and Dependent Compliance Options

Topic	Option 1: Independent Compliance	Option 2: Dependent Compliance
Relationship to RPS procurement target and PBR compliance	LTR compliance has no effect on target or PBR compliance	LTR compliance required prior to evaluating target and PBR compliance
Implications for insufficient long-term procurement	POU may incur a deficit in the LTR	POU cannot incur deficit in LTR, but may incur a deficit in the procurement target and/or PBR
Possible enforcement action (if not excused by OCMs)	Complaint may be issued for failure to meet LTR	Complaint may be issued for failure to meet procurement target and/or PBR.



Example 1: POU Retires Long-Term Procurement in Excess of LTR

	Quantity (RECs)
<i>Procurement Target</i>	<i>100,000</i>
<i>LTR</i>	<i>= 65% x 100,000 = 65,000</i>
RECs Retired	125,000
LT PCC 1	75,000
ST PCC 1	50,000
RECs Applied	100,000
LT PCC 1	65,000
ST PCC 1	35,000

- Same result for independent and dependent compliance option
- POU meets LTR, PBR, and procurement target
- RECs retired, not applied, that may be eligible for banking:
 - 15,000 ST PCC 1 RECs
 - 10,000 LT PCC 1 RECs



Example 2: POU Applies Insufficient Long-Term Procurement (All PCC 1)

	Quantity (RECs)
<i>Procurement Target</i>	<i>100,000</i>
<i>LTR</i>	$= 65\% \times 100,000$ $= 65,000$
LT RECs Applied (all PCC 1)	50,000
ST RECs Applied (all PCC 1)	50,000

- Independent Compliance Option:
 - LTR deficit of 15,000 RECs
 - No deficit in procurement target or PBR
- Dependent Compliance Option
 - No deficit in LTR or PBR
 - Procurement target deficit of 23,077 RECs



Example 3: POU Applies Insufficient Long-Term Procurement (PCC 1, 2, and 3)

	Quantity (RECs)
<i>Procurement Target</i>	100,000
<i>LTR</i>	=65% x 100,000 = 65,000
LT RECs Applied	50,000
PCC 1	25,000
PCC 2	15,000
PCC 3	10,000
ST RECs Applied	50,000
PCC 1	50,000

- Independent Compliance Option:
 - LTR deficit of 15,000 RECs
 - No deficit in procurement target or PBR
- Dependent Compliance Option
 - No deficit in LTR
 - Procurement target deficit of 23,077 RECs
 - PBR deficit of 5,769 PCC 1 RECs



Topic 1: LTR Implementation Options

Roundtable Discussion Questions

1. Do both implementation options effectively implement the LTR? Explain.
2. Which implementation option best supports the state's 100 percent clean energy policy? Explain.
3. What reasons (e.g., policy, factual, financial, practical, legal) support the independent compliance LTR implementation for POUs? Explain.



Long-Term Procurement Implementation Options

Roundtable Discussion Questions

4. What market impacts, if any, could result if the CEC implements the LTR for POUs as the independent compliance option? Explain.
5. Are there alternative implementation options that are less burdensome and sufficiently effectuate the purpose of the statute? Explain.



Public Comment

- Comments limited to 3 minutes
- Hand in blue cards
- Line up in front of microphone when called
- State name & affiliation for the court reporter (leave business card)
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Topic 2: Characterization of Long-Term Procurement

Statute provides:

“[...] Beginning January 1, 2021, at least 65 percent of the procurement a retail seller counts toward the renewables portfolio standard requirement of each compliance period shall be from its contracts of 10 years or more in duration or in its ownership or ownership agreements for eligible renewable energy resources.”

“The governing board of a local publicly owned electric utility shall adopt procurement requirements consistent with subparagraph (B) of paragraph (4) of subdivision (a) of, and subdivision (b) of, Section 399.13.”



Characterization of Long-Term Procurement Features of Long-Term Contracts.

- Term of at least 10 continuous years*
 - Short-term extensions of short-term contracts not considered long-term, even if combined term amounts to at least 10 years*
 - Any extension of long-term contract considered long-term
 - Long-term extension of short-term contract considered long-term, effective the amendment execution date
- Term measured based on delivery term (from expected procurement start date to expected procurement end date)

*Differs from August 2016 Draft



Characterization of Long-Term Procurement Features of Long-Term Contracts₂

- Continuous 10-year requirement applies to POU's own contracts*
 - Example: contract assignments or repackaged shares of contracts characterized as long-term if the original contract and the POU's assignment or share are long-term

*Differs from August 2016 Draft



Characterization of Long-Term Procurement Ownership

- Ownership and ownership agreements considered long-term unless ownership term is specified
 - If ownership agreement term is specified, must be at least 10 continuous years to count as long term*
- Procurement claimed as long-term via ownership agreement must be proportional to the POU's share of the agreement*

*Differs from August 2016 Draft



Characterization of Long-Term Procurement Treatment of PCC 0 and Historic Carryover

- Option 1: Count in full toward RPS procurement target and LTR
 - Characterized as long-term due to count-in-full status and included in LTR calculation
- Option 2: Count in full toward RPS procurement target without being subject to LTR
 - Excluded from LTR calculation



Characterization of Long-Term Procurement Considerations for PCC 2 Contracts

- Considered long-term if the contract or ownership agreement for the eligible renewable generation is long-term



Characterization of Long-Term Procurement Roundtable Discussion Questions

1. For an amended contract to be considered long-term, staff proposes that the current term or at least one prior term have a continuous duration of at least 10 years. Can certain amendments to short-term contracts, in which the duration of the amendment is also short-term in nature but the entire amended term has a duration of at least 10 years, provide long-term planning stability? Explain.
2. What reasons (e.g., policy, factual, practical, financial, legal), if any, would support characterizing short-term amendments of short-term contracts as long-term, provided the entirety of the amended term is at least 10 years? Explain.



Characterization of Long-Term Procurement Roundtable Discussion Questions₂

3. Should procurement from short-term assignments of contracts that were initially long-term in nature be allowed to count as long-term procurement when determining compliance with the LTR? Explain.
4. Should contract modifications that do not explicitly change the stated duration of the contract, such as changes to procurement quantities, changes in price, or assignment of certain rights or obligations under the contract, affect the contract's duration for purpose of determining the long-term nature of the procurement? Explain.



Characterization of Long-Term Procurement Roundtable Discussion Questions₃

5. Under what circumstances should a POU's assignment of its rights and obligations under a long-term contract serve to nullify the long-term nature of the contract? Explain.

6. Do both treatment options for PCC 0 and historic carryover effectively implement both the LTR and the count-in-full provisions under PUC section 399.16? Explain.



Characterization of Long-Term Procurement Roundtable Discussion Questions

7. What market impacts, if any, could occur if the requirements for long-term procurement under the LTR differ for POUs and retail sellers? Explain.
8. What other conditions need to be addressed to fully characterize the duration of procurement for the purposes of evaluating POU compliance with the LTR? Explain.



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Topic 3: Voluntary Early Compliance

Statute provides:

“[...] If a retail seller notifies the commission that it will comply with the provisions of subdivision (b) for the compliance period beginning January 1, 2017, the provisions of clauses (i) and (ii) shall take effect for that retail seller for that compliance period.”

“The governing board of a local publicly owned electric utility shall adopt procurement requirements consistent with subparagraph (B) of paragraph (4) of subdivision (a) of, and subdivision (b) of, Section 399.13.”



Topic 3: Voluntary Early Compliance₂

- LTR takes effect beginning January 1, 2021, for all POUs, unless POU has opted for voluntary early compliance
- POUs that elect for early compliance and satisfy the LTR during Compliance Period 3 may use the SB 350 excess procurement rules for Compliance Period 3



Topic 3: Voluntary Early Compliance₃

- Proposed early compliance process:
 - Governing board adopts rules in RPS procurement plan or enforcement program allowing it option to comply early with the LTR
 - POU reports on early compliance election in compliance period report submitted for Compliance Period 3
 - If a POU is determined not to have met the LTR for Compliance Period 3, POU may revise its compliance period report to remove early compliance election



Topic 3: Voluntary Early Compliance

Roundtable Discussion Questions

1. Does staff's proposal effectively implement the provisions of PUC section 399.13 (a)(4)(B) and section 399.30 (d)(1) for POUs? Explain.
2. Under staff's proposal, if a POU that elected early compliance for Compliance Period 3 is determined not to have satisfied the LTR for that period during the CEC's verification activities, which occur after the completion of Compliance Period 3, the POU may revise its election. What are the potential compliance impacts if the early election is revised? Explain.



Public Comment³

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Plan Forward

Document Availability

- Copies of staff's implementation proposal document are available on the CEC website at <https://efiling.energy.ca.gov/Lists/Docketlog.aspx?docketnumber=16-RPS-03>
- Presentation slides will be available on the CEC website following the workshop



Plan Forward

Written Public Comments

- Written comments due:

September 24, 2019 by 5:00 PM

- Comments may be submitted directly to the docket through the e-filing system at

<https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=16-RPS-03>



Plan Forward

Next Steps

- Develop implementation proposal and/or draft regulatory amendments on full range of statutory changes to RPS program
 - Revise LTR implementation after considering workshop discussion and public comment
- Solicit public input on full implementation proposal



Plan Forward

Tentative Schedule

- Q4 2019: Pre-rulemaking workshop
- Q1 2020: Initiate formal rulemaking process
- Q3 2020: CEC adopts revised regulations
- Q4 2020: Submit final rulemaking package to OAL

Tentative schedule may change depending on scope of public input received during pre-rulemaking activities



Contact Information

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Lightning Round

- Opportunity to raise top priority, issue, or concern for the upcoming rulemaking
- Lightning round comments limited to 60 seconds



Public Comment Lightning Round

- Comments limited to 60 seconds
- Hand in blue cards
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Public Comment⁴

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Closing Remarks

Commissioner Karen Douglas

Lead Commissioner for Renewable Energy

California Energy Commission