

DOCKETED

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LADWP Comments to Second 15-Day RPS Enforcement Procedures

Additional submitted attachment is included below.

**BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA**

In the matter of:

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

Docket No. 16-RPS-03

RE: Comments on Second 15-Day
Language to RPS Enforcement
Procedures

**COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND POWER TO THE
CALIFORNIA ENERGY COMMISSION ON SECOND 15-DAY LANGUAGE MODIFICATION OF
REGULATIONS SPECIFYING ENFORCEMENT PROCEDURES FOR THE RENEWABLES PORTFOLIO
STANDARD FOR LOCAL PUBLICLY OWNED ELECTRIC UTILITIES**

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Dated: September 2, 2020

INTRODUCTION

Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to provide comments to the California Energy Commission (Commission) on the Second 15-Day Language Modification of Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard (RPS Enforcement Procedures) for Local Publicly Owned Electric Utilities (POUs).

The City of Los Angeles (City of LA) is a municipal corporation and charter city organized under the provisions set forth in the California Constitution. LADWP is a department of the City of LA, pursuant to the Los Angeles City Charter, whose governing structure includes a mayor, a fifteen-member City Council, and a five-member Board of Water and Power Commissioners (Board). LADWP is the third largest electric utility in the state, one of five California Balancing Authorities, and the nation's largest municipal utility, serving a population of over four million people within a 465 square mile service territory that covers the City of Los Angeles and portions of the Owens Valley. LADWP's mission is to provide our customers and the communities we serve safe, reliable, and cost-effective water and power in a customer-focused and environmentally responsible manner.

SPECIFIC COMMENTS

After review of the Second 15-Day changes to the RPS Enforcement Procedures, LADWP is seeking further clarification on the latest changes to ensure compliance with the newly introduced requirements. LADWP is committed to meet all the long-term procurement requirements under the RPS Enforcement Procedures for POUs. To that end, LADWP is requesting that the specific comments enumerated below are considered prior to the adoption of the rules. Further, LADWP requests Commission staff to revise some of the procedures or at a minimum, provide clarification in the Final Statement of Reasons (FSOR) document to ensure that LADWP and other POUs will be able to comply with the proposed requirements.

I. Section 3204 – RPS PROCUREMENT REQUIREMENTS

a. Section 3204 (d)(2)(A)(3) – LADWP Requests Clarification on Documentation Needed to Demonstrate Long-Term Commitment

LADWP requests further clarification either in the FSOR or in the language on what type of “additional information” should be provided to the Commission, as provided in Section 3207 (c)(5), to demonstrate that a long-term contract represents a long-term procurement commitment with an RPS-certified facility. LADWP's specific comments to Section 3207 (c)(5) are in Section II.

b. Section 3204 (d)(2)(E) – LADWP Requests for Commission Staff to Reconsider the Treatment of “Excess” Procurement

LADWP requests Commission staff to enhance Section 3204 (d)(2)(E) of the proposed language to account for specified quantities within a contract. It is important to note that forecasts related to estimated or maximum generation are typically included in long-term contracts for the sole purpose of allowing developers to plan expected revenues and to assist buyers to secure financing.

For example, unlike the proposed language in Section 3204 (d)(2)(E), a number of legacy long-term contracts do not have any specified not-to-exceed quantities. These contracts may include terms such as “maximum generation amount” or “estimated generation amount” that are intentionally included in the contract only for pricing and operational purposes where production of energy beyond these specified quantities is still accepted, paid for, and delivered to customers at an agreed upon rate. The current language in Section 3204 (d)(2)(E) will consider generation beyond the “maximum generation amount” or “estimated generation amount” as excess – in reality, such generation is not excess.

Based on that, LADWP strongly recommends that Commission staff clarify in the FSOR that Section 3204 (d)(2)(E) applies only to contracts that specify a “not-to-exceed” generation amount. All generation purchased under existing long-term contracts that do not have a “not-to-exceed” generation amount should be classified as long-term procurement. Alternatively, LADWP suggests that the Commission replaces Section 3204 (d)(2)(E) in its entirety with the following provision:

(E) For long-term contracts specifying a not-to-exceed generation amount, electricity products in excess of the not-to-exceed generation amount shall be classified as short-term.

With this provision, Section 3204(d)(2)(E) will allow legacy contracts and ownership agreements that do not specify a “not-to-exceed” generation amount to maintain their fully intended valuation since all procurement is derived from a contract of at least 10-years – thus, such procurement should be considered long-term. In addition, this replacement language will reduce the need to subdivide procurement from the same resource under the same contract for compliance reporting.

c. Section 3204 (d)(2)(J)(3)(iii) – LADWP Requests Clarification on Documentation Required to Demonstrate Need for Replacement Energy

LADWP appreciates that replacement energy will be classified as long-term if it comes from another RPS-certified facility as allowed by the original contract. However, LADWP does not have a clear understanding of what type of information is accepted by Commission staff to demonstrate that the need for replacement energy occurred because the specified RPS-certified facility was unable to perform as the original contract required. To ensure compliance with this provision, LADWP requests that Commission staff provide clarification in the FSOR on the type of information that will satisfy this requirement.

d. Section 3204 (d)(2)(J)(4) – LADWP Supports this Section as Amended

Joint Power Authorities represent a great majority of POU's in California. Joint Power Authorities provide operational efficiencies, cost savings through collective procurement, and financing of eligible renewable resource projects to their POU members. As a result, LADWP is in support of the amended Section 3204 (d)(2)(J)(4) allowing for amendments, assignments, or modifications of jointly negotiated long-term contracts or joint ownership agreements.

II. SECTION 3207 – COMPLIANCE REPORTING FOR POU's

a. Section 3207 (c)(2)(G)1 – Third-Party Submittal of Documentation

LADWP appreciates removal of the statement relating to third-party's documentation being binding on the POU. However, LADWP's existing contracts do not have language requiring third-parties to comply with Commission staff's long-term procurement verification process. Modifying these existing contracts to add third-party compliance may affect not only the long-term contract eligibility but also the pricing term of the contract.

LADWP recommends that third-party suppliers should provide information to the Commission staff if and only if the POU is unable to provide documentation to demonstrate compliance to long-term contract requirements. Ultimately, compliance obligation is the POU's responsibility; the role of third-party suppliers is to complete transactions with no requisite obligation to comply with the Commission's long-term contract requirements. Therefore, LADWP requests that Commission staff update Section 3207(c)(2)(G)1 with the following:

1. *Documentation demonstrating a long-term contract meets the requirements of section 3204 (d)(2)(A) may be submitted directly to the CEC by the third-party supplier or another party on the POU's behalf if the POU is unable to furnish such documentation. In the event a third-party supplier or another*

party submitted documentation to the CEC, such documentation should be available for review and concurrence by the POU.

b. Section 3207 (c)(5)(A)1 – LADWP Recommends Specific Amendments and Further Clarifications

To ensure the provision is appropriately applied to relevant legacy long-term contracts and assist the compliance review of long-term contracts by Commission staff, LADWP requests Section 3207 (c)(5)(A)(1) to be amended as follows:

1. ***Consistency of quantities and deliveries specified in the contract. Only for long-term contracts that have consistent and defined quantities and deliveries, the ~~The~~ POU may be required to explain contract provisions specifying procurement quantities that vary over the term of the contract and provide additional justification demonstrating that the contract provides a long-term procurement commitment consistent with the purposes of the long-term procurement requirement. Long-term contracts that have marginally varying quantities and deliveries throughout the term of the contract are exempt from this requirement.***

c. Section 3207 (c)(5)(B) – Request for Additional Guidance on What “Additional Explanation” and “Additional Information” Mean

LADWP requests further clarification or guidance of the above terms under Section 3207 (c)(5)(B) in the FSOR to ensure LADWP’s compliance with the newly introduced requirements.

d. Section 3207 (o) – Notification Deadline of Previously Submitted Contracts Claimed as Long-Term Procurement

Section 3207 (o) does not identify whether the April 1, 2021 date refers to the annual deadline or a onetime requirement for compliance. In order to align the long-term contract notification deadline with the *annual compliance reporting* deadline in accordance with Section 3207 (c), LADWP suggests amending the notification date from April 1, 2021 to July 1, 2021.

III. OTHER

a. LADWP Requests for Guidance or a Checklist on Long-Term Contract Language requirements as Part of the FSOR, Annual Reporting Check List, Verification Methodology Report, or Other Policy Documents

To ensure compliance with the newly introduced requirements on long-term contracts, LADWP would like to request an informal and non-binding guidance or checklist as part of the FSOR document, Annual Reporting Checklist, Verification Methodology Report, or other policy documents. The guidance or checklist is intended to provide POUs a roadmap or blueprint on

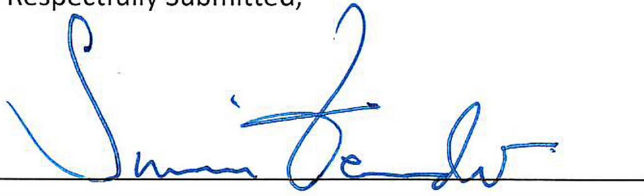
what provisions should be added in long-term contracts. Such guidance or checklist can be used by POU's as references prior to committing to future long-term agreements.

CONCLUSION

LADWP appreciates the opportunity to submit comments on the second 15-Day Language Modification to the RPS Enforcement Procedures for local POU's, and to continue working with the California Energy Commission to help shape effective regulations that will benefit the health, safety, and security of all California residents. If you have any questions, please contact myself, Simon Zewdu, at (213) 367-2525, or Mr. Scott Hirashima at (213) 367-0852.

Dated: September 2, 2020

Respectfully Submitted,



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