

<b>DOCKETED</b>	
<b>Docket Number:</b>	16-RPS-03
<b>Project Title:</b>	Amendments to Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities
<b>TN #:</b>	236214
<b>Document Title:</b>	Resolution Adopting Regulations
<b>Description:</b>	Resolution No: 20-1222-4
<b>Filer:</b>	Cody Goldthrite
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
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STATE OF CALIFORNIA

STATE ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION

*IN THE MATTER OF:*

**MODIFICATION OF REGULATIONS  
SPECIFYING ENFORCEMENT  
PROCEDURES FOR THE  
RENEWABLES PORTFOLIO  
STANDARD FOR LOCAL PUBLICLY  
OWNED ELECTRIC UTILITIES**

**Docket No. 16-RPS-03**

**RESOLUTION ADOPTING  
REGULATIONS**

**WHEREAS**, on May 7, 2020, the State Energy Resources Conservation and Development Commission (“California Energy Commission” or “CEC”) mailed and posted on the CEC’s website a Notice of Proposed Action (NOPA) formally notifying the public of the CEC’s intent to adopt proposed regulations specifying procedures for the enforcement of the Renewables Portfolio Standard (RPS) for local publicly owned electric utilities (POUs), the Express Terms of the proposed regulations, an Initial Statement of Reasons (ISOR) describing the rationale for the proposal, and the economic and fiscal impact analysis for the proposal; and

**WHEREAS**, on May 8, 2020, the NOPA was published in the California Regulatory Notice Register; and

**WHEREAS**, on July 9, 2020, the CEC published an Initial Study and Proposed Negative Declaration for the proposed regulations and published and submitted to the State Clearinghouse a Notice of Intent to Adopt a Negative Declaration, concluding that the proposed regulations would not result in any significant adverse impacts to the environment; and

**WHEREAS**, on June 8, 2020, the CEC held a Lead Commissioner Workshop on the regulations; and

**WHEREAS**, on June 22, 2020, the initial written comment period closed; and

**WHEREAS**, on July 21, 2020, the CEC issued a Notice of Availability of 15-Day Language, which established a written public comment period for the 15-day language ending on August 5, 2020; and

**WHEREAS**, on August 5, 2020, the CEC issued a Notice of Postponement of

Adoption Hearing, which postponed the August 12, 2020 Public Hearing noticed in the NOPA to consider adoption of the proposed regulations; and

**WHEREAS**, on August 18, 2020, the CEC issued a Notice of New Public Hearing Date and Notice of Availability of Second 15-Day Language, which rescheduled the Public Hearing to consider adoption of the proposed regulations to September 9, 2020, and established a written public comment period for the second 15-day language ending on September 2, 2020; and

**WHEREAS**, on September 8, 2020, the CEC issued a Notice of Postponement of Adoption Hearing, which postponed the September 9, 2020, Public Hearing; and

**WHEREAS**, on October 26, 2020, the CEC issued a Notice of Lead Commissioner Workshop for November 5, 2020; and

**WHEREAS**, on October 30, 2020, the CEC issued a Key Topics Guide for the November 5, 2020, workshop, which contained a staff proposal on key elements of the RPS long-term procurement requirement and illustrative draft regulatory language; and

**WHEREAS**, on December 1, 2020, the CEC issued a Notice of New Public Hearing Date and Notice of Availability of Third 15-Day Language, which rescheduled the Public Hearing to consider adoption of the proposed regulations to December 22, 2020, and established a written public comment period for the third 15-day language ending December 16, 2020; and

**WHEREAS**, on December 22, 2020, the CEC held a public hearing to receive comments on the proposed regulations and to consider its adoption of the proposed Negative Declaration and the proposed regulations, and did so adopt the regulations.

**THEREFORE, THE CALIFORNIA ENERGY COMMISSION FINDS:**

With regard to the California Environmental Quality Act:

- The CEC has considered the application of the California Environmental Quality Act (CEQA) to the proposed regulations and concluded that the proposed regulations will not have any direct, indirect, or cumulatively considerable significant adverse effect on the environment; and

With regard to the Administrative Procedure Act:

- The proposed regulations will apply only to POUs as defined in Public Utilities Code section 224.3, which are local agencies and not businesses; and
- The proposed regulations will not result in the creation of new businesses or elimination of existing businesses, will not result in the expansion of businesses currently doing business in California, and will not result in a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states; and
- The proposed regulations would impose a mandate on local agencies since POUs are local agencies, but pursuant to Government Code section 17556 (d), the costs would not be required to be reimbursed because POUs, as local agencies, have the authority to levy service charges, fees, or assessments

sufficient to pay for the mandated program or increased level of service. Public Utilities Code sections 10001, et seq., 11501, et seq., and 15501 et seq., and Water Code section 20500, et seq. provide revenue sources for the affected POU's to recoup any costs incurred through compliance with the proposed regulations; and

- The proposed regulations will impose no direct costs, or direct or indirect requirements or mandates, on state agencies, local agencies, or school districts, other than the mandate discussed above; and
- The proposed regulations will not result in the creation or elimination of jobs within California; and
- The proposed regulations will result in no costs or savings in federal funding to the State of California; and
- The proposed regulations will result in marginal costs to the CEC for implementation, but no costs or savings to any other state agency; and
- The proposed regulations will result in marginal costs to POU's, which are local agencies. None of these costs would be reimbursable because POU's, as local agencies, have the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. Additionally, the proposed regulations will result in marginal savings to local agencies.
- The proposed regulations will result in no nondiscretionary costs or savings to school districts; and
- The proposed regulations will have no impact on housing costs; and
- The proposed regulations will have no significant, statewide adverse economic impact on businesses in general or small businesses in particular; and
- The proposed regulations will result in no cost impacts to representative private persons or businesses in reasonable compliance with the regulations; and
- The proposed regulations will not adversely impact the health and welfare of California residents, worker safety, or the state's environment; and
- The proposed regulations have no alternatives that would be more effective in carrying out the purposes of the statutes for which the regulations are proposed, that would be as effective and less burdensome to affected private persons in carrying out those purposes, or that would be more cost effective to affected private persons and equally effective in implementing those purposes; and
- The proposed regulations will not have a significant adverse economic impact on small business and no alternatives were proposed that would lessen any adverse economic impact on small business; and
- The proposed regulations will not require completion of any new reports by businesses, but will require the completion and submission of reports by POU's, which are local agencies, not businesses; and

- None of the comments received during the comment period or at the public adoption hearing, and nothing else in the record, justified any changes to the proposed regulations as published on December 1, 2020.

**THEREFORE BE IT RESOLVED**, after considering the Initial Study, and all related materials in the record, the CEC finds that (1) there is no substantial evidence that the adoption of the proposed amendments to the regulations specifying procedures for the enforcement of the RPS for POUs will have a significant effect on the environment, and (2) the Negative Declaration reflects the CEC's independent judgment and analysis. The CEC hereby adopts the Negative Declaration and Initial Study published on July 9, 2020. Documents and other materials that constitute the record of proceedings upon which the decision to adopt the Negative Declaration is based can be found at the Warren-Alquist State Energy Building, 1516 9<sup>th</sup> Street, Sacramento, California, 95814 in the custody of the CEC Docket Unit.

**FURTHER BE IT RESOLVED**, additionally, after considering all comments received and the staff's responses, and based on the entire record of this proceeding, the CEC hereby adopts the amendments to its regulations specifying procedures for the enforcement of the RPS for POUs, as published on December 1, 2020, and set forth in the California Code of Regulations, title 20, sections 3201–3208 and 1240.

The CEC takes this action under the authority of sections 25213 and 25218(e) of the Public Resources Code, which authorize the CEC to adopt rules or regulations, as reasonable and necessary, to implement, inter alia, Public Utilities Code sections 399.13, 399.15, 399.16, 399.18, 399.30, and 399.33; and

**FURTHER BE IT RESOLVED**, that documents and other materials that constitute the rulemaking record can be found at the Warren-Alquist State Energy Building, 1516 9<sup>th</sup> Street, Sacramento, California, 95814 in the custody of the CEC Docket Unit; and

**FURTHER BE IT RESOLVED**, the CEC delegates the authority and directs CEC staff to take, on behalf of the CEC, all actions reasonably necessary to have the proposed regulations go into effect as soon as possible, including but not limited to making any appropriate non-substantive changes to the regulations; preparing all appropriate documents, such as the Final Statement of Reasons; compiling and submitting the rulemaking file to the Office of Administrative Law (OAL); making any changes to the rulemaking file required by OAL; and preparing and filing the Notice of Determination with the State Clearinghouse.

## **CERTIFICATION**

The undersigned Secretariat to the CEC 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 CEC held on December 22, 2020.

AYE: Hochschild, Scott, Douglas, McAllister, Monahan

NAY: None

ABSENT: None

ABSTAIN: None

*Cody Goldthrite*

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Cody Goldthrite  
Secretariat