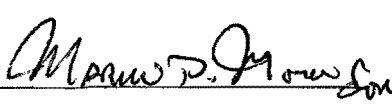



## DOCKETED

<b>Docket Number:</b>	16-RPS-02
<b>Project Title:</b>	Appeal by Los Angeles Department of Water & Power re Renewables Portfolio Standard Certification Eligibility
<b>TN #:</b>	212411
<b>Document Title:</b>	10-2013 LADWP RPS Policy (Bates Nos. LA000076-LA000098)
<b>Description:</b>	N/A
<b>Filer:</b>	Pjoy Chua
<b>Organization:</b>	LADWP
<b>Submitter Role:</b>	Applicant
<b>Submission Date:</b>	7/22/2016 4:47:14 PM
<b>Docketed Date:</b>	7/22/2016

# LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) BOARD APPROVAL LETTER

TO: BOARD OF WATER AND POWER COMMISSIONERS		DATE: November 8, 2013
 <b>ARAM BENYAMIN</b> Senior Assistant General Manager - Power System		<b>SUBJECT:</b> The LADWP Renewable Portfolio Standard Policy and Enforcement Program (RPS Policy), As Amended December 2013
 <b>RONALD O. NICHOLS</b> General Manager		<b>FOR COMMISSION OFFICE USE:</b>          RESOLUTION NO. <u>014 119</u> DEC 03 2013  3-COPY RESO TO SR ARM-12/17/13 Power System
CITY COUNCIL APPROVAL REQUIRED: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
IF YES, BY WHICH CITY CHARTER SECTION:		

## PURPOSE

Transmitted for approval by your Honorable Board is a Resolution, approved as to form and legality by the City Attorney, recommending amendment of LADWP's RPS Policy, which identifies the targets needed to comply with provisions of the California Renewable Energy Resources Act (Act or SB 2 [1X]). The RPS Policy incorporates changes made by the recently approved regulations by the California Energy Commission (CEC) entitled Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities (Regulations).

This LADWP RPS Policy amendment incorporates the Optional Compliance Measures found in the Regulations, and is part of LADWP's continuing efforts to update its RPS Policy to reflect adopted regulations. The Optional Compliance Measures include excess procurement, delay of timely compliance, cost limitations, and portfolio balance requirement reduction. Excess procurement must be approved before the end of 2013 for LADWP to apply any excess procurement obtained in the first compliance period to the second compliance period. LADWP may, in the discretion of its General Manager, or his or her designee, apply excess procurement in one compliance period to a subsequent compliance period. Also, within the discretion of LADWP's Board (Board), as permitted by law, LADWP may delay the timely compliance with the RPS procurement requirements and/or reduce the portfolio balance requirements.

While it is not staff's intention to exercise these strategies of delayed compliance, renewable generation has inherent uncertainties associated with permitting, financing, and construction, and as a measure of risk mitigation, the Board should retain its options to utilize the flexibility in the regulations for the benefit of our ratepayers, if necessary. Adoption of this RPS Enforcement Program during this calendar year will allow LADWP to exercise delayed compliance strategies in the event of a shortfall of procurement in this calendar year.

The Board retains its jurisdiction to enforce the RPS Policy in accordance with Public Utilities Code (PUC), Section 399.30 (e). To ensure compliance with the Act and Regulations the following are the amended RPS targets:

1. For the period of January 1, 2011, to December 31, 2013, LADWP will procure sufficient electricity products from eligible renewable energy resources to achieve an average of 20 percent of retail sales.
2. For the compliance period beginning January 1, 2014, and ending December 31, 2016 (Compliance Period 2), LADWP shall demonstrate it has procured electricity products within that period sufficient to meet or exceed the sum of 20 percent of its 2014 retail sales, 20 percent of its 2015 retail sales, and 25 percent of its 2016 retail sales.
3. For the compliance period beginning January 1, 2017, and ending December 31, 2020 (Compliance Period 3), LADWP shall demonstrate it has procured electricity products within that period sufficient to meet or exceed the sum of 27 percent of its 2017 retail sales, 29 percent of its 2018 retail sales, 31 percent of its 2019 retail sales, and 33 percent of its 2020 retail sales.
4. For the calendar year ending December 31, 2021, and each calendar year thereafter, LADWP shall procure electricity products sufficient to meet or exceed 33 percent of its retail sales by the end of that year.

#### **COST AND DURATION**

LADWP may not make any major financial commitment to procure renewable resources prior to evaluating the rate impact and any potential adverse financial impact on the City of Los Angeles transfer.

SB2 (1X) does not have a sunset clause, so it is anticipated that the duration of this action will be permanent.

## **BACKGROUND**

In 2002, California Senate Bill 1078 (SB 1078), an Act to add Sections 387, 390.1 and 399.25, and to add Article 16 (commencing with Section 399.11) to Chapter 2.3 of Part I of Division 1 of the PUC, was passed establishing a 20 percent RPS for California investor-owned electric utilities. SB 1078 provides that each government body of a local publicly-owned electric utility (POU) shall be responsible for implementing and enforcing a RPS that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

On June 29, 2004, the Los Angeles City Council passed Resolution No. 03-2064-S1 requesting that the Board adopt an RPS Policy of 20 percent renewable energy by 2017 setting applicable milestones to achieve that goal, and incorporated the RPS into a future Integrated Resource Plan (IRP).

On May 23, 2005, the Board adopted an RPS Policy that established the goal of increasing the amount of energy LADWP generates from renewable power sources to 20 percent of its energy sales to retail customers by 2017, with an interim goal of 13 percent by 2010. On June 29, 2005, the Los Angeles City Council approved the RPS Policy.

On April 11, 2007, the Board amended the RPS Policy by accelerating the goal of requiring 20 percent of energy sales to retail customers be generated from renewable resources by December 31, 2010. In addition, the amended policy established renewable energy procurement ownership targets.

On May 20, 2008, the Board approved an amended RPS Policy, which included an additional RPS goal of requiring 35 percent of energy sales to retail customers be generated from renewable resources by December 31, 2020, expanded the list of eligible renewable resources, and provided a new definition of when RPS energy can be delivered to LADWP.

In 2010, LADWP achieved its RPS goal of 20 percent.

On April 12, 2011, Governor Edmund G. Brown signed the SB 2 (1X) into law, establishing a mandatory RPS for POUs. SB 2 (1X) required each POU to obtain a minimum of 25 percent RPS by 2016 and 33 percent RPS by 2020 and demonstrate reasonable progress for each intervening year. Further, SB 2 (1X) became effective on

December 10, 2011, and required the governing board of a POU, such as LADWP, to adopt a program for enforcement, in accordance with PUC Section 399.30(e), by January 1, 2012.

On December 6, 2011, the Board adopted Resolution No. 012-109 comprehensively updating the existing policy to comply with SB 2 (1X).

At the end of August 2013, the California Office of Administrative Law (OAL) approved the CEC's Regulations for the Act as it applied to POUs, which became effective on October 1, 2013. These Regulations included a public process under which the CEC may issue a notice of violation and correction against a POU for failure to comply.

Over the past several years, LADWP has proactively acquired renewable energy resources such as wind and solar facilities to meet its RPS. As LADWP has acquired those resources, it has done so by taking advantage of available federal tax credits and grants, as well as federally subsidized municipal bond programs.

Without the federal tax grants and incentives, the cost of the renewable energy portfolio additions would have to be higher for LADWP to meet the City of Los Angeles' policy goals and California's Renewables Portfolio Standard Program. These federal grants and incentives have helped significantly reduce the cost of over 550 megawatts (MW) of renewable energy. As we develop strategies for new investments, LADWP will continue to avail itself of the benefits of federal incentives for renewable energy whenever available and within its ability to make financial commitments.

#### **ENVIRONMENTAL DETERMINATION**

In accordance with the California Environmental Quality Act (CEQA), it has been determined that the LADWP RPS Policy, as amended December 2013 is exempt pursuant to the General Exemption described in CEQA Guidelines Sections 15061 (b)(3). General Exemptions apply in situations where it can be seen with reasonable certainty that there is no possibility that the activity in question may have a significant effect on the environment. New renewable energy generation facilities will be individually assessed pursuant to CEQA.

**RECOMMENDATION**

It is recommended that your Honorable Board adopt the attached Resolution authorizing amendment of the RPS Policy for LADWP, including additional and amended provisions in response to the recently approved CEC Regulations.

RC/JCB:nsh

Attachments

e-c/att: Ronald O. Nichols  
Richard M. Brown  
Aram Benyamin  
James B. McDaniel  
Philip Leiber  
Gary Wong  
Randy S. Howard  
Robert Castro

WHEREAS in August 2000, the Board of Water and Power Commissioners (Board) approved a resolution that authorized the Los Angeles Department of Water and Power (LADWP) to adopt an Integrated Resource Plan that established a goal of meeting 50 percent of projected load growth through a combination of Demand-Side-Management, Distributed Generation, and Renewable Resources; and

WHEREAS in 2002, the California Legislature passed Senate Bill 1078 that established the California Renewables Portfolio Standard Program (RPS), and a goal for all investor-owned electric utilities (IOUs) to increase their use of renewable resources by at least 1 percent per year, until 20 percent of their retail sales were procured from renewables by 2017; and

WHEREAS local publicly-owned electric utilities (POUs), like LADWP, were exempt from California Senate Bill 1078, however they were encouraged to establish renewable energy resource goals consistent with the intent of the California Legislature; and

WHEREAS on June 29, 2004, the Los Angeles City Council adopted an RPS Framework and requested that the Board establish an RPS Policy, including achieving "20 percent renewable energy by 2017" and incorporate this "RPS into all future energy system planning"; and

WHEREAS on October 15, 2004, the Los Angeles City Council adopted a resolution approving the inclusion of existing LADWP hydroelectric generation units greater than 30 megawatts in size, excluding the Hoover hydroelectric plant, as part of the City's RPS list of eligible resources; and

WHEREAS on June 29, 2005, the Los Angeles City Council approved LADWP's Renewables Portfolio Standard Policy (RPS Policy), which was designed to increase the amount of energy LADWP generated from renewable power sources to 20 percent of its energy sales to retail customers by 2017, with an interim goal of 13 percent by 2010; and

WHEREAS in December of 2005, the Board recommended that LADWP accelerate its RPS goal to obtain 20 percent renewables by 2010, which recommendation included updating LADWP's Integrated Resource Plan to incorporate this goal, proceeding with the negotiation and contract development for renewable resources proposed and selected in LADWP's 2004 RPS and the Southern California Public Power Authority's 2005 RPS, supporting the cost of accelerating the RPS, and maintaining the financial integrity of LADWP's Power System during times of natural gas price volatility; and

WHEREAS On April 11, 2007, the Board amended LADWP's RPS Policy by advancing the 20 percent goal to December 31, 2010, and by establishing renewable energy procurement ownership targets; and

WHEREAS, on May 20, 2008, the Board approved an amended RPS Policy, which included an additional RPS goal that required 35 percent of energy sales to retail customers be generated from renewable resources by December 31, 2020, expanded the list of eligible renewable resources, and provided new energy delivery criteria; and

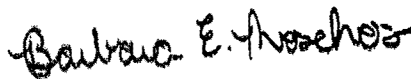
WHEREAS, the California Renewable Energy Resources Act (Act) became effective on December 10, 2011, which established procurement targets within specified compliance periods and required the governing board of a POU, such as LADWP, to adopt a program for enforcement in accordance with Public Utilities Code Section 399.30(e); and

WHEREAS, on December 6, 2011, the Board adopted Resolution 012-109 comprehensively updating LADWP's RPS Policy to comply with the Act; and

WHEREAS, in August 2013 the California Office of Administrative Law approved regulations by the California Energy Commission entitled "Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities for the California Renewable Energy Resources Act", which became effective on October 1, 2013.


NOW, THEREFORE BE IT RESOLVED that the Board of Water and Power Commissioners of the City of Los Angeles hereby adopts the Renewables Portfolio Standard Policy and Enforcement Program, amended December 2013, approved as to form and legality by the City Attorney, and on file with the Secretary of the Board.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held **DEC 03 2013**



Secretary

APPROVED AS TO FORM AND LEGALITY  
MICHAEL N. FEUER, CITY ATTORNEY

NOV 09 2013  
  
BY JEAN-CLAUDE BERTET  
DEPUTY CITY ATTORNEY



# **Los Angeles Department of Water and Power**



## **Renewables Portfolio Standard Policy and Enforcement Program**

**Amended December 2013**

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## 1. Purpose

This Renewables Portfolio Standard (RPS) Policy and Enforcement Program (RPS Policy) as amended, represents the continued commitment by the Los Angeles Department of Water and Power (LADWP) to renewable energy resources. The RPS Policy was amended and adopted in December 2011 as a result of the adoption of the California Renewable Energy Resources Act (Act or SB 2 [1X]) and its requirement for the governing boards of local publicly owned electric utilities (POUs) to adopt “a program for the enforcement of this article” on or before January 1, 2012<sup>1</sup>.

The RPS Policy is being amended in accordance with recently adopted Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities (Regulations) adopted by the California Energy Commission (CEC) pursuant to Section 399.30(l) of the Act. This amendment incorporates the “Optional Compliance Measures” found in the Regulations, including “excess procurement,” “delay of timely compliance,” “cost limitations,” and “portfolio balance requirement reduction.”

The Regulations state that the CEC may issue an administrative complaint to a POU for “failure to comply with any of the requirements” in the Regulations in accordance with applicable law.<sup>2</sup> These Regulations were promulgated under SB 2 (1X), which required the CEC to establish procedures for enforcement of the California Renewables Portfolio Standard Program<sup>3</sup> and provided for the CEC to determine if a POU “has failed to comply” with the California Renewables Portfolio Standard Program. The CEC is further required to refer failures to comply with the California Renewables Portfolio Standard Program<sup>4</sup> to the California Air Resources Board, “which may impose penalties to enforce” the California Renewables Portfolio Standard Program consistent with Part 6 of the California Global Warming Solutions Act of 2006.<sup>5</sup> In addition, “[a]ny penalties imposed shall be comparable to those adopted by the [California Public Utilities Commission] for noncompliance by retail sellers.”<sup>6</sup>

In accordance with Public Utilities Code (PUC) Section 399.30 (e) the Board of Water and Power Commissioners of the City of Los Angeles (Board) will retain its jurisdiction to enforce the RPS Policy.

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<sup>1</sup> Public Utilities Code (PUC) Section 399.30 (e)

<sup>2</sup> Regulations, section 3208(b).

<sup>3</sup> PUC Section 399.30 (m)(1) states “failure to comply with this article,” which is interpreted to mean Article 16 of Chapter 2.3 of Part 1, Division 1 of the Public Utilities Code.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id. “Retail sellers” is interpreted to mean Investor Owned Electric Utilities (“IOUs”). See PUC §399.12 (j)(4)(C)

## **2. Background**

In 2002, California Senate Bill 1078 (SB 1078) added Sections 387, 390.1 and 399.25, and Article 16 (commencing with Section 399.11) to Chapter 2.3 of Part I of Division 1 of the PUC, establishing a 20 percent RPS for California IOU's. SB 1078 provided that each governing board of a local POU be responsible for implementing and enforcing an RPS that recognizes the intent of the Legislature to encourage renewable resources and the goal of environmental improvement, while taking into consideration the effect of the standard on rates, reliability, and financial resources.

On June 29, 2004, the Los Angeles City Council (City Council) passed Resolution 03-2064-S1 requesting that the Board adopt an RPS Policy of 20 percent renewable energy by 2017 setting applicable milestones to achieve this goal, and incorporate this RPS into a future Integrated Resource Plan (IRP).

On May 23, 2005, the Board adopted an RPS Policy that established the goal of increasing the amount of energy LADWP generates from renewable power sources to 20 percent of its energy sales to retail customers by 2017, with an interim goal of 13 percent by 2010. On June 29, 2005, the City Council approved the LADWP RPS Policy.

On April 11, 2007, the Board amended the LADWP RPS Policy by accelerating the goal of requiring that 20 percent of energy sales to retail customers be generated from renewable resources by December 31, 2010. In addition, the amended policy established a Renewable Resource Surcharge and also established renewable energy procurement ownership targets.

The Board subsequently approved an RPS Policy, as amended in April 2008, which included an additional RPS goal of requiring that 35 percent of energy sales to retail customers be generated from renewable resources by December 31, 2020, expanded the list of eligible renewable resources, and provided new energy delivery criteria.

In 2010, LADWP achieved its RPS goal of 20 percent.

On April 12, 2011, Governor Edmund G. Brown signed into law SB 2 (1X). This Act set Renewables Portfolio Standard (RPS) procurement targets, renewable resource eligibility definitions, and new reporting requirements applicable to POUs. SB 2 (1X) required each POU to attain a minimum of 25 percent RPS by 2016 and 33 percent RPS by 2020 and report on reasonable progress for each intervening year. SB 2 (1X) became effective on December 10, 2011, and required the governing board of a POU, such as LADWP, to adopt a program for enforcement in accordance with PUC Section 399.30(e), by January 1, 2012. On December 6, 2011, the Board adopted Resolution 012-109 comprehensively updating the existing RPS Policy to comply with SB 2 (1X).

On August 30, 2013, the California Office of Administrative Law approved the Regulations, which became effective as of October 1, 2013.

The Board adopts an annual fiscal year budget, including a Fuel and Purchased Power Budget (FPP), which defines the specific expenditures for renewable energy resources. The annual fiscal year budget, including the FPP, comprises LADWP's Renewable Energy Resources Procurement Plan (RPS Procurement Plan), as required under Section 3205(a) of the Regulations. This RPS Policy is not making any revisions or updates to LADWP's RPS Procurement Plan.

### **3. RPS Procurement Targets**

1. In 2011, the Board adopted the RPS procurement targets in the Act to promote stable electricity prices, protect public health, improve environmental quality, provide sustainable economic development, create new employment opportunities, reduce reliance on imported fuels, and ensure compliance with applicable state law. Regulation Section 3204(a) has specified calculations and requirements for achieving the RPS procurement targets; consequently, this Board adopts the RPS procurement targets, calculation methods, and limitations, as specified in Section 3204(a), as provided herein: For the compliance period beginning January 1, 2011, and ending December 31, 2013, LADWP shall demonstrate it has procured electricity products sufficient to meet or exceed an average of 20 percent of its retail sales over the three calendar years in the compliance period.
2. For the compliance period beginning January 1, 2014, and ending December 31, 2016, LADWP shall demonstrate it has procured electricity products within that period sufficient to meet or exceed the sum of 20 percent of its 2014 retail sales, 20 percent of its 2015 retail sales, and 25 percent of its 2016 retail sales.
3. For the compliance period beginning January 1, 2017, and ending December 31, 2020, LADWP shall demonstrate it has procured electricity products within that period sufficient to meet or exceed the sum of 27 percent of its 2017 retail sales, 29 percent of its 2018 retail sales, 31 percent of its 2019 retail sales, and 33 percent of its 2020 retail sales.
4. For the calendar year ending December 31, 2021, and each calendar year thereafter, LADWP shall procure renewable electricity products sufficient to meet or exceed 33 percent of its retail sales by the end of that year.

### **4. Voluntary Program – Green L.A.**

LADWP will continue to encourage voluntary contributions from customers to fund renewable energy resources in addition to the stated RPS procurement targets, in accordance with its Green Power for a Green L.A. Program or any successor program. The Green Power for a Green L.A. Program currently does not count towards the RPS, but encourages ratepayers to partake in this renewable energy transformation for

powering the City.

#### **5. Eligible Renewable Energy Resources to be Counted in Full Towards RPS**

Prior to the enactment of SB 2 (1X), the LADWP RPS Policy defined the following technologies as "eligible renewable resources": "biodiesel; biomass; conduit hydroelectric (hydroelectric facilities such as an existing pipe, ditch, flume, siphon, tunnel, canal, or other manmade conduit that is operated to distribute water for a beneficial use); digester gas; fuel cells using renewable fuels; geothermal; hydroelectric incremental generation from efficiency improvements; landfill gas; municipal solid waste; ocean thermal, ocean wave, and tidal current technologies; renewable derived biogas (meeting the heat content and quality requirements to qualify as pipeline-grade gas) injected into a natural gas pipeline for use in renewable facility; multi-fuel facilities using renewable fuels (only the generation resulting from renewable fuels will be eligible); small hydro 30 Mega Watts (MW) or less, the Los Angeles Aqueduct hydro power plants, other qualifying hydroelectric generation; solar photovoltaic; solar thermal electric; wind; and other renewables that may be defined later."

All renewable energy resources approved by the Board as part of its renewables portfolio in accordance with applicable law and previous versions of this RPS Policy, including without limitation those in Appendix A, will continue to be eligible renewable energy resources. These renewable energy resources will count in full towards LADWP's procurement requirements.

#### **6. Eligible Renewable Energy Resources Procured After the Effective Date of the Act**

For RPS resources procured after the effective date of SB 2 (1X), December 10, 2011, "eligible renewable energy resource" means an electrical generating facility that meets eligibility criteria under applicable law, including a renewable electrical generation facility, as defined in Section 399.12 (e) of the PUC and a facility satisfying the criteria of Section 399.12.5 of the PUC.

#### **7. Long-Term Resources**

LADWP will integrate the RPS Policy into its long-term resource planning process, and the RPS Policy will be consistent with LADWP's IRP objectives of service reliability, competitive electric rates, and environmental leadership. Future IRPs may incorporate and expand upon RPS procurement requirements, and further define plans for procuring eligible renewable energy resources by technology type and geographic diversity.

## **8. Portfolio Content Categories and Portfolio Balance Requirements**

As required by SB 2 (1X), eligible renewable energy resources, procured on or after June 1, 2010, will be in accordance with PUC Sections 399.16 (b) and (c). Section 399.16 (b) defines eligible renewable energy resources in three distinct portfolio content categories. LADWP will ensure that the procurement of its eligible renewable energy resources on or after June 1, 2010, will meet the specific percentage requirements set out in Section 399.16 (c) and the Regulations for each portfolio content category in each compliance period.

These portfolio content categories and percentage requirements for the portfolio balance requirements are summarized in Table 1 below:

Table 1: Portfolio Content Categories and Portfolio Balance Requirements

<b><u>Portfolio Content Category</u></b>	<b><u>Portfolio Balance Requirements</u></b>
<b><u>Portfolio Content Category 1:</u></b>  Electricity products must be procured bundled to be classified Portfolio Content Category 1, and the POU may not resell the underlying electricity from the electricity product back to the eligible renewable energy resource from which the electricity product was procured. The electricity products must be generated by an eligible renewable energy resource that is interconnected to a transmission network within the WECC service territory.  The first point of interconnection to the WECC transmission grid is the substation or other facility where generation tie lines from the eligible renewable energy resource interconnect to the network transmission grid.  Portfolio Content Category 1 electricity products must also satisfy the criteria identified in Regulation 3203(a).	<b><u>Compliance Period 1 (2011 – 2013):</u></b> 50% of RPS minimum from this category.  <b><u>Compliance Period 2 (2014 – 2016):</u></b> 65% of RPS minimum from this category.  <b><u>Compliance Period 3 (2017 – 2020):</u></b> 75% of RPS minimum from this category.  <b><u>Post 2020:</u></b> 75% of RPS minimum from this category.
<b><u>Portfolio Content Category 2:</u></b>  Electricity products must be generated by an eligible renewable energy resource that is interconnected to a transmission network within the WECC service territory, and the electricity must be matched with incremental electricity that is scheduled into a California balancing authority.  Portfolio Content Category 2 electricity products must also satisfy the criteria identified in Regulation 3203(b).	Shall be calculated as the remainder of resources which are not in either Category 1 or Category 3
<b><u>Portfolio Content Category 3:</u></b>  All unbundled renewable energy credits and other electricity products procured from eligible renewable energy resources	<b><u>Compliance Period 1 (2011 – 2013):</u></b> 25% of RPS maximum from this category.  <b><u>Compliance Period 2 (2014 – 2016):</u></b>

located within the WECC transmission grid that do not meet the requirements of either Portfolio Content Category 1 or Portfolio Content Category 2 fall within Portfolio Content Category 3.

15% of RPS maximum from this category.

**Compliance Period 3 (2017 – 2020):**

10% of RPS maximum from this category.

**Post 2020:**

10% of RPS maximum from this category.

Subject to the provisions of Regulations Section 3202 (a)(2), renewable electricity products procured before June 1, 2010, are exempt from these portfolio content categories and will continue to count in full toward LADWP's RPS compliance targets. This exemption is subject to the limitations in Regulation Section 3202(a)(2) and (3).

LADWP will develop specific scheduling methods, including firming services, as needed, to maintain transmission system reliability and compliance with the procurement content categories and portfolio balance requirements.

## **9. Optional Compliance Measures**

### **9.1 Excess Procurement**

As permitted under Regulation Section 3206(a)(1), LADWP opts to allow the application of excess procurement and adopts the following rules:

- 1 LADWP may, in the discretion of its General Manager, or his or her designee:
  - a. designate electricity products qualifying as excess procurement;
  - b. apply excess procurement in one compliance period to a subsequent compliance period, as specified in Regulation Section 3206(a)(1) and subject to the limitations specified therein;
  - c. For the calendar year ending December 31, 2021, and each calendar year thereafter, apply excess procurement from one calendar year to a subsequent calendar year or to more than one subsequent calendar year.
- 2 LADWP may begin accruing excess procurement as early as January 1, 2011.
- 3 There is no requirement to use all or any excess procurement prior to seeking a "delay in timely compliance" or prior to seeking a "portfolio balance requirement reduction."

### **9.2 Delay in Timely Compliance**

Within the discretion of LADWP's Board, as permitted by law, LADWP may delay the timely compliance with the RPS procurement requirements upon a finding by the Board that "conditions beyond the control" of LADWP exist to delay the timely compliance with RPS procurement requirements specified in Regulation Section 3204. Such a finding shall be limited to one or more of the causes for delay identified in Regulation Section 3206(a)(2)(A) and shall demonstrate that LADWP would have met its RPS procurement requirements but for the cause of delay. For example, the causes identified in the PUC and Regulations include "inadequate transmission capacity to allow for sufficient



electricity to be delivered” and “permitting, interconnection, or other circumstances that delay procured eligible renewable energy resource projects.”<sup>7</sup>

As permitted under Regulation Section 3206(a)(2)(A), LADWP adopts the following rules:

1. The Board shall make the findings and adopt the delay of timely compliance by a Board resolution;
2. The Board resolution shall state the compliance period(s) that correspond to the delay of timely compliance;
3. The delay of timely compliance may apply to more than one compliance period;
4. For the calendar year ending December 31, 2021, and each calendar year thereafter, the delay of timely compliance may apply to more than one calendar year, as long as the Board resolution specifies the calendar year(s) that correspond to the delay of timely compliance;
5. Evidentiary hearings shall not be required to make the required findings;
6. The standard of showing for any of the required findings, including the “but for cause of delay” showing, is by a “preponderance of the evidence standard,” which is also known as “a more likely than not” standard;
7. These rules regarding the required findings, as well as the facts surrounding the conditions causing the delay, shall be interpreted and applied broadly, on a case-by-case basis;

### **9.3 Portfolio Balance Requirement Reduction**

Within the discretion of LADWP’s Board, as permitted by law, LADWP may reduce the portfolio balance requirement for Portfolio Content Category 1 consistent with PUC Section 399.16(e) and subject to the limitations specified in Regulation 3206(a)(4).

As permitted under Regulation Section 3206(a)(4)(A), LADWP adopts the following rules:

1. The Board shall make the findings and adopt the reduction of the portfolio balance requirement for Portfolio Content Category 1 by a Board resolution;
2. The Board resolution shall specify the compliance period that corresponds to the reduction of the portfolio balance requirement for Portfolio Content Category 1;
3. The reduction of the portfolio balance requirement for Portfolio Content Category 1 must be for a specific compliance period and must identify the level to which LADWP will reduce the requirement;
4. For the calendar year ending December 31, 2021, and each calendar year thereafter, the reduction of the portfolio balance requirement for Portfolio Content Category 1 may apply to more than one calendar year, as long as the Board resolution specifies the calendar year(s) that corresponds to the reduction of the portfolio balance requirement for Portfolio Content Category 1;

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<sup>7</sup> Public Utilities Code §399.15(b)(5); Regulation §3206(a)(2)(A)

5. A reduction of the portfolio balance requirement for Portfolio Content Category 1 below 65 percent is allowed for any compliance period before January 1, 2017; however, after December 31, 2016 a reduction of the portfolio balance requirement for Portfolio Content Category 1 below 65 percent will not be considered consistent with PUC Section 399.16.(e).
6. Evidentiary hearings shall not be required to make the required findings;
7. The standard of showing for any of the required findings is by a "preponderance of the evidence standard," which is also known as "a more likely than not" standard;
8. These rules regarding the required findings, as well as the facts surrounding the conditions causing the reduction of the portfolio balance requirement for Portfolio Content Category 1, shall be interpreted and applied broadly, on a case-by-case basis.

#### **9.4 Change in Law or Regulations**

1. If the CEC adopts guidelines or suggested rules that impact any of the rules adopted by the Board for any of the Optional Compliance Measures that are inconsistent with these rules, these Board-adopted rules will control.
2. If the Office of Administrative Law approves CEC regulations that amend or change the Regulations (Changed Regulations) that are inconsistent with these Board adopted rules, then the Changed Regulations shall control if not contested by LADWP. If the Changed Regulations are contested by LADWP, then these Board-adopted rules shall control until a final decision by the CEC or final decision on a petition for writ of mandate, whichever is later.
3. If SB2 (1X), is amended or changed (Changed SB2 [1X]), and the Changed SB2(1X) sections are inconsistent with these Board-adopted rules, then the Changed SB2(1X) sections shall control if not contested by LADWP. If the Changed SB2(1X) sections are contested by LADWP, then these Board adopted rules shall control until a final decision by a court of competent jurisdiction.

#### **9.5 Cost Limitations**

As permitted under Regulation Section 3206(a)(3), LADWP hereby adopts the following rules on cost limitations for the expenditures made to comply with its RPS procurement requirements:

##### **System Rate Impact**

1. LADWP may not make any major financial commitment to procure eligible renewable energy resources prior to evaluating the rate impact and any potential adverse financial impact on the City of transfer.
2. The costs of all procurement credited toward achieving the RPS will count toward this System Rate Impact limitation.
3. Procurement expenditures will not include any indirect expenses including, without limitation, imbalance energy charges, sale of excess energy, decreased

generation from existing resources, transmission upgrades, or the costs associated with relicensing any owned hydroelectric facilities.

In adopting these cost limitation rules, LADWP shall rely on all of the following:

1. The most recent RPS Procurement Plan.
2. Procurement expenditures that approximate the expected cost of building, owning, and operating eligible renewable energy resources.
3. The potential that some planned resource additions may be delayed or canceled.

When assessing procurement expenditures under an adopted cost limitation rule, LADWP shall apply only those types of procurement expenditures that are permitted under the adopted cost limitation rules. In the event the projected cost of meeting the RPS procurement requirements exceeds the cost limitation, then LADWP shall seek to implement the other Optional Compliance Measures, including a delay of timely compliance, and/or portfolio balance requirement reduction.

If the cost limitation for LADWP, as determined by the Board, is insufficient to support the projected costs of meeting the renewables portfolio standard procurement requirements, LADWP may refrain from entering into new contracts or constructing facilities beyond the quantity that can be procured within the limitation, unless eligible renewable energy resources can be procured without exceeding a de minimis increase in rates, consistent with the LADWP's IRP.

#### **10. Procurement of Eligible Renewable Energy Resources**

LADWP will procure eligible renewable energy resources based on a competitive method evaluation consistent with the goals of procuring the least-cost and best-fit electricity products from eligible renewable energy resources. Furthermore, preference will be given to projects that are located within the City of Los Angeles or on City-owned property and are to be owned and operated by LADWP to further support LADWP's economic development and system reliability objectives.

Notwithstanding the foregoing, LADWP will also procure eligible renewable energy resources through programs such as a Distributed Generation, Feed-In-Tariff, Senate Bill 1 (SB1) Customer Net Metered Solar PV, and other local renewable energy programs, or similar procurement processes. These transactions will be made in as cost-effective a manner as is feasible in each respective instance, with pricing that reflects applicable legal requirements and market conditions, prevailing policy, and competitive methods. Short-term renewable energy transactions will be needed as well, on a limited basis, to manage LADWP's RPS eligible renewable energy resources portfolio effectively based on prevailing wholesale practices.

Before December 31, 2010, LADWP pursued its 20 percent RPS goal in a manner which resulted in a minimum of 40 percent renewable energy generation ownership that LADWP developed or that LADWP procured through contracts with providers of

renewable energy. Further, with respect to the foregoing contracts with providers, such contracts provided for LADWP ownership or an option to own, either directly or indirectly (including through joint powers authorities).

On or after January 1, 2011, a minimum of 75 percent of all new eligible renewable energy resources procured by LADWP will either be owned or procured by LADWP through an option-to-own, either directly or indirectly (including through joint powers authorities) until at least half of the total amount of eligible renewable energy resources, by Megawatt-hour (MWh), is supplied by eligible renewable energy resources owned or with an option to own either directly or indirectly (including through joint powers authorities) by LADWP.

The first priority for LADWP will be to pursue outright ownership opportunities, and the second priority will be consideration of procuring option-to-own, cost-based renewable energy resources. In comparing outright ownership to option-to-own, option-to-own projects must show clear economic benefits, such as pass-through of Federal or State tax credits or incentives, which could not otherwise be obtained, or the need to evaluate new technology. The option-to-own will be exercisable with the minimum terms necessary to obtain and pass those tax credits and/or incentives to LADWP and/or upon a reasonable amount of time to evaluate the operation of the new technology.

#### **11. Use of Renewable Energy Credits**

The primary method of renewable energy resource procurement will be through the development and acquisition of physical generation assets and energy purchase contracts where the Renewable Energy Credit (REC) is bundled with the associated energy. PUC Section 399.12 (h) sets forth the REC definition.

In order for RPS procurement requirements to be managed effectively, LADWP may buy, sell, or trade RECs without the associated energy (unbundled). This approach will be limited by the percentage requirements established by PUC Section 399.16 (b) (3), the Regulations and the REC Policy discussed below.

#### **12. REC Policy and Cost Limitations Pending City Council Approval**

On or about February 12, 2013, the LADWP Board adopted an "Environmental Credit and REC Policy" and submitted an ordinance for approval by the Los Angeles City Council that included a cost limitation on purchases of renewable energy credits (RECs), which is pending before the Los Angeles City Council. If and when it is finally approved, the applicable policy limits, including the cost limitation on REC purchases shall be incorporated into this RPS Policy by this reference.

### **13. Enforcement, Reporting and Notice Requirements**

#### **13.1 Enforcement**

If the Board determines, by a Board resolution, that LADWP will not meet its RPS procurement requirements under Regulation Section 3204, then the Board may require the following:

1. A report from the General Manager, or his or her designee, identifying actions taken by LADWP demonstrating reasonable progress toward meeting its RPS procurement requirements. The information reported shall include a discussion of:
  - (A) Solicitations released to solicit bid for contracts to procure electricity products from eligible renewable energy resources to satisfy the RPS procurement requirements.
  - (B) Solicitations released to solicit bid for ownership agreements for eligible renewable energy resources to satisfy the RPS procurement requirements.
  - (C) Actions taken to develop eligible renewable energy resources to satisfy the RPS procurement requirements, including initiating environmental studies, completing environmental studies, acquiring interests in land for facility siting or transmission, filing applications for facility or transmission siting permits, and receiving approval for facility or transmission siting permits.
  - (D) Interconnection requests filed for eligible renewable energy resources to satisfy the RPS procurement requirements.
  - (E) Interconnection agreements negotiated and executed for eligible renewable energy resources to satisfy the RPS procurement requirements.
  - (F) Transmission-related agreements negotiated and executed to transmit electricity products procured from eligible renewable energy resources to satisfy the RPS procurement requirements.
  - (G) Other planning activities to procure electricity products from eligible renewable energy resources.
2. A report from the General Manager, or his or her designee, identifying actions planned by LADWP to demonstrate reasonable progress toward achieving the RPS procurement requirements. The description of actions planned shall include, but not be limited to: a discussion of activities specified in subparagraphs (A) - (G), above.
3. An updated enforcement program and/or procurement plan that includes a schedule identifying potential sources of electricity products currently available or anticipated to be available in the future for meeting LADWP's shortfall.

### **13.2 Reporting**

LADWP will submit reports to the CEC as required by Section 3207 of the Regulations. Additionally, LADWP will provide a regular RPS progress report to the Board.

### **13.3 Notice**

Pursuant to Section 3205(a) of the Regulations, LADWP will post notice whenever the Board will deliberate in public on its Renewable Energy Resources Procurement Plan. LADWP will notify the CEC of the date, time, and location of the meeting in order to enable the CEC to post the information on its Internet Web site by providing the CEC with the Uniform Resource Locator (URL) that links to this information or sending an email to the CEC with the information in Portable Document Format (PDF). In addition, upon distribution to the Board of information related to LADWP's renewable energy resources procurement status and future plans, for the Board's consideration at a noticed public meeting, LADWP shall make that information available to the public and shall provide the CEC with an electronic copy of the documents for posting on the CEC's Internet Web site, by providing the CEC with the URL that links to the documents or information regarding other manners of access to the documents or sending an email to the CEC with the information in PDF.

LADWP will continue to provide a Power Content Label Report to its customers as required by SB 1305 (1997) and AB 162 (2009), and an annual report of the total expenditure for eligible renewable energy resources funded by voluntary customer contributions.

If LADWP seeks to reduce its portfolio balance requirements for Portfolio Content Category 1, then it will provide advance notice to the CEC as required in Regulation Section 3206 (a)(4)(D). The notice will contain the information required by Regulation Section 3206 (a)(4)(D), including the reasons proposed for adopting the reduction. Also, as required in the Regulation, LADWP will update its RPS Procurement Plan.

List of LADWP RPS Resources prior to SB 2 (1X)

<b>Project</b>	<b>Technology</b>	<b>Capacity (MW)</b>
PPM SW Wyoming – Pleasant Valley Wind	Wind	
Linden Wind	Wind	
PPM Pebble Springs Wind	Wind	
Willow Creek Wind	Wind	
Pine Tree Wind Power Project	Wind	
Milford Wind Phase I	Wind	
Milford Wind Phase II	Wind	
Windy Point Phase II	Wind	
Powerex - BC Hydro	Hydro	
MWD Sepulveda	Hydro	
Lopez Canyon Landfill	Biofuel	
WM Bradley Landfill	Biofuel	
Penrose Landfill	Biofuel	
Toyon Landfill	Biofuel	
Valley Generating Station (GS) – Multi-fuel	Biofuel	
Scattergood GS – Multi-fuel	Biofuel	
Haynes GS – Multi-fuel	Biofuel	
Harbor GS – Multi-fuel	Biofuel	
Shell Energy Landfill Gas	Biofuel	
Atmos Energy Landfill Gas	Biofuel	
Hyperion Digester Gas – Scattergood GS	Biofuel	
LADWP Small Hydro Power Plants (PP)	Hydro	
San Francisquito PP 1	Hydro	
San Francisquito PP 2	Hydro	
San Fernando PP 2	Hydro	
Foothill PP	Hydro	
Franklin PP	Hydro	
Sawtelle PP	Hydro	
Haiwee PP	Hydro	
Cottonwood PP	Hydro	
Division Creek PP	Hydro	
Big Pine PP	Hydro	
Pleasant Valley PP	Hydro	
Upper Gorge PP	Hydro	
Middle Gorge PP	Hydro	

Control Gorge PP	Hydro
North Hollywood Pump Station PP	Hydro
Castaic Hydro Plant – Efficiency Upgrades	Hydro
LADWP Built Solar	Solar
Silverlake Library	Solar
LA Convention Center Canopy	Solar
Sun Valley Library	Solar
Lake View Terrace Library	Solar
Canoga Park Library	Solar
North Central Animal Shelter	Solar
Ascot Library	Solar
Hyde Park Library	Solar
Ducommon Fitness Center	Solar
Truesdale Warehouse	Solar
Van Nuys Truck Shed	Solar
Distribution Station 3 (Vincent Thomas Bridge)	Solar
Main Street Yard	Solar
Exposition Park Library	Solar
Granada Hills Yard	Solar
LADWP JFB Parking Lot	Solar
LA Convention Center Cherry St Parking Lot	Solar
Council District 6 Field Office	Solar