

## DOCKETED

<b>Docket Number:</b>	18-RPS-01
<b>Project Title:</b>	Complaint Against the Stockton Port District re: RPS Program Compliance
<b>TN #:</b>	222941
<b>Document Title:</b>	Committee Response to Staff Motion to Bifurcate and Order for Additional Information
<b>Description:</b>	Supersedes TN 222940
<b>Filer:</b>	Cody Goldthrite
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**Before the Energy Resources Conservation and Development  
Commission of the State of California**  
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**IN THE MATTER OF:**

**COMPLAINT AGAINST STOCKTON PORT  
DISTRICT FOR NONCOMPLIANCE WITH THE  
RENEWABLES PORTFOLIO STANDARD**

**Docket No. 18-RPS-01**

**COMMITTEE RESPONSE TO STAFF MOTION TO BIFURCATE and  
ORDER FOR ADDITIONAL INFORMATION**

On January 8, 2018, the Executive Director of the California Energy Commission (Energy Commission), on behalf of Energy Commission staff (Staff), filed a complaint against the Stockton Port District (Port), alleging noncompliance with the Renewables Portfolio Standard (RPS) Program for the 2011-2013 compliance period (Complaint).<sup>1</sup> Accompanying the Complaint was a motion to bifurcate the proceeding into two phases (Motion to Bifurcate). Specifically, Staff requested the Energy Commission consider mitigating circumstances that may excuse the Port's alleged RPS noncompliance separate, and in advance of, Energy Commission consideration of the alleged RPS noncompliance allegations in the Complaint.

The Port filed a response to the Motion to Bifurcate on January 31, 2018, supporting the Motion to Bifurcate and moving to modify the deadline for the Port's Answer to the Complaint established by California Code of Regulations, Title 20, Division 2 (also referred to as Energy Commission regulations).<sup>2</sup> In anticipation of appointment of a Committee at the February 21, 2018 Business Meeting and under the authority granted him under Title 20, California Code of Regulations section 1203, subdivision (f), Energy Commission Chair Robert B. Weisenmiller ordered that the deadline for filing an Answer to the Complaint be either 1) any such deadline established by the Committee; or 2) March 21, 2018, whichever is later.

On February 21, 2018, the Energy Commission appointed a committee of Commissioner Karen Douglas, Presiding Member and Commissioner David Hochschild, Associate Member to preside over this proceeding. The Committee held a Committee Conference on March 7, 2018 and took comments on the Motion to Bifurcate from the parties. The parties also provided a jointly-agreed upon schedule.<sup>3</sup>

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<sup>1</sup> The complaint and all other documents filed in this proceeding can be found in the docket for this proceeding:

<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=18-RPS-01>

<sup>2</sup> TN 222406

<sup>3</sup> TN 222920

The Committee thanks the parties for their efforts to facilitate the resolution of the issues raised by the Complaint, but declines to rule on the Motion to Bifurcate at this time.<sup>4</sup> While we are supportive of avoiding unnecessary adjudication, we cannot determine the extent of hearings that will be required until we have a better understanding of the factual issues in dispute.

Therefore, we order the Port to file a brief summary of areas of factual agreement and dispute between the Port and Staff with respect to the alleged noncompliance with the RPS Program requirements. The Port should summarize any additional or different evidence that they would present in the event that the matter is adjudicated, including information on the optional compliance measures and the steps taken by the Port to comply with the requirements related to optional compliance measures found in Public Utilities Code section 399.30 and California Code of Regulations, Title 20, section 3206.. The Committee also orders the Port to identify all mitigating circumstances that may have inhibited the Port's compliance with the RPS Program requirements.

Please note that if the Committee ultimately determines that it will be necessary to adjudicate the alleged noncompliance, the Port will be provided with the opportunity to file the additional information it believes is necessary to fully present its case. We therefore encourage the Port to be succinct in its filing.

The filing is due no later than March 30, 2018 and should comply with the General Orders for this proceeding. This Order modifies the deadline established in the February 14, 2018 Order Modifying the Deadline for Answer to Complaint.<sup>5</sup>

The ruling on the Motion to Bifurcate and the deadline for the Port's Answer will be identified after Committee review of the Port's filing.

## **SO ORDERED**

Dated: March 9, 2018, at Sacramento, California

ORIGINAL SIGNED BY:

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KAREN DOUGLAS  
Commissioner and Presiding Member  
Complaint Against Stockton Port District  
for Noncompliance with the Renewable  
Portfolio Standard Committee

ORIGINAL SIGNED BY:

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DAVID HOCHSCHILD  
Commissioner and Associate Member  
Complaint Against Stockton Port District  
for Noncompliance with the Renewable  
Portfolio Standard Committee

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<sup>4</sup> The presiding member has the authority to modify the time required for compliance with the Energy Commission's regulations. Cal. Code Regs., Tit. 20, § 1203(f).

<sup>5</sup> TN 222546