

**DOCKETED**

<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>	229926
<b>Document Title:</b>	Los Angeles Department of Water & Power Comments - Los Angeles Department of Water and Power On CEC Implementation Proposal for RPS LTR
<b>Description:</b>	N/A
<b>Filer:</b>	System
<b>Organization:</b>	Los Angeles Department of Water & Power
<b>Submitter Role:</b>	Public Agency
<b>Submission Date:</b>	10/1/2019 4:53:25 PM
<b>Docketed Date:</b>	10/2/2019

*Comment Received From: Los Angeles Department of Water & Power  
Submitted On: 10/1/2019  
Docket Number: 16-RPS-03*

**Los Angeles Department of Water and Power On CEC Implementation  
Proposal for RPS LTR**

*Additional submitted attachment is included below.*

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

In the matter of:	)	Docket No. 16-RPS-03
	)	
Renewable Portfolio Standard Long-Term	)	09/10/2019 Pre-Rulemaking
Procurement Requirement	)	Workshop
	)	RE: Long-Term Procurement
		Implementation

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**COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) TO THE  
CALIFORNIA ENERGY COMMISSION (CEC) ON LEAD COMMISSIONER PRE-RULEMAKING  
WORKSHOP ON RENEWABLE PORTFOLIO STANDARD LONG-TERM PROCUREMENT  
REQUIREMENT**

Simon Zewdu  
Director of Regulatory Compliance and  
Specifications  
Los Angeles Department of Water and Power  
111 North Hope Street, Suite 1255  
Los Angeles, CA 90012  
Telephone: (213) 367 – 2525  
Email: [Simon.Zewdu@ladwp.com](mailto:Simon.Zewdu@ladwp.com)

Dated: October 1, 2019

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

In the matter of:	)	Docket No. 16-RPS-03
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Renewable Portfolio Standard Long-Term	)	09/10/2019 Pre-Rulemaking
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**COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) TO THE CALIFORNIA ENERGY COMMISSION (CEC) ON LEAD COMMISSIONER PRE-RULEMAKING WORKSHOP ON RENEWABLE PORTFOLIO STANDARD LONG-TERM PROCUREMENT REQUIREMENT**

**INTRODUCTION**

Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to provide comments to the California Energy Commission (“Commission”) in follow up to the September 10, 2019 *Staff Pre-Rulemaking Workshop on Renewable Portfolio Standard Long-term Procurement Requirement for Publicly-Owned Utilities* (“workshop”). LADWP also acknowledges and supports Southern California Public Power Authority’s Joint Comments, with the exception to its Section IV.

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 proprietary 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 clean, reliable water and power in a safe, environmentally responsible, and cost-effective manner.

## **SPECIFIC COMMENTS**

### **I. Early Compliance with Long-Term Procurement**

LADWP is interested in the further development of early compliance with Long-Term Procurement. LADWP looks forward to additional guidance from the CEC on the required steps to accomplish early compliance.

### **II. Long-Term Procurement Options**

Both Options 1 and 2 can effectively implement the Long-Term procurement requirement (LTR) mandated in Senate Bill 350. Due to the structure of a publicly-owned utility (POU) compared to an investor-owned utility (IOU), it is prudent to maintain LTR flexibility to reduce the potential for unforeseen negative financial impacts on each POU's customers and communities.

Based on the details CEC provided for Option 1 and Option 2, LADWP has concluded that Option 1 seems to pose less risk of noncompliance as compared to Option 2; however, LADWP disagrees with the interpretation within Option 1, that optional compliance measures cannot be applied to LTR, per Public Utilities Code (PUC) Section 399.15(b)(5). For example, if Option 1 is implemented, POUs will still be subjected to the challenges stipulated in the "delay of timely compliance", listed below, and therefore should be allowed, as intended by the State Legislature, to invoke this option.

- a) Inadequate transmission capacity to allow sufficient electricity to be delivered from eligible energy resources or proposed eligible renewable resource projects
- b) Delayed procurement of eligible renewable resources due to permitting, interconnection, or other circumstances

Contracts of any duration are susceptible to challenges stipulated in the Optional Compliance Measure delay of timely compliance; therefore, LADWP recommends all optional compliance measures to be available for both Options to reduce unreasonable exposure for LADWP ratepayers.

### **III. Characterization of Long-Term Should Be Less Prescriptive**

PUC Section 399.13 (b) discusses ten-year contract duration, specifically:

"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 CEC could inadvertently create uneconomical consequences should it add constraints beyond the language put forth by the State Legislature. Such constraints could result from setting unnecessary administrative restrictions on contract durations, such as effective dates, commercial operation dates, negotiation timeframe between contracting parties, etc. The contract start term effective date could vary from Commercial Operation Date, Execution Date, and conditions precedent could impact any of these dates. Therefore, LADWP recommends that the CEC uses the original Contract Execution Date in determining a contract's duration.

In addition to contracts executed for a single renewable resource, there are various contracts with duration of 10 years or more that includes a portfolio of renewable resources. For instance, the contract may state that a facility would provide energy for the first few years and then is replaced once another facility is built. The initial portfolio-type contract assures the delivery of renewable energy from one party to the next over the contract term and therefore maintains the intent of resource stability. LADWP recommends the CEC consider these contracts as long-term because the eligible renewable resource will continue to deliver energy throughout the duration of the contract.

Furthermore, grandfathered contracts have been negotiated and are the most time-consuming and oldest for LADWP. Not counting these as Long-Term could result in an increase to ratepayers due to efforts needed to procure Long-Term contracts. Therefore, LADWP recommends RECs from grandfathered contracts continue to be counted in full and considered long-term in both LTR and RPS procurement target.

Legislative mandates, other than those which are adopted, amended or repealed within the California Renewable Portfolio Standards Program, can affect the renewable market and therefore should be addressed. Two examples of such bills are Senate Bill 859 (SB 859) and Senate Bill 901 (SB 901). Both bills intend to improve forest health and reduce the risk of wildfires, thereby reducing greenhouse gas emissions. Due to the increased funding in biomass generation, biogas could potentially rise in the market. Specifically, SB 859 mandated LADWP to procure a 3-year contract for biomass and SB 901 calls for a 5 years extension of such contracts if certain conditions are met. Laws that mandate procurement of renewable contracts that does not adhere to the requirements of the POU RPS Regulations should not affect LADWP's compliance for LTR. The original intent of the example bills mentioned above was not to meet the LTR, and since POUs procured contracts to meet these laws, such actions should not be penalized. It is prudent that CEC includes exemptions for current and future non-RPS bills to minimize the risk of potential noncompliance, which would subsequently affect ratepayers. LADWP encourages the CEC to consider any renewable energy procurement mandated by laws outside of the California Renewable Portfolio Standards Program to be deemed long-term.

#### **IV. Amended Contracts with a Total Duration of 10 Years Provides Long-Term Planning Stability**

LADWP has planned for long-term stability through the Integrated Resource Plan since 1999, which serves as a comprehensive 20-year roadmap to supply reliable electricity in an environmentally responsible and cost-effective manner. Due to LADWP's ongoing long-term resource planning efforts, LADWP is able to adequately manage its resource portfolio through various types of contracts, including contracts that are amended to any duration.

When contracts have duration of less than 10 years, they can still be amended early on when the contract is in place and can bring more value to resource planning compared to a contract of only 10 years. For example, a contract of 8 years could be amended at the second year to an additional 7 years; therefore, the project would deliver sufficient renewables for a total of 15 years. Claiming Renewable Energy Credits from a facility whose contract is amended to this duration of 15 years meets the requirements of PUC Section 399.13 (b) and should be deemed Long-Term once the amendment is in place. In addition, the benefit of amending contracts allows for efficient usage in resources. Contracts with a long duration take years to procure due to the extensive procurement process (including, but not limited to, Environmental Impact Report, Transmission availability, Interconnection studies, obtaining approvals from various stakeholders, negotiations, public outreach, etc.). Instead of requiring either the original or amended term of a contract to be at least 10 years, LADWP recommends that CEC considers the total duration of contracts.

While long-term planning can provide stability for resources, it is important to consider planning for new emerging resource types. A healthy market should allow for new types of renewables, which will also promote the technological development of efficient and stable resources. When it comes to new renewable types, there are risks involved, such as failure to deliver sufficient renewables as planned. For example, having a contract of less than 5 years would allow utilities to plan for the risk while giving developers the opportunity to develop potentially better renewables. The contract could still be amended to an additional 9 years. In addition, since renewable prices have dropped over the past 15 years, and continues to fall, forcing POUs into expensive emerging renewable technology contracts, while knowing the cost would be less in the near future, would negatively impact ratepayers.

#### **V. Assignments and Changes to Contracts Other Than Amendments to its Terms Should Not Impact Qualification for Long-Term**

LADWP interprets PUC Section 399.13 (b) that the Power Purchase Agreement (PPA) should have duration of 10 years, with no provisions constraining the methods through which the 10 year agreement is achieved. LADWP believes this was intentional, since including such constraints would cross over into unnecessary market control, without any further gains in renewable procurement. For example, contracts through SCPPA and its members allow for

the share of the output to change so long as all the effected party members agree. This ensures the PPA between SCPPA and the developer has more security; if a member has an issue with a contract, then another member can step in and the contract will not need to be amended or renegotiated. In the Power Service Agreement (PSA), the contract allows for other offtakers to cover for financing. Re-assignments throughout the PSA should not affect the term of the original contract. If these types of assignment changes affect the qualification for long-term due to regulation changes, then offtakers would no longer be incentivized to take over any existing PSA since they would prioritize avoiding the risk of LTR noncompliance. LADWP suggests focusing on duration of PPAs rather than other variations of contracts (such as shift in assignments or resource allocation). The change in ownership or assignment does not affect the long-term nature of the contract.

#### **VI. Enforcement Procedures Should Have an Effective Date**

The update to the Enforcement Procedures, which may be published in 2020, should have a prospective effective date, January 1, 2021 (Compliance Period 4) with an option for early compliance, so as to give adequate notice to all POUs. To afford POUs adequate long-term planning, the effective date of the procedures should be forward looking after the date of anticipated publication. New updates and changes to the CEC Enforcement Procedures will affect public utilities' compliance. As utilities procure more and more renewables, per state mandate, the time it takes to plan for expanding transmission capacity or expanding substation bays continues to increase in duration. By having an effective date, this will help coordinate field personnel on which projects should take priority.

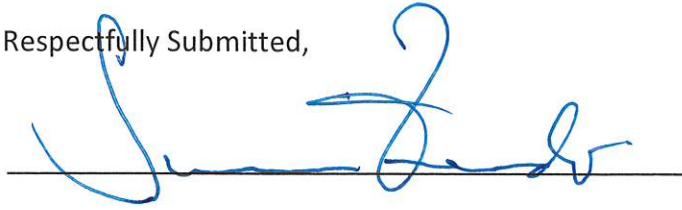
### **CONCLUSION**

In closing, LADWP appreciates the opportunity to participate in the rulemaking process and looks forward 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 at (213) 367-2525, or Mr. Scott Hirashima at (213) 367-0852.



Dated: October 1, 2019

Respectfully Submitted,



By: Simon Zewdu  
Director of Regulatory Compliance and  
Specifications  
Los Angeles Department of Water and Power  
111 North Hope Street, Suite 1255  
Los Angeles, CA 90012  
Telephone: (213) 367 – 2525  
Email: [Simon.Zewdu@ladwp.com](mailto:Simon.Zewdu@ladwp.com)