

**DOCKETED**

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**Docket No 16-RPS-03 Supplemental Comments of Shell Energy  
North America (US), LP on POU Long Term RPS Contract  
Requirement**

*Additional submitted attachment is included below.*

June 22, 2020

Via CEC E-Comment System

Docket Unit  
California Energy Commission  
1516 9th Street, MS-4  
Sacramento, CA 95814

Re: Docket No. 16-RPS-03: Supplemental Comments of Shell Energy  
North America (US), L.P. on POU Long Term RPS Contract Requirement

To: California Energy Commission:

On June 1, 2020, Shell Energy North America (US), L.P. (“Shell Energy”) provided initial comments on the Staff’s proposed RPS implementation rules for publicly-owned utilities (“POU”). Following the June 8, 2020 Lead Commissioner hearing/workshop, Shell Energy submits supplemental comments that focus on POU’s long-term RPS contracting requirement; in particular, the Staff’s proposed Section 3204(d)(2)(A)(3).

The Staff’s June 8, 2020 presentation states that the proposed definition of “long-term procurement” requires a “10-year commitment between [the] POU and [a] counterparty,” as well as a “10-year procurement commitment from one or more RPS-certified facilities.” Presentation at p. 13. The Staff’s proposed definition improperly imposes an additional long-term RPS procurement obligation beyond the retail seller’s long-term RPS procurement contract obligation. The Staff’s proposal to require a long-term obligation in the “underlying” (upstream) RPS procurement contract(s) between a third party and the RPS owner/developer would impose a new RPS compliance requirement that is not reflected in P.U. Code Section 399.13(b) or in the CPUC’s implementing decision (D.17-06-026). This Commission is not authorized to enact new law. As explained in Shell Energy’s June 1, 2020 comments, the Staff’s proposed language in Section 3204(d)(2)(A)(3) is contrary to statute and must be modified.

P.U. Code Section 399.13(b) addresses the duration of the retail seller’s (POU’s) contract for eligible RPS resources. The statute provides as follows: “[A]t 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.” Emphasis added. The phrase “its contracts of 10 years or more in duration” refers to the “retail seller’s” contracts, not a third party’s upstream contract(s) with an RPS project developer. As noted by CMUA in its June 1, 2020 comments, the Staff’s proposed requirement with respect to upstream contracts is “not supported by the statutory language” and would be “administratively complex to comply with.” CMUA Comments at p. 8.

In its “Initial Statement of Reasons,” the Staff stated that “[i]f the electricity products were . . . sourced from a portfolio of short-term contracts with RPS-certified facilities, this arrangement would not provide the long-term procurement commitment underpinning the long-term procurement requirement.” Statement at p. 46. At the June 8, 2020 workshop, Staff asked parties to submit supplemental comments to address how retail sellers’ long-term RPS contracts that do not have “underlying” long-term contract commitments would lead to the development of new and repowered resources.

Shell Energy responds to this Staff inquiry as follows: First, the dramatically increased RPS procurement targets under SB 350 and SB 100 provide a compelling incentive for developers to pursue new and/or repowered RPS resources. Through these statutes, all retail sellers and POU’s must meet a 60 percent RPS procurement target by 2030. This increased procurement target, in and of itself, provides a strong incentive for the development of new and/or repowered RPS resources; it represents a nearly doubling of the procurement requirement in the next ten years.

Historically, increased RPS procurement targets (whether mandated by the legislature or adopted by the CPUC) have been the driver of new RPS project development and project repowering. The increased RPS procurement targets under SB 350 and SB 100 have encouraged -- and will continue to encourage -- RPS resource development through 2030 and beyond.

Second, the obligation of each retail seller (and POU) to meet 65 percent of its RPS procurement obligation through its long term RPS contracts will provide the “downstream” commitment necessary to support new and/or repowered RPS project development. Allowing the retail seller’s (or POU’s) counterparty to provide a portfolio of RPS supplies through a combination of new, repowered and existing projects will increase the third party’s procurement flexibility and reduce the cost of a retail seller’s RPS procurement, while maintaining the commitment necessary to support development of RPS projects. Whether the POU’s counterparty enters into long-term or short-term agreements with RPS developers, it is the procurement obligation (target) of the downstream POU (and other retail sellers) that will drive expanded RPS resource development.

Furthermore, contracting for short- and mid-term projects eliminates any potential market surplus, leading to increased demand for new and repowered resources. Stranding those resources, however, would create risk and uncertainty for developers, resulting in stymied investment and/or increased costs to ratepayers. Additionally, short term RPS contracts play a crucial role in enabling a broker, and thus a retail seller (or a POU), to manage load migration. A retail seller that is served by a third party with a portfolio of long-term and short-term RPS supplies will be in a better position to address load migration and generation outages (or contract termination) that may occur with contracted RPS resources.

In this connection, Shell Energy agrees with the Joint POU's January 17, 2020 comment that the long-term nature of a POU's RPS contract should not be impacted by the subsequent failure of a project, or the need to replace an RPS resource or contract during an outage. Staff proposed Section 3204(d)(2)(C)(3) provides: "If electricity products are procured under a long-term contract that has been amended or terminated early such that the contract no longer provides a commitment to procure electricity products for a duration of at least 10 continuous years, only the electricity products procured prior to the amendment or termination notice may be classified as long-term." This proposed provision is unduly restrictive and should be removed.

If an RPS project relied upon by a POU under a long term contract unexpectedly fails or its production is interrupted (through no fault of the POU), the POU should be allowed to procure (and count toward its long term RPS procurement obligation) eligible RPS resources under short-term contracts "to make up the shortfall until the gap left by the project failure can be met." Joint POU Comments at p. 3.

Thank you for your consideration of these supplemental comments.

Very truly yours,



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(US), L.P.