

DOCKETED

Docket Number:	16-RPS-03
Project Title:	Amendments to Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities
TN #:	235511
Document Title:	Presentation - November 5, 2020 Lead Commissioner Workshop - Implementation of the RPS Long-Term Procurement Requirement
Description:	Enclosed are the presentation slides for the November 5, 2020, lead commissioner workshop on proposed implementation of the Renewables Portfolio Standard long-term procurement requirement for local publicly owned electric utilities.
Filer:	Gregory Chin
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	11/4/2020 6:03:39 PM
Docketed Date:	11/5/2020



Lead Commissioner Workshop - Implementation of the RPS Long-Term Procurement Requirement for Local Publicly Owned Electric Utilities

November 5, 2020

Katharine Larson
Renewable Energy Division



Virtual Housekeeping

- Workshop/hearing conducted remotely via Zoom
 - Recorded and transcribed by court reporter
- To participate in public comment...
 - By computer: use the “raise hand” feature in Zoom
 - Over the telephone: dial *9 to “raise hand” and *6 to mute/unmute your phone line
- Written comments due **Friday, November 13, 2020.**
 - Submit through the [e-commenting system](https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=16-RPS-03) at:
<https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=16-RPS-03>



Agenda

- Background and Overview
- Proposed Requirements for Long-Term Contracts
- Proposed Reporting and Review of Long-Term Contracts
- Additional Long-Term Contract Topics
- Next Steps
- Public Comment
- Closing Remarks



Background

- The California Energy Commission (CEC) is proposing modifications to the RPS regulations for POU's
 - Implement changes from Senate Bill (SB) 350, SB 1393, SB 100, SB 1110, including new long-term procurement requirement (LTR)
 - Limited clarifications of existing regulatory provisions
- Formal rulemaking history
 - May 8: Notice of Proposed Action published
 - June 8: Lead Commissioner Workshop on 45-day Express Terms
 - July 21: 15-day language
 - August 18: Second 15-day language
 - Request for additional discussion and public input on proposed modifications to requirements for contracts meeting the LTR
- October 30: Workshop Key Topics Guide
 - Updated proposal and illustrative draft language



Objectives

- Clarify the second 15-day language changes
- Present updated staff proposal for LTR requirements
- Solicit public input on proposal and build record for additional 15-day changes to express terms



Schedule

- **November 5:** Workshop
- **November 13:** Written comments due
- **November 2020:** Third 15-day language
- **December 2020:** Adoption at a CEC business meeting
- **Q1 2020:** Anticipated submittal to Office of Administrative Law (OAL)
- **Q2 2020:** Anticipated regulation effective date*

*OAL review period extended by 120 calendar days per Executive Orders N-40-20 and N-66-20



Long-Term Procurement Requirement

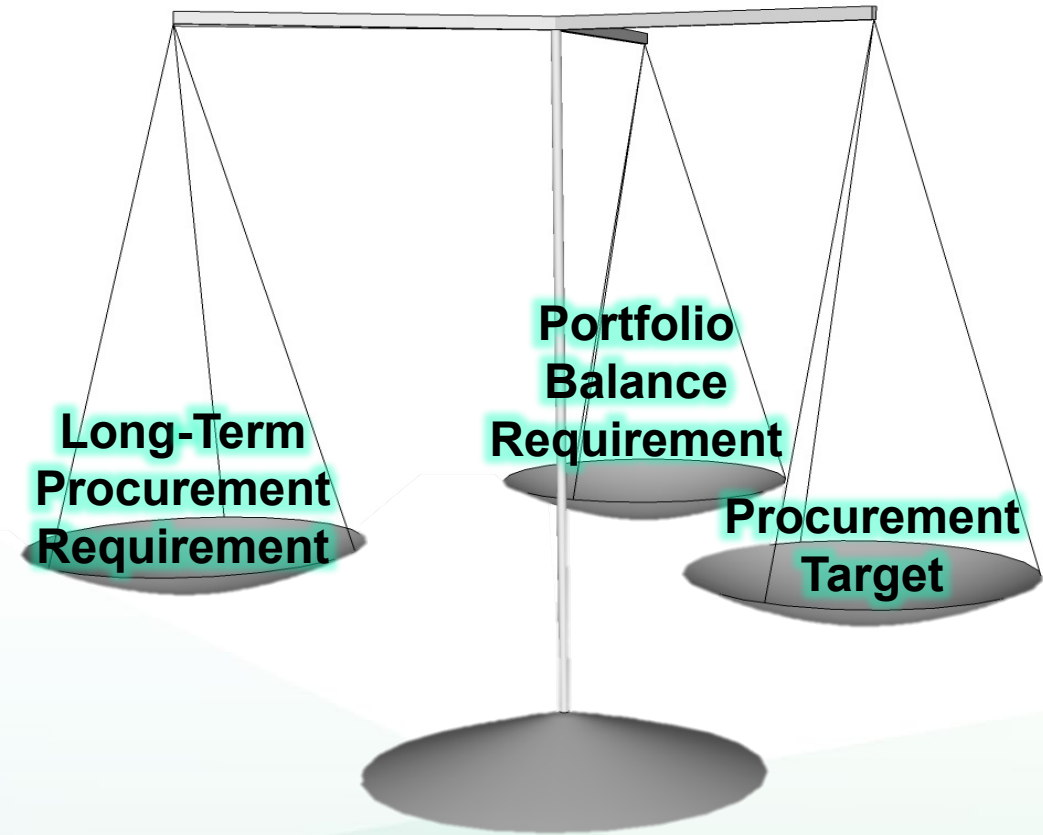
“[...] Beginning January 1, 2021, at least 65 percent of the procurement a retail seller counts toward the renewables portfolio standard requirement of each compliance period shall be from its contracts of 10 years or more in duration or in its ownership or ownership agreements for eligible renewable energy resources.”

“The governing board of a local publicly owned electric utility shall adopt procurement requirements consistent with subparagraph (B) of paragraph (5) of subdivision (a) of, and subdivision (b) of, Section 399.13.”



Overview of LTR Implementation in Express Terms

- Third, independent procurement requirement
 - Compliance based on procurement quantity from long-term contracts, ownership, and ownership agreements
- Define long-term contracts for purpose of LTR compliance and clarify:
 - Different contracting arrangements
 - Continuous duration
 - Special considerations (PCC, prior banked excess procurement, etc)
- Clarify how procurement from long-term contracts will be assessed





Second 15-Day Changes

- CEC would confirm a long-term contract represents a long-term procurement commitment (section 3204 and 3207)
 - Referenced purpose of LTR
- Review factors include:
 - Procurement quantities
 - Delivery terms
 - Provisions necessary to understand extent and duration of procurement commitment
- Review following POU annual report
 - Modeled on existing contract review process
 - CEC staff work with POUs to resolve questions
 - May request additional information if needed
 - Differences
 - Explicit timing reference
 - Explicit appeals process



Proposed Requirements for Long-Term Contracts

Long-term contracts executed prior to July 1, 2020

- Duration of at least 10 continuous years
- Applies only for term in effect as of July 1, 2020
- Amendments on or after July 1, 2020, that modify quantities, termination, or minimum quantity/pricing provisions subject to same requirements as contracts executed on or after July 1, 2020

Long-term contracts executed on or after July 1, 2020

- Duration of at least 10 continuous years
- Additional criteria for long-term contracts regarding quantities, termination, and minimum quantity/pricing for POU contract and underlying contract(s)
- Applies to amendments executed on or after July 1, 2020, that extend contract term or change provisions related to these additional criteria



Comments

Proposed differentiation between long-term contracts executed prior to July 1, 2020, and those executed on or after July 1, 2020

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Jointly Negotiated Contracts

- Contracts executed by a joint powers agency (JPA) or third party with an RPS facility on behalf of multiple POUs, if all POUs are identified in the contract with the facility or in a correlated agreement
- A joint contract executed by multiple POUs with an RPS facility
- Separate contracts executed by POUs with the same RPS facility, in which each contract identifies the other procuring POUs and expressly provides the ability to reallocate procurement among those POUs

In all scenarios, the procurement duration for each POU is at least 10 continuous years and the procurement duration for the RPS facility is at least 10 continuous years



Comments

Jointly Negotiated Contracts

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Duration

Requirement for all long-term contracts regardless of execution date

- Contract duration must be at least 10 continuous years
 - Applies to POU contract and any underlying contracts
 - Duration measured from contract start date to contract end date
 - Contract start date is first date POU is deemed to procure electricity products under contract
- Duration deemed continuous if contract specifies nonzero procurement quantities, as clarified in first 15-day language
 - Quantities may be specified as MWh, output share, or other metric
- No substantive changes proposed relative to second 15-day language



Comments

Proposed Duration Requirements

- Are there any circumstances in a 10-year term should be deemed continuous if the contracted-for quantities are zero in any year?

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Reasonably Consistent Contracted-For Quantities

Applies to contracts/amendments executed on or after July 1, 2020

- Establish measure of reasonably consistent variation based on specified percent of average annual contract quantity
 - Considering two options for specified percent
- Reasonably consistent contracted-for procurement quantities would mean either:
 - Annual contracted-for quantities vary by no more than a specified percent of average
 - Variation in annual quantities exceeds the specified percent, or the contracted-for quantities are specified on a compliance period basis, for specific reason
 - For PCC 3 contracts only, average contracted-for quantities between any two adjacent compliance periods vary by no more than specified percent



Considerations

- Variation based on change in contracted-for quantity, not actual procurement
 - If contracted-for quantity is based on output share, variation assessed based on change in output share
- Applies to POU contract and underlying contract
 - For jointly negotiated contracts, reasonable assessed on aggregate contracted-for quantities



Examples

Contract 1:

Year	1	2	3	4	5	6	7	8	9	10	Avg Quantity
Quantity (MWh)	10,000	10,000	10,000	9,500	9,000	9,500	9,500	9,500	8,000	2,000	7,900
% of Avg Quantity	+27%	+27%	+27%	+20%	+14%	+20%	+20%	+20%	+1%	-75%	--

Contract 2:

Year	1	2	3	4	5	6	7	8	9	10	Avg Quantity
Quantity (% output)	20%	20%	20%	20%	20%	30%	30%	30%	30%	30%	25%
% of Avg Quantity	-20%	-20%	-20%	-20%	-20%	+20%	+20%	+20%	+20%	+20%	--



Establishing the Measure of Reasonably Consistent Variation

Option A

- Establish 33% as a measure of reasonable variation
- Exempt POUs that are not required to file Integrated Resource Plans with the CEC from the long-term contract requirement for reasonably consistent quantities

Option B

- Establish 40% as a measure of reasonable variation
- Apply long-term contract requirement for reasonably consistent quantities to all POUs



Examples for Greater Variation in Contracted-For Quantities

- Facility was already committed to another buyer and the POU's commitment supports development of new resource or improvement of existing resource
- POU forecasted either retail sales reduction from customer/industry loss, or increase in generation from an RPS facility coming online, during the contract term
- Variation due to expected maintenance or modification of the RPS facility
- Variation due to anticipated transmission constraints
- Variation due to POU increasing share of RPS facility when another buyer's term ends
- Variation due to POU procuring increasing quantities or shares from the same eligible renewable energy resource
- POU otherwise demonstrates that the contract supports the financing or improvements of RPS resource, or is otherwise consistent with purposes of LTR



Comments

Proposed Requirements for Reasonably Consistent Quantities

- Which measure of reasonably consistent variation is the best implementation, and why?
- Is the list of proposed examples for greater variation sufficiently comprehensive to provide guidance? If not, what additional examples are needed?

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Commitment without Cost-Free Early Termination

Applies to contracts/amendments executed after July 1, 2020

- Contract does not include unilateral cost-free termination provisions for buyer, other than for:
 - Default or nonperformance under contract
 - Force majeure event
 - Mutual agreement
 - Change in facility eligibility due to change in law
 - Change in RPS-certified status of facility
 - Change in ownership
 - Facilitating sale of the RPS-certified resource to the POU
- If the contract includes any of these provisions, the POU can explain termination, POU submits information showing how the contract represents long-term procurement commitment consistent with goals of LTR



Comments

Proposed Early Termination Requirements

- Are the proposed provisions reasonable considering negotiated termination provisions in existing contracts?

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Minimum Pricing or Quantity Terms

Applies to contracts/amendments executed after July 1, 2020

- Long-term contracts do not include contracts without minimum pricing or quantity terms that...
 - The intent of the parties to negotiate prices and quantity for any year in the continuous 10-year term, **or**
 - Neither party is obligated to procure or sell within each year of the 10-year term



Comments

Proposed Minimum Pricing/Quantity Terms

- Are the proposed provisions sufficient to address a contract that does not represent an enforceable procurement obligation for the 10-year term?

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Proposed Reporting

- Updated annual reporting on contracts executed the prior year
 - Information on contract quantity, termination, minimum pricing/quantity terms, and explanations if needed
 - Location of relevant provisions
 - Contract documents
- Contract documents may include:
 - Information submitted by a third party on POU's behalf
 - Attestations, if POUs have sufficient records to support the attestations and can make the records available upon request
- In annual report due July 1, 2021, POUs shall report:
 - Long-term or short-term classification of contracts reported prior to December 31, 2020, from which the POU intends to retire and apply RECs in Compliance Period 4
 - For POUs electing for optional early compliance with the LTR, annual report must also include contracts for Compliance Period 3



Proposed Annual Review

- CEC staff will review contracts identified as long-term to verify classification, consistent with verification practice
 - Additional information may be requested to verify classification
 - Verified status in RPS online system indicates completion of review
 - CEC staff will notify POU if contract is not verified as long-term
- To the extent possible, staff will complete all reviews and notify POUs of the determination on long-term classification within 365 days of submission of complete information in the annual report
- POU may appeal staff's determination consistent with the process for requesting an investigation pursuant to sections 1231 –1232.5.



Request for Advance Review

- POU may request CEC Executive Director review contracts that satisfy both of the following...
 - Executed after July 1, 2020
 - Additional information is needed to establish the contract meets the long-term contract requirements
- Request must include:
 - Complete copy of the proposed contract
 - Any relevant upstream contract(s)
 - Description how contract meets each requirement to be classified as long-term
- Executive Director may make form available to facilitate request
- To the extent possible, the Executive Director, or his or her designee, will issue determination within 180 days
 - Failure to issue determination within 180 days is not a determination that a contract is classified as long-term
- POU may appeal Executive Director determination



Comments

Proposed Reporting and Review

Comment Instructions

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Additional Topics

- Additional quantity
 - Clarify that procurement in excess of POU's obligation under a long-term contract will be classified as short-term
- Long-term contract structure for bundled electricity products that change portfolio content category classification over term
- Renewals/extensions of Western Area Power Administration (WAPA) Central Valley Project contracts
 - Clarify long-term status without regard to additional long-term contract criteria
- Replacement energy under a long-term contract
 - Proposed change to allow replacement energy as part of the long-term contract when facility did not perform as required by the contract



Comments

Additional Topics

1. Additional quantity
 - Is the proposed clarification sufficient to address all contracting scenarios?
 - On what basis would electricity products that are optional to procure be considered part of the long-term commitment represented by the long-term contract?
2. Multi-PCC bundled contracts
 - Are there any concerns with this provision?
3. WAPA contracts
 - Is the proposed language sufficient to address RPS-eligible hydroelectric generation from WAPA contracts, and are there concerns with this provision?
4. Replacement energy
 - Are there any concerns with this provision?

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Next Steps

- Written comments due **November 13, 2020**
 - Comments may be submitted directly to the RPS rulemaking docket through the [e-commenting system](https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=16-RPS-03) at: <https://efiling.energy.ca.gov/Ecomment/Ecomment.aspx?docketnumber=16-RPS-03>
 - Address proposal and draft language
- Develop third 15-day language by end of November
- Approval at a December Business Meeting



Document Availability

- Copies of the rulemaking documents available on the [rulemaking docket log](https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=16-RPS-03) at: <https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=16-RPS-03>
- Also available on [CEC website](https://www.energy.ca.gov/portfolio/pou_rulemaking/) at: https://www.energy.ca.gov/portfolio/pou_rulemaking/



Public Comment

- Limited to 3 minutes per comment
- To comment or ask questions...
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Thank You!

