

**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>	235594
<b>Document Title:</b>	Pasadena Water and Power Comments on Key Topics Guide
<b>Description:</b>	PWP comments on the Key Topics Guide
<b>Filer:</b>	Mandip Kaur Samra
<b>Organization:</b>	City of Pasadena, Water and Power Department
<b>Submitter Role:</b>	Public Agency
<b>Submission Date:</b>	11/13/2020 3:53:33 PM
<b>Docketed Date:</b>	11/13/2020



P A S A D E N A  
Water&Power

November 13, 2020

Submission Type: efile

California Energy Commission  
Dockets Office, MS-4  
RE: Docket No. 16-RPS-03  
1516 Ninth Street  
Sacramento, CA 95814-5512

DOCKET# 16-RPS-03

**Subject: Comments from the City of Pasadena Water and Power Department (“PWP”) on the California Energy Commission’s (“CEC”) Key Topics: Proposed Implementation of Renewable Portfolio Standard (“RPS”), Long-Term Procurement Requirements (“LTR”) for RPS, Publicly Owned Utility (POU) Regulations (“Key Topics Guide”) and the CEC November 5, 2020 Lead Commissioner Workshop on Proposed Implementation of RPS LTR for Local Publicly Owned Electric Utilities (“Workshop”)**

PWP supports the comments filed by the California Municipal Utilities Association (“CMUA”), on behalf of the Joint POU.

PWP appreciates the opportunity to comment on the Key Topics Guide dated October 30, 2020 and the lead commissioner Workshop held on November 5, 2020.

PWP, through its revised 2018 RPS Procurement Plan and the 2018 Power Integrated Resource Plan (“IRP”), has long been an advocate of reliable renewable energy. In fact, PWP’s voluntary RPS target of 40% RPS by 2020 is higher than the state mandate of 33% RPS by 2020. PWP intends to comply with the Senate Bill (“SB”) 100 RPS mandate of 60% RPS by 2030 and we look forward to working with the CEC to develop enforcement procedures that provide the most flexibility for POU, while limiting the potential for stranded investment and disproportionate rate impacts to ratepayers.

This letter focuses on supportive comments as well as a request for additional guidance on the items that directly impact PWP

## **COMMENTS TO KEY TOPICS GUIDE (INCLUDING APPENDIX A) AND WORKSHOP:**

PWP looks forward to working with the CEC to discuss these issues with the goal of implementing pragmatic and flexible solutions in order to meet the State's RPS mandates. As stated in the past, PWP recommends that updates to the RPS regulations be proactive, meaning that they apply to future procurement contracts. PWP is very supportive of the CEC's proposal on grandfathering contracts for LTR if contracts were executed before July 1, 2020. PWP also appreciates the CEC's willingness to allow for exemptions for modification to the quantity of RPS products, on an annual basis.

Below are PWP's comments and recommendations for the Key Topics Guide and Workshop discussion.

### **SECTION (d)(2)(A):**

#### Definition of Long-Term Contract:

The definition of a long-term contract needs clarification. Zero quantities should be allowed, if the non-zero energy received from the renewable resource is at least 10 continuous years or longer in duration.

PWP asked about the inclusion of contracts with zero quantities at the Workshop and the CEC Staff replied that zero quantity resources can count towards the LTR, if the contract includes quantities for renewable resources, for at least 10 continuous years or longer.

PWP recommends the following language to Appendix A of the Key Topics Guide Section (d)(2)(A):

- *A long-term contract is defined as a POU's contract to procure ~~a nonzero~~ quantities of electricity products from an RPS-certified facility for a duration of at least 10 continuous years, subject to paragraphs (B) and (C). Zero quantities are allowed if there are at least 10 continuous years of nonzero energy deliveries. For example, a contract can have zero energy in years 1-5 and nonzero energy delivered in all years for years 6-16 or longer.*

### **SECTION 3204(d)(2)(B)2:**

#### What Constitutes a Long-Term Contract:

The language on what constitutes a long-term contract is ambiguous. The requirement to show that a Counterparty has a 10-year or longer contract with the renewable facility in addition to requiring that a POU and the Counterparty has a 10-year or longer contract, may not be possible for contracts signed before July 1, 2020. PWP supports this language for contracts executed after July 1, 2020.

SB 350, per Public Utilities Code (PUC) 399.13(b) states, "A retail seller may enter into a combination of long- and short-term contracts for electricity and associated renewable energy credits. 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 LTR contracts PWP signed before July 1, 2020 were signed with the intent of meeting PUC 399.13b, as written.

Some POU contracts do not require a Counterparty to show that their contract is also 10 years or longer with the renewable facility. The POU must entirely rely on “good faith” efforts on behalf of the Counterparty to show this, as contracts executed before these changes did not contemplate this requirement. Some Counterparties also have confidentiality requirements with their underlying contracts, whereas they cannot share their contract with the renewable facility, with a third party. Lastly, some Counterparties have a parent company that might own or operate the renewable facility.

As mentioned earlier, PWP entered into contracts (namely with Marketers) that were 10 years or longer in duration, but did not have a requirement for the Marketer (Counterparty) to prove that their contract with the renewable facility was 10 years or longer in duration. PWP entered into these agreements with the intention of meeting the LTR under PUC 399.13b. With this additional requirement, it is unclear if such contracts would meet the new requirements for the LTR. For PWP, this may result in millions of dollars in stranded investment.

PWP recommends the following language to Appendix A of the Key Topics Guide Section (D)(2)(B)2:

- *A POU’s contract or resale agreement with a joint powers agency or third-party supplier, executed after July 1, 2020, if both of the following are satisfied (note, for contracts executed before July 1, 2020, only “i” applies):*
  - i. *The POU’s contract or resale agreement with the joint powers agency or third-party supplier has a duration of at least 10 continuous years.*
  - ii. *The RPS-certified facility or facilities supplying the electricity products in the long-term contract are owned by the joint powers agency or third-party supplier or are subject to a long-term contract with a remaining duration of at least 10 continuous years, and the POU, or the joint powers agency or third-party supplier or other party (including the parent company) on the POU’s behalf, submits can submit documentation demonstrating this.*

PWP kindly requests that an attestation to show that the Counterparty (or its parent company) and the renewable facility have a contract for at least 10 years, be accepted. This will allow for the Counterparty or its parent company to demonstrate that there is a 10 year or longer contract with the renewable facility or operator of the facility and will alleviate any issues concerning confidentiality items in the contract with the Counterparty and renewable facility.

#### **SECTION (d)(2)(C):**

##### Grandfathering of Contracts Executed Prior to July 1, 2020:

PWP is very supportive of the grandfathering language; however, PWP supports that contracts between the POU and Counterparty should be 10 years or longer in duration, but adding in requirements to show that the Counterparty has a 10-year contract or longer with the renewable

facility is not supported in our current contract arrangements. Please see comments above for more detail.

PWP recommends the following language to Appendix A of the Key Topics Guide Section (d)(2)(C):

- *Long-term contracts executed on or after July 1, 2020, shall additionally satisfy the requirements of subparagraphs (C)1.-3. Contracts executed prior to July 1, 2020, shall only show that the contract is 10 years or longer in duration—~~are not required to meet the requirements of subparagraphs (C)1.—3.~~ for the term of the contract in effect as of July 1, 2020. With the exception of extensions or renewals of contracts meeting the criteria of subparagraph (B)4., contracts executed prior to July 1, 2020, that are amended on or after July 1, 2020, where the amendment modifies the duration, quantity, pricing, or other provision that materially relates to the contract’s classification as long-term, shall additionally satisfy all of the requirements of subparagraphs (C)1. – 3.*

### **SECTION 3204(d)(2)(C) Option B:**

#### Reasonably Consistent Procurement Quantities:

Pasadena appreciates the CEC’s options regarding reasonably consistent procurement quantities. PWP prefers option B, in order to apply the CEC LTR requirement equally to all POUs, regardless of size. However, 40% could still impact many future contracts. PWP is supportive of the 40% threshold, if the exemptions are more clear and do not need to show that a “contract represents a procurement commitment consistent with the purposes of the long-term procurement requirement, including supporting long-term planning and market stability, and investments in the development of new eligible renewable energy resources or improvements to existing eligible renewable energy resources.” These requirements are ambiguous and may be difficult to prove.

For both Option A and Option B, PWP recommends modification to the following language to Appendix A of the Key Topics Guide Section 3204 (d)(2)(C )(1)(iv):

- *Notwithstanding subparagraphs i.-ii., reasonably consistent contracted-for quantities include procurement quantities that vary by more than 33 or [44] percent, or procurement quantities specified on a compliance period basis, if the POU ~~demonstrates the contract represents a procurement commitment consistent with the purposes of the long term procurement requirement, including supporting long term planning and market stability, and investments in the development of new eligible renewable energy resources or improvements to existing eligible renewable energy resources. In making this demonstration, a POU may provide information to show that the contracted-for procurement quantities are associated with one of the following [I-VII]~~*

Per clarification at the Workshop, the CEC was amenable to include quantities of zero in this language, as long as energy was delivered continuously for 10 or more years. In addition, PWP requests that rather than be listed as exemption, the consistent procurement quantities requirement should not apply to contracts that show increasing quantities of a renewable energy resource.

PWP recommends adding the following language to Appendix A of the Key Topics Guide Section 3204 (d)(2)(C )(1)(iv), as subsection (VIII):

- *VIII. A quantity of zero for a renewable energy resource, is allowed, as long as the contract overall, has at least 10 years or longer of continuous deliveries of renewable energy resources.*

For clarification, PWP is reiterating the point of clarification, received from CEC Staff at the Workshop, that if a POU were to do 20-year contract with a renewable facility, with 0 MWs for the first 5 years and then increasing quantities for the last 15 years of the contract, the CEC won't start measuring the quantities until the POU starts receiving energy, which would apply to years 6-20 in the example above. Since there are 10 years or more of renewable energy being delivered, this contract would qualify as meeting the LTR.

#### Minimum Quantities and Pricing:

PWP seeks clarification to the language in Appendix A of the Key Topic Guide Section 3204(d)(2)(C)(3), to ensure other forms of pricing are inclusive, such as index pricing. Some POUs, including PWP, negotiate contracts using market price or an index. This type of optionality should be acceptable.

PWP supports CMUA's comments during the November workshop regarding amending the language on minimum pricing or quantity terms from "or" to "and". In addition, quantities of zero should be allowed, per the arguments made above.

#### **SECTION 3204(d)(2)(G):**

##### Excess Procurement:

Excess procurement (or excess energy) allowed under a long-term contract should count towards the LTR if it is allowed under the renewable resource contract. PWP does not agree with the CEC's interpretation on how to classify excess energy. The Key Topics Guide seeks to classify excess procurement as short-term. In some instances, renewable resources are capable of producing energy above and beyond the minimum requirements listed in the contract. In order to negotiate better terms for renewable contracts, some POUs, such as PWP, allow for the option to take excess procurement. Excess procurement may help POUs when retail loads increase (due to transportation electrification or other reasons) or when intermittent resources perform lower than expected. For example, if a baseload renewable resource contract allows for excess procurement, that excess procurement can often offset generation issues with intermittent resources. This option allows the renewable developer and the POU to take advantage of the renewable energy produced. Often, the excess procurement is at a lower rate, positively impacting ratepayers. The inability to count excess procurement towards the LTR may lead to detrimental rate impacts, as a POU may need to secure additional renewable resources to meet its RPS and LTR needs. Though the CEC allows excess procurement to counts towards the short term, many POUs, including PWP, have other short-term contracts, which leaves little room for additional short-term quantities (meaning that the short-term contracts represent the maximum allowed, at 35%).

PWP recommends the following language to Appendix A of the Key Topics Guide Section 3204(d)(2)(G):

- *Electricity products procured in excess of the quantity that the POU is obligated to procure under is specified in a long-term contract shall be classified as **long-term if excess procurement (energy above the minimum take obligation) is allowed under the long-term contract; if it is not allowed under the long-term contract, it shall be classified as short-term***

### **SECTION 3207 (c):**

#### Proposed Reporting of Long-Term Contracts:

PWP supports the CEC's decision to allow documentation pursuant to section 3204 (d) to include documentation submitted directly to the CEC either by the POU or the third-party supplier. Additionally, PWP is highly supportive that the CEC will accept an attestation by the POU that the contract meets the requirements if a POU has information to support the accuracy of the information in the attestation. As mentioned earlier, PWP also requests that the third-party seller attestations be accepted as demonstration as well. It is difficult to get upstream contracts from third-party suppliers, as PWP's executed contracts do not require them.

### **SECTION 3207 (c)(5):**

#### Review of Long-Term Contracts:

PWP appreciates the CEC's early review of contracts, on a voluntary basis. This will enable POUs to execute contracts, based on their LTR status. In order to facilitate a timely review, PWP can assist the CEC in developing a process for voluntary review, assist in developing a template for the voluntary review and assist on any other items the CEC may need.

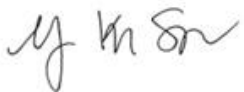
PWP supports the comments filed by CMUA, for the early review of long-term contracts.

### **CONCLUSION:**

PWP appreciates the hard work of the CEC Staff is developing the Key Topics Guide. These comments highlight PWP specific concerns. We appreciate your review of our comments.

Should you have any questions, please contact me.

Respectfully Submitted,



MANDIP KAUR SAMRA  
Power Resource Planning Manager  
City of Pasadena, Water and Power Department  
msamra@cityofpasadena.net  
626.744-7493