

**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>	235978
<b>Document Title:</b>	The Utility Reform Network Comments - on Third 15-Day Language Modification
<b>Description:</b>	N/A
<b>Filer:</b>	System
<b>Organization:</b>	The Utility Reform Network
<b>Submitter Role:</b>	Public
<b>Submission Date:</b>	12/16/2020 4:56:51 PM
<b>Docketed Date:</b>	12/16/2020

*Comment Received From: The Utility Reform Network  
Submitted On: 12/16/2020  
Docket Number: 16-RPS-03*

**on Third 15-Day Language Modification**

*Additional submitted attachment is included below.*

**STATE OF CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION**

In the matter of:	)	
	)	
	)	Docket No. 16-RPS-03
Amendments to Regulations Specifying	)	
Enforcement Procedures for the Renewables	)	
Portfolio Standard for Local Publicly Owned	)	
Electric Utilities	)	
	)	

**COMMENTS OF THE UTILITY REFORM NETWORK  
ON THIRD 15-DAY LANGUAGE MODIFICATION OF  
REGULATIONS SPECIFYING THE ENFORCEMENT PROCEDURES  
FOR THE RENEWABLES PORTFOLIO STANDARD FOR  
LOCAL PUBLICLY OWNED ELECTRIC UTILITIES**

Matthew Freedman  
The Utility Reform Network  
785 Market Street  
San Francisco, CA 94104  
415-929-8876 x304  
[matthew@turn.org](mailto:matthew@turn.org)

December 16, 2020

**COMMENTS OF THE UTILITY REFORM NETWORK  
ON THIRD 15-DAY LANGUAGE MODIFICATION OF  
REGULATIONS SPECIFYING THE ENFORCEMENT PROCEDURES  
FOR THE RENEWABLES PORTFOLIO STANDARD FOR  
LOCAL PUBLICLY OWNED ELECTRIC UTILITIES**

In response to the December 1, 2020 Notice of Availability, The Utility Reform Network (TURN) submits these comments on the third 15-day language modifications to the enforcement procedures for the Renewables Portfolio Standard (RPS) for Publicly Owned Utilities (POUs). TURN previously provided written comments on the staff implementation proposal, the draft amendments, the proposed regulations, the first 15-day language modification, the second 15-day language modification and the proposed implementation of long-term contracting requirements.

The extensive process used to develop the proposed regulations has allowed the Commission to consider views from a range of stakeholders. TURN appreciates the thoroughness of this process and, in particular, the attention to concerns regarding the implementation of the long-term contracting requirement enacted as part of SB 350 (DeLeón, 2015). The final version of the regulations successfully balances the goal of robustly enforcing meaningful RPS statutory requirements with appropriate flexibility for POUs. In particular, TURN thanks the Commission for incorporating critical elements of the Joint Stakeholder proposal developed by TURN and POU representatives to address the implementation of the long-term contracting requirement.<sup>1</sup>

The long-term contracting requirement is a key element of compliance with the RPS program under the statutory revisions enacted in SB 350 (DeLeón, 2015). The requirement reflects the critical importance of long-term contracting to the development of sufficient new RPS generating resources to meet the ambitious post-

---

<sup>1</sup> Joint Stakeholder Proposal on Implementation of Long Term Procurement Requirement, Docket 16-RPS-03, filed October 20, 2020.

2020 targets.<sup>2</sup> The purpose of the long-term contracting requirement is to promote market stability, ensure advance planning and drive the timely development of new resource capacity. The proposed regulations are an important step towards realizing these objectives.

TURN urges the Commission to reject the concerns raised by Shell Energy in its comments. Shell argues that the Commission should adopt a bare-bones implementation of the long-term contracting requirement that permits third-parties to source unlimited quantities of RPS resources under short-term (or even one-time) agreements and resell the output to POUs as part of a “long-term” contract structure eligible to satisfy the 65% requirement.<sup>3</sup> The changes proposed by Shell would create massive loopholes that allow, and even encourage, POUs to circumvent the purpose of the long-term requirement by laundering short-term (or one-time) purchases through a third party.<sup>4</sup> These types of “sham contracts” should be deemed unacceptable and the Commission should decline to embrace an inappropriately narrow view of both its authority and the statutory language.

TURN appreciates the continuing efforts of Commission staff to adopt proposed regulations that implement reasonable and effective enforcement rules for key elements of SB 350 and will accelerate the development of renewable resources in service of the state’s long-term clean energy and greenhouse gas reduction goals.

---

<sup>2</sup> The California Public Utilities Commission has repeatedly recognized the fact that a long-term contract is essential for a project developer to finance construction of new renewable generation. *See* D.17-06-026, page 15 (“in D.06-10-019 and D.07-05-028, the Commission adopted the parties’ consensus that long-term contracts are necessary in order for developers to finance new and repowered RPS-eligible generation.”)

<sup>3</sup> Shell Energy comments, December 15, 2020.

<sup>4</sup> Shell has a long history of developing energy products intended to skirt regulatory requirements and exploit ambiguous compliance rules. For example, Shell previously marketed pipeline biomethane attributes from out-of-state landfills to POUs and Electric Service Providers for use in satisfying RPS requirements. The form and volume of such transactions led the Energy Commission to issue an emergency suspension of all pipeline biomethane eligibility rules and forced the Legislature to enact AB 2196 to prevent further abuse by Shell and other market participants. *See* “Suspension of Eligibility Guidelines Related to Biomethane”, Energy Commission Resolution 12-0328-3, Docket 11-RPS-01, March 28, 2012.

Respectfully submitted,

MATTHEW FREEDMAN

\_\_\_\_\_/s/\_\_\_\_\_  
\_\_\_\_\_

Attorney for  
The Utility Reform Network  
785 Market Street, 14<sup>th</sup> floor  
San Francisco, CA 94103  
Phone: 415-929-8876

Dated: December 16, 2020