



California Energy Commission

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California Energy Commission Implementation of 33% RPS: Draft Regulations for Publicly- Owned Electric Utilities

California Energy Commission

HEARING ROOM A

March 1, 2012
9:00 a.m.



Workshop Agenda



- Staff Presentation
 - Overview of Staff Draft Regulations
 - Outstanding Issues
 - Next Steps

- Public Comments/Questions



Overview of Workshop

- Summary of Staff Draft Regulations
 - Qualifying Electricity Products
 - Portfolio Content Categories
 - RPS Procurement Requirements
 - Procurement and Enforcement Plans
 - Compliance Options
 - Reporting
 - Enforcement
 - Verification

- Outstanding Issues
 - Consistency with rules for retail sellers
 - Timing
 - Exemptions
 - Non-compliance
 - Enforcement

Energy Commission RPS Roles under SB X1 2



- Certify renewable facilities as eligible for the RPS.
- Design and implement an accounting system to track and verify RPS compliance.
- Implement regulations specifying procedures for the RPS for POUs.
 - Monitor POU compliance with the RPS
 - Refer violations to ARB

Section 3202 – Qualifying Electricity Products



- PUC 399.16 (d) states that generation under a contract or ownership agreement executed prior to June 1, 2010 shall count in full if the renewable energy resource was eligible under the rules in place as of the date of contract execution.
 - Staff draft regulations interpret “the rules in place” to mean the rules under the RPS Eligibility Guidebook when the contract was executed.
 - Staff draft regulations interpret “count in full” to mean that the portfolio content category percentage requirements will not apply to generation procured under contracts or ownership agreements executed before June 1, 2010, and meeting the requirements of 399.16(d), but only for the duration of the contract or agreement.

Section 3202 – Qualifying Electricity Products



- There are 3 ways to qualify for the RPS:
 1. Electricity products procured on or after June 1, 2010 and associated with generation from an RPS-certified facility may be counted for the RPS.
 2. For facilities from which electricity was procured before June 1, 2010, generation may be counted for the RPS if:
 - The facility was approved by a POU's governing board to meet that POU's renewable energy procurement obligations; and
 - The facility meets the definition of a renewable electrical generation facility, and is RPS-certified.

Section 3202 – Qualifying Electricity Products



3. Facilities from which electricity was procured before June 1, 2010 may count in full for the RPS if:
 - The facility met the Commission’s RPS eligibility requirements as of the date the original procurement contract or ownership agreement was executed.
 - The facility is RPS-certified.
 - Any contract modifications or amendments occurring after June 1, 2010 do not increase the nameplate capacity, expected quantities of annual generation from the facility, or substitute a different renewable energy resource for the facility.
- “Count in full” is interpreted to mean electricity products may be counted for compliance with the RPS without regard to any portfolio content category requirements.

Section 3203 - Portfolio Content Categories



- PCC 1 eligible renewable energy resources must meet at least one of the following criteria:
 - Have a first point of interconnection to the WECC transmission grid within the metered boundaries of a CA Balancing Authority, as defined.
 - Have a first point of interconnection to an electricity distribution system used to serve end users within the metered boundaries of a CA balancing authority area.
 - Electricity is scheduled into a CA balancing authority without substituting electricity from another source.
 - Have an agreement to dynamically transfer electricity to a CA balancing authority, executed before the product was generated, and dynamically transferred within the hour of generation.

Section 3203 - Portfolio Content Categories



- PCC 2 eligible renewable energy resources must:
 - Be located within the WECC transmission grid.
 - Be firmed and shaped with substitute energy to provide incremental electricity.
 - Be initially procured as bundled electricity.

Section 3203 - Portfolio Content Categories



- PCC 2 eligible renewable energy resources must products must also meet all of the following criteria:
 - The first point of interconnection to the WECC transmission grid for both the RPS-certified facility and the resource providing the substitute electricity must be located outside of a CA balancing authority area.
 - The substitute electricity must be incremental, or not in the portfolio of the POU prior to the firmed and shaped transaction(s).
 - The procurement of the substitute resource is adopted at the same time or after the procurement from the RPS-certified facility is adopted.
 - The substitute electricity must be scheduled into the CA balancing authority within the same calendar year as the electricity from the RPS-certified facility is generated.

Section 3203 - Portfolio Content Categories



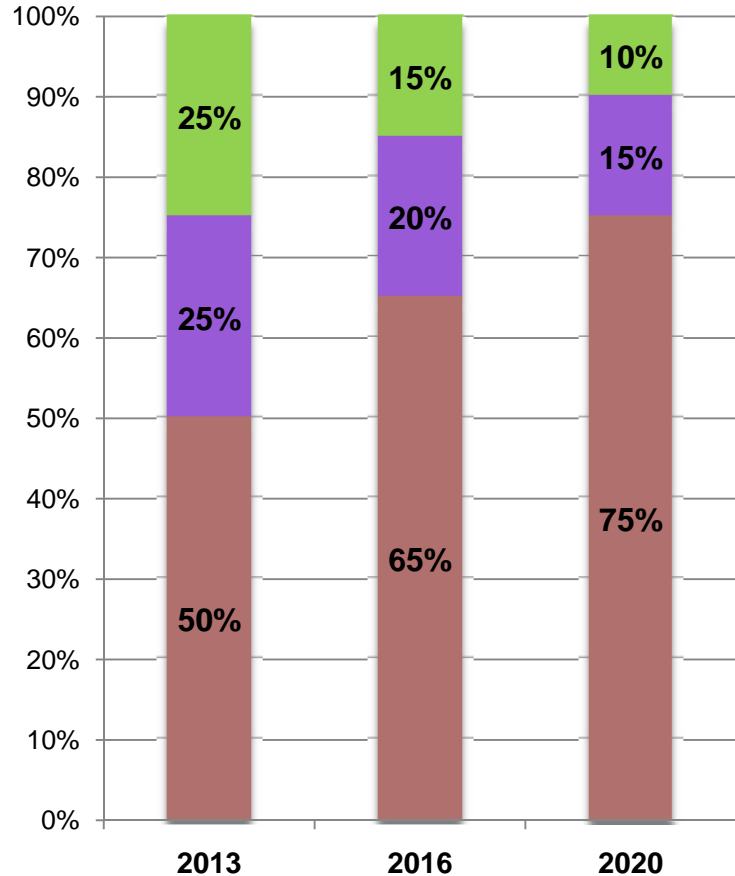
- PCC 3 eligible renewable energy resources include all unbundled renewable energy credits and other electricity products located within the WECC transmission grid and generated by RPS-certified facilities that do not meet the requirements of either PCC 1 or PCC 2.
- Electricity products qualifying for PCC 1 or PCC 2 that are procured as bundled products, but that are subsequently unbundled and sold separately, can only be counted in PCC 3.



Procurement Targets

- Average of 20% of retail sales from January 1, 2011 to December 31, 2013.
- 25% of retail sales in the last calendar year of the compliance period ending December 31, 2016.
- 33% in the last calendar year of the compliance period ending December 31, 2020.
- 33% for each calendar year thereafter.
- Deficits associated with any compliance period shall not be carried forward into another compliance period.

Section 3204 – RPS Procurement Requirements



■ Category 3: Unbundled RECs (max)

■ Category 2: Firmed & Shaped (remaining)

■ Category 1: Directly Connected/Scheduled to CBA (min)

Category 3. Maximum Procurement – no more than:

- 25% by 12/2013
- 15% by 12/2016
- 10% by 12/2020 and thereafter

Category 2: No minimum or maximum procurement.

Category 1. Minimum Procurement – at least:

- 50% by 12/2013
- 65% by 12/2016
- 75% by 12/2020 and thereafter

Section 3204 – RPS Procurement Requirements



- Two paths for demonstration that reasonable progress was made toward achieving the procurement requirements by the end of each compliance period:
 1. The POU must demonstrate annually, in the annual reports submitted to the Energy Commission, how they are making efforts to achieve reasonable progress.
 - These demonstrations should include steps taken in the past year to procure additional electricity products to achieve the procurement target for the compliance period.

Section 3204 – RPS Procurement Requirements



2. The POU could instead demonstrate reasonable progress with a quantitative increase in procurement of RPS-certified electricity products in accordance with the following:
 - The POU must annually demonstrate an increase in procurement of electricity products of no less than 1.5% in each year of the compliance period ending in 2016, and no less than 2% in each year of the compliance period ending in 2020, provided the procurement target for the previous compliance period was met.

Section 3205 - Procurement and Enforcement Plans



- PUC 399.30 (a) requires each POU to adopt and implement a procurement plan that requires the POU to meet its procurement requirements. To demonstrate reasonable progress and to ensure compliance with all procurement requirements:
 - Each POU shall submit to the Energy Commission its most recent renewable energy resources procurement plan by January 1, 2013, and by January 1 of each year thereafter.
 - Each POU must adopt an enforcement plan by January 1, 2012, and revise its enforcement plan, if needed to comply with these regulations, within 90 days of finalization of the regulations.

Section 3206 – RPS Compliance Options



- POUs may adopt rules in a procurement plan for any of the following measures:
 1. Excess Procurement
 - POUs may apply excess procurement from one compliance period to a subsequent compliance period, excluding procurement from PCC 3 and procurement from contracts of less than 10 years in duration.
 - Accumulation of excess procurement shall begin January 1, 2011.

Section 3206 – RPS Compliance Options



2. Delay of timely compliance, consistent with PUC Section 399.15 (b) for retail sellers.
3. Cost limitations, consistent with PUC Section 399.15 (c) for retail sellers.
4. PCC requirement reductions, in accordance with PUC Section 399.16 for retail sellers.

Section 3207 – Compliance Reporting for POUs



- By June 1, 2013, and by June 1 of each year thereafter, each POU shall submit an annual report to the Energy Commission that includes annual progress information.
- By June 1, 2014; June 1, 2017; June 1, 2021; and by June 1 of each year thereafter, each POU shall submit to the Energy Commission a compliance report that includes information demonstrating the achievement of procurement requirements for the preceding compliance period.
- The information provided by a POU in these reports will be verified using the verification process specified in the RPS Guidelines to determine a POU's compliance with the RPS.

Current Verification Process: Interim Tracking System and WREGIS



To verify procurement claims, Energy Commission staff will:

- Check that all claims are from RPS certified facilities.
- Compare all load serving entities' procurement claims from individual facilities to determine if there was sufficient generation for all procurement claims.
- Collaborate with other states and the voluntary REC market to determine, to the extent possible, the claim was counted only once.
- Verify that multi-fuel fuel requirements have been met.
- Verify that no procurement was claimed before the facility's eligibility date.
- Verify portfolio content categories.
- Determine whether procurement targets and portfolio content category requirements are met.

In all cases, staff may request supporting documentation as necessary.

Section 3208 / 1240 – RPS Enforcement



- No complaint for the failure of a POU to meet a RPS requirement may be filed by any person or entity except Energy Commission staff.
- A POU shall file an answer to any complaint made against it with the Energy Commission's Chief Counsel within 45 calendar days.
- Energy Commission staff may file a response to the POU's answer. A hearing shall be scheduled to commence no sooner than 30 days after the filing of a staff response. The decision of the full Energy Commission following the hearing shall be a final decision.
- Energy Commission staff shall forward a notice of violation, based on the final decision of the full Energy Commission, to the ARB for determination of a penalty.



Corrections to the Draft Regulations

- Section 3204(a)(8) should be revised to read:

If a POU meeting the criteria listed in Public Utilities Code Section 399.30 (k) has electricity demands unsatisfied by its qualifying hydroelectric generation in any given year, then the POU shall procure electricity products in accordance with Section 3204 ~~(d)~~ **(e)** of these regulations equal to the lesser of the following...

- Section 3206(a)(1)(D) should be revised to read:

(D) POUs may accrue excess procurement **in a given compliance period** only if the POU ~~meets the criteria for reasonable progress as specified in Section 3204 (d)(2) – (3)~~ **satisfies the following criteria.**

1. Excess procurement for the first compliance period is:

$$\text{Excess Procurement} = (EP_{2011-2014} + EP_{2012-2015} + EP_{2013-2016}) - (0.20 \times (RS_{2011} + RS_{2012} + RS_{2013}))$$

Outstanding Questions - Consistency



1. Should the Energy Commission determine reasonableness for cost limitations and delay of timely compliance based on the structure to be determined for retail sellers?
2. Should rules for excess procurement for POUs also be consistent with excess procurement rules for retail sellers? If not, explain how the rules should differ. Please discuss any pertinent legal or policy arguments in support of your position.

Outstanding Questions – Timing/Seams



1. Must electricity products be retired in the same compliance period as when they are procured to be used for compliance?
2. Is there any reason why RECs generated before January 1, 2011, could be used for the first compliance period?
 - Should this depend on whether the utility met its procurement target in 2010, or in years before? How would the Energy Commission verify that a POU has met these targets?
 - How would the Energy Commission verify that a REC generated prior to January 1, 2011, has not been claimed for RPS compliance in a previous year?

Outstanding Questions - Various



1. Exemptions:

- Are there any additional alternatives that are available and that the Energy Commission should consider to limit the burden on very small POUs?

2. Non-Compliance:

- How should late reporting, failure to report, or late submittal of an approved enforcement plan or procurement plan be included in findings of RPS non-compliance for a POU?

3. Enforcement Plans:

- Is 90 days after the effective date of the 33 percent RPS regulations a reasonable amount of time for a POU to adjust an enforcement plan, to comply with the provisions of the regulations?

Outstanding Questions - Enforcement



1. Should other individuals or entities be allowed to file a complaint against a POU for failing to comply with the regulations?
2. If the Energy Commission initiates a public proceeding to consider a staff complaint against a POU, should other individuals or entities be allowed to intervene or otherwise be granted party status in the proceeding?



Next Steps

- Comments are due March 15, 2012 on the 33% RPS Pre-Rulemaking Draft Regulations.
- The Energy Commission will incorporate comments into a final draft and submit the rulemaking package to OAL in April 2012.
- Formal 45 day public comment period April - June 2012.
- Public Hearing following the public comment period in June 2012.
- Adoption by the Energy Commission in August 2012.

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