

From: [Herrera, Gabe@Energy](mailto:Herrera_Gabe@Energy)
To: Manuel Moya;
cc: Gould, Angela@Energy;
Chisholm, Emily@Energy;
Subject: RE: request for draft of recently proposed rule
Date: Friday, March 08, 2013 9:30:30 AM

Mr. Moya,

Documents for the subject rulemaking “Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Utilities” are available electronically on the Energy Commission website at http://www.energy.ca.gov/portfolio/pou_rulemaking/documents/

These documents include the following:

1. Notice of Proposed Action
2. Express Terms
3. Initial Statement of Reasons
4. Supporting Material for the Economic and Fiscal Impact Statement and Assessment
5. POU Cost Analysis

In addition, if you would like to receive future information on the rulemaking please sign up for the Energy Commission’s Renewables Listserv at the following website http://www.energy.ca.gov/portfolio/pou_rulemaking/

Thank you,

Gabe

Gabriel Herrera,
Staff Counsel
California Energy Commission
Office of the Chief Counsel
1516 9th Street, MS-14
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From: Manuel Moya [mailto:ManuelMoya@cqrollcall.com]
Sent: Friday, March 08, 2013 9:08 AM
To: Gould, Angela@Energy; Chisholm, Emily@Energy; Herrera, Gabe@Energy;
Energy - Docket Optical System
Subject: request for draft of recently proposed rule

Hello,

May I please obtain a draft (showing the strikethroughs and revisions) of the recently proposed rule pertaining to: "Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Utilities" (sections 399.13, 399.15, 399.16, 399.21, 399.30, 9507 and 9508)?

Thank you,

Manuel Moya

Ps. I'm specifically referring to the rules described in the notice below, published on last week's state register:

PROPOSED ACTION ON REGULATIONS

TITLE 20. CALIFORNIA ENERGY COMMISSION

ADOPTION OF REGULATIONS ESTABLISHING ENFORCEMENT PROCEDURES FOR THE RENEWABLES PORTFOLIO STANDARD FOR LOCAL PUBLICLY OWNED UTILITIES

California Energy Commission
DOCKET NO. 13-RPS-01
MARCH 1, 2013

The California Energy Commission proposes to adopt new regulations establishing enforcement rules and procedures for the Renewables Portfolio Standard (RPS) for local publicly owned electric utilities (POUs) pursuant to Senate Bill X1-2 (Simitian, Stats. 2011, 1st Ex. Sess., ch. 1). The proposed action is taken under the authority of sections 25213 and 25218(e) of the Public Resources Code and section 399.30 of the Public Utilities Code.

These regulations would implement, interpret, and make specific several provisions of Public Resources Code sections 25741 and 25747, and Public Utilities Code sections 399.13, 399.15, 399.16, 399.21, 399.30, 9507 and 9508.

The Energy Commission has prepared this Notice of Proposed Action as specified by Government Code section 11346.5. The Energy Commission has also published the proposed language of the regulations (also referred to as the 45-day language Express Terms), the Initial Statement of Reasons in support of the proposed regulations, and an Economic and Fiscal Impact Statement for the proposed regulations. These documents are discussed below.

Staff Workshop/Hearing

Energy Commission staff will hold a workshop/hearing on the following date and time to receive public comments on the proposed regulations:

March 15, 2013 Beginning
9:30 a.m.
California Energy Commission
1516 Ninth Street
First Floor, Hearing Room A
Sacramento, California
(Wheelchair accessible)

At this workshop/hearing, any person may present oral and written comments on the proposed regulations. Persons may submit written comments as specified below. If possible, please submit written comments to be considered at the staff workshop/hearing by March 8, 2013. The Energy Commission appreciates receiving written comments at the earliest possible date. Energy Commission commissioners may attend this workshop/hearing.

Audio for the March 15, 2013, staff workshop/hearing will be broadcast over the internet via WebEx. To join the meeting online, go to <https://energy.webex.com/>, enter the meeting number **922 167 798**, then enter your name and email address. If a password is required, enter the meeting password:

meeting@930. Click "Join". Follow the instructions that appear on your screen to join the teleconference for the workshop/hearing.

To join the audio conference only, call the number below and enter the access code **922 167 798**:

Call-in toll-free number (US/Canada): 1-866-469-3239

Call-in toll number (US/Canada): 1-650-429-3300

Public Hearing

The Energy Commission will hold a public hearing for consideration and possible adoption of the 45-day language Express Terms on the following date and time:

May 8, 2013

Beginning 10 a.m.

California Energy Commission

1516 Ninth Street

First Floor, Hearing Room A

Sacramento, California

(Wheelchair accessible)

At this adoption hearing, any person may present oral or written comments on the proposed regulations. Persons may submit written comments as specified below.

Audio for the May 8, 2013, adoption hearing will be available by telephone and will be broadcast over the internet via WebEx. Further information regarding telephone and WebEx participation for the adoption hearing will be included in the agenda for that hearing, which will be published April 26, 2013.

If you have a disability and require assistance to participate in either the staff workshop/hearing or the Energy Commission adoption hearing, please contact Lou Quiroz at (916) 654-5146 at least five days in advance of the

workshop/hearing or the adoption hearing.

Oral and Written Comments and Comment Period

The public comment period for the proposed regulations as written in the 45-day language Express Terms is March 1, 2013, through and including April 16, 2013. Any interested person may submit oral and written comments on the proposed regulations. To provide ample opportunity to evaluate written comments, it is requested that written comments be submitted by April 16, 2013. However, both oral and written comments will be accepted at the May 8, 2013, adoption hearing. The Energy Commission appreciates receiving written comments at the earliest possible date. E-mail is preferred.

To e-mail comments on behalf of an organization, send a scanned copy of the comments on the organization's letterhead, signed by an authorized representative.

E-mail comments in either Microsoft Word format (.doc) or Adobe Acrobat portable document format (.pdf) to: DOCKET@energy.ca.gov.

All written comments sent by e-mail must indicate **Docket No. 13-RPS-01** in the subject line. Written comments may also be mailed to:

California Energy Commission
Docket No. 13-RPS-01
Docket Unit
1516 Ninth Street, MS-4
Sacramento, CA 95814-5504

Authority and Reference

The Energy Commission proposes to adopt the proposed regulations under the authority of Public Resources Code sections 25213 and 25218(e) and Public Utilities Code section 399.30.

The proposed regulations would implement, interpret, and make specific several provisions of Public Resources Code sections 25741 and 25747 and

Public Utilities Code sections 399.13, 399.15, 399.16, 399.21, 399.30, 9507 and 9508.

INFORMATIVE DIGEST AND POLICY OVERVIEW

A. Summary of Existing Laws and Objective and Benefits of Regulations

The proposed regulations establish rules and procedures for the enforcement of California's Renewables Portfolio Standard (RPS) for local publicly owned electric utilities (POU) under the law as amended by Senate Bill (SB) X1-2¹ and Assembly Bill 2227.²

The RPS was established to increase the amount of electricity generated from eligible renewable energy resources³ that is procured for California retail customers. Increased reliance on the use of electricity from eligible renewable energy resources will reduce the amount of electricity generated and procured from nonrenewable energy sources, such as fossil fuel-based electrical power plants, and may ameliorate air quality problems and improve public health by reducing the burning of fossil fuels and the associated environmental impacts and by reducing in-state fossil fuel consumption.⁴

The RPS was initially established in 2002 as a result of SB 1078.⁵ SB 1078 required retail sellers of electricity (retail sellers),⁶ including electrical corporations, community choice aggregators, and electric service providers, to increase their procurement of electricity from eligible renewable energy resources by at least 1 percent per year so that 20 percent of their retail sales are procured from eligible renewable energy resources by 2017. SB 1078 additionally required each governing body of a POU to be responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the Legislature to encourage renewable resources.

In September 2006, SB 107⁷ codified an accelerated RPS goal for retail sellers of 20 percent renewables by 2010. SB 107 also required each POU in California to report to the Energy Commission on the POU's status of implementing an RPS program and the progress made toward achieving its RPS goals.

SB X1-2 adjusts the RPS goal of 20 percent by 2010 to an average of 20 percent for the years 2011 through 2013, increases the long-term RPS goal to 33 percent by the end of 2020, and expands these requirements to include POUs as well as retail sellers. (Pub. Util. Code § 399.15, subd. (b), § 399.30, subd. (b) and (c).) SB X1-2 gives the Energy Commission new oversight responsibilities with respect to POUs, including adopting regulations for enforcement of the RPS procurement requirements of POUs. (Pub. Util. Code § 399.30, subd. (l).) SB X1-2 authorizes the Energy Commission to issue a notice of violation and correction for potential penalties to the California Air Resources Board (CARB) for a POU's failure to comply with the RPS requirements. (Pub. Util. Code § 399.30, subd. (m).)

Objective

The problem the Energy Commission is attempting to address with the proposed regulations is the inconsistent application and enforcement of the state's RPS to POUs. Prior to SB X1-2, POUs had discretion to establish and enforce their own RPS requirements. Unlike retail sellers, which were required to meet their RPS procurement requirements with electricity procured from eligible renewable energy resources certified by the Energy Commission, a POU could establish its own eligibility requirements for renewable resources to meet the POU's RPS procurement requirements. Similarly, POUs were not subject to the minimum annual procurement requirements, procurement plan requirements, reporting requirements, or enforcement requirements applicable to retail sellers. Nor were POUs subject to the penalties applicable to retail sellers for noncompliance. POUs had broad discretion to implement and enforce their own self-established RPS procurement requirements. As a result, the RPS requirements for POUs could vary from POU to POU and differ from the requirements applicable to retail sellers and enforced by the California Public Utilities Commission (CPUC).

Under SB X1-2, POUs are now subject to many of the same or similar RPS requirements as retail sellers.

The proposed regulations establish the rules and procedures by which the Energy Commission will assess a POU's procurement actions and determine

whether those actions meet the RPS procurement requirements in the law. The proposed regulations determine what POU action is required by the law, so when the Energy Commission evaluates a POU's actions, it may determine whether the POU complied with the law. The proposed regulations require POUs to submit various information and reports to the Energy Commission, so the Energy Commission may verify and determine compliance with the RPS, and, if appropriate, issue a notice of violation and correction for a POU's failure to comply and refer the violation to the ARB for potential penalties.

Anticipated Benefits

The benefits anticipated from this regulatory action are a more consistent application and enforcement of the state's RPS, which will help promote the underlying goals of the RPS, including the reduction of air pollution associated with fossil fuel-based electrical generation and helping the state meet its climate change goals by reducing greenhouse gas emissions associated with electrical generation. The proposed regulations will ensure POUs are subjected to a uniform set of rules for satisfying the RPS requirements. The proposed regulations will also ensure the POU rules are consistent with the rules for retail sellers to the extent appropriate in accordance with SBX1-2. Consistent rules will help provide market uncertainty for stakeholders participating in the California RPS and the renewable energy market. If a POU and retail seller purchase the same electricity product from an eligible renewable energy resource, it makes no sense to characterize the product differently depending on which utility, POU or retail seller, purchases the electricity product. Likewise, it makes no sense to characterize the electricity product differently depending on which of two POUs purchases the electricity product.

Consistency in the application of the rules among POUs and between POUs and retail sellers may also ease the contracting processes for utilities, developers of eligible renewable energy resources, and other market participants, thereby accelerating the development of new eligible renewable energy resources, which in turn helps promote the underlying goals of the RPS.

The proposed regulations will also help the POUs by providing direction and guidance on how the Energy Commission will interpret, apply and enforce the law, so the POUs can plan accordingly in procuring electricity products to meet their RPS requirements.

While POUs still retain discretion under the law to develop and implement procurement rules, plans, and policies that meet their particular needs, they are now required to take certain actions to implement the RPS.

Specifically, SB X1-2 requires the governing board of a POU to take the following actions, unless otherwise exempted by the law. The governing board of a POU shall implement procurement targets for the POU that require the utility to procure a minimum quantity of eligible renewable energy resources for each of the following compliance periods: January 1, 2011, to December 31, 2013, inclusive; January 1, 2014, to December 31, 2016, inclusive; and January 1, 2017, to December 31, 2020, inclusive. (Pub. Util. Code § 399.30, subd. (b).) The governing board of a POU shall ensure that quantities of eligible renewable energy resources procured for the first compliance period from January 1, 2011, to December 31, 2013, are equal to an average of 20 percent of the POU's retail sales. (Pub. Util. Code § 399.30, subd. (c)(1).) The governing board of a POU shall ensure that the quantities of eligible renewable energy resources to be procured for all other compliance periods reflect reasonable progress in each of the intervening years sufficient to ensure that the procurement of eligible renewable energy resources achieves 25 percent of the utility's retail sales by December 31, 2016, and 33 percent of the utility's retail sales by December 31, 2020. The governing board of a POU shall require that the POU procure not less than 33 percent of retail sales from eligible renewable energy resources in all subsequent years. (Pub. Util. Code § 399.30, subd. (c)(2).) The RPS procurement requirements adopted by the governing board of a POU shall be consistent with the procurement requirements for retail sellers in Public Utilities Code section 399.16. (Pub. Util. Code § 399.30, subd. (c)(3).) When adopting a procurement plan, the governing board of a POU may adopt optional compliance measures, including rules permitting the utility to apply excess procurement in one compliance period to subsequent compliance periods, conditions that allow for delaying timely compliance, and cost limitations for procurement expenditures. (Pub. Util. Code § 399.30, subd. (d).) The governing board of a POU shall adopt a program for the

enforcement of the RPS procurement requirements. (Pub. Util. Code § 399.30, subd. (e).) A POU must annually notify and provide information to its customers and the Energy Commission when the POU's governing board considers the adoption, status or changes to its procurement plan. (Pub. Util. Code § 399.30, subd. (f).) Lastly, a POU shall annually report information to the Energy Commission on the POU's procurement contracts for eligible renewable energy resources, expenditures of funds for eligible renewable energy resources, the resource mix used to serve its customers, and the utility's status and progress in implementing the RPS. (Pub. Util. Code § 9507, subd. (b), and § 9508, subd. (e).)

SB X1-2 establishes exemptions from various provisions in the statute for certain POU's. These exemptions are addressed in Public Utilities Code section 399.30, subd. (g)-(j).

The proposed regulations will help California realize the intended benefits of the RPS by ensuring POU's are subjected to a uniform set of rules for satisfying and enforcing the RPS requirements.

B. Overview of RPS Implementation

The Energy Commission and the CPUC work collaboratively to implement the RPS; however, the Energy Commission and the CPUC maintain separate roles in administering their respective responsibilities under the law. Under the RPS, the Energy Commission is charged with certifying eligible renewable energy resources that may be used to satisfy the RPS procurement requirements of retail sellers and POU's and with developing an accounting system to verify the RPS compliance of retail sellers and POU's. (Pub. Util. Code, §399.25.) Under SB X1-2, these Energy Commission responsibilities will continue for retail sellers and be expanded to include the POU's. The CPUC is responsible for establishing the RPS procurement requirements for retail sellers, determining compliance for retail sellers, and imposing penalties for non-compliance of retail sellers. (Pub. Util. Code, §§ 399.13-399.17.)

The Energy Commission implements its responsibilities for certifying eligible renewable energy resources and verifying RPS compliance through

guidelines that were originally adopted in April 2004, with subsequent revisions adopted in May 2004, August 2004, May 2005, April 2006, March 2007, December 2007, December 2010, May 2012, and August 2012. The adoption of these guidelines is expressly exempt from the formal rulemaking requirements of the Administrative Procedure Act pursuant to Public Resources Code section 25747(a). These guidelines are set forth in the following Energy Commission guidebooks:

The *Renewables Portfolio Standard Eligibility Guidebook*⁸ explains the requirements and process for certifying eligible renewable energy resources for California's RPS. The *Renewables Portfolio Standard Eligibility Guidebook* also describes how the Energy Commission tracks and verifies RPS-eligible generation for the RPS.

The *Overall Program Guidebook for the Renewable Energy Program*⁹ governs the Energy Commission's Renewable Energy Program, describes how this program and the program elements are administered, and includes information on requirements that apply to all Renewable Energy Program elements, including elements related to the RPS. The Overall Program Guidebook provides general information on applying for RPS certification and appealing the Energy Commission's decisions regarding RPS certification, as well as a glossary of terms that are used by the RPS and other Renewable Energy Program elements.

The Energy Commission recognizes the need to revise the guidebooks periodically to reflect changes in the law and market and regulatory developments, and to incorporate the lessons learned from experience implementing the RPS. These guidebooks will work in tandem with the proposed regulations. The Energy Commission intends to update these guidebooks in 2013.

Consistency and Compatibility with Existing State Regulations

The proposed regulations are consistent with the aforementioned Energy Commission guidelines. In developing the proposed regulations, the Energy Commission considered the effects of the proposed regulations on the guidelines to ensure the two were consistent and could be used in tandem to

implement the RPS. In addition, the Energy Commission worked with the CPUC to ensure the proposed regulations were consistent with the rules developed by the CPUC for the retail sellers. As noted earlier, POUs are now subject to many of the same or similar RPS requirements as retail sellers. For example, both POUs and retail sellers may procure electricity products only from eligible renewable energy resources to meet their respective RPS requirements. (Pub. Util. Code, §399.15, subd. (a), and §399.30, subd. (a).) POUs and retail sellers are subject to the same RPS compliance periods ending on December 31, 2013, December 31, 2016, and December 31, 2020, and for each year thereafter. (Pub. Util. Code, §399.15, subd. (b), and §399.30, subd. (b).) POUs must adopt RPS procurement requirements "consistent" with the requirements for retail sellers under Public Utilities Code section 399.16. (Pub. Util. Code, §399.30, subd. (c)(3).) When adopting a procurement plan, the POU may adopt rules permitting the utility to apply excess procurement in one compliance period to subsequent compliance periods "in the same manner" as allowed for retail sellers under Public Utilities Code section 399.13. (Pub. Util. Code, §399.30, subd. (d) (1).) The POU may also adopt conditions that allow for delaying timely compliance "consistent with" the requirements for retail sellers under Public Utilities Code section 399.15 (b). (Pub. Util. Code, §399.30, subd. (d)(2).) The POU may also adopt cost limitations for RPS procurement expenditures "consistent with" the requirements for retail sellers under Public Utilities Code section 399.15(c). (Pub. Util. Code, §399.30, subd. (d)(3).)

The proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

C. Related CPUC Proceedings

Under SB X1-2, the CPUC continues its role in the administration and oversight of the RPS for retail sellers of electricity. The CPUC issued an Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program on May 5, 2011 (Rulemaking 11-05-005).¹⁰

On December 1, 2011, the CPUC adopted a decision setting procurement quantity requirements for retail sellers for the RPS, and on December 15,

2011, the CPUC adopted a decision implementing Portfolio Content Categories for the RPS. On June 21, 2012, the CPUC adopted a decision setting compliance rules for the RPS.¹¹

Incorporation by Reference

The proposed regulations do not incorporate documents by reference. However, the proposed regulations do reference the Energy Commission's RPS guidelines, which are set forth in the *Renewables Portfolio Standard Eligibility Guidebook* and the *Overall Program Guidebook for the Renewable Energy Program*. As noted earlier, these guidelines are revised from time to time pursuant to Public Resources Code section 25747(a).

Federal Law

The Energy Commission is aware of no comparable federal regulations or statutes establishing procedures for the enforcement of California's RPS on POUs. Furthermore, no federally mandated regulation or amendment is being proposed.

Other Statutory Requirements

As noted earlier, the Energy Commission is charged with certifying eligible renewable energy resources that may be used to satisfy the RPS procurement requirements of retail sellers and POUs, and with developing an accounting system to verify the RPS compliance of retail sellers and POUs pursuant to Public Utilities Code section 399.25.

Availability of the Initial Statement of Reasons, Express Terms, Economic and Fiscal Impact Statements, and Information upon which the Proposed Rulemaking is Based

The Energy Commission has prepared an Initial Statement of Reasons for the proposed regulations and an Economic and Fiscal Impact Statement for the proposed regulations. To obtain a copy of the Initial Statement of Reasons, Economic and Fiscal Impact Statement, the Express Terms of the proposed regulations, or other information upon which the proposed

rulemaking is based, please visit the Energy Commission's website at: <http://www.energy.ca.gov/portfolio/documents/index.html>, or contact the Energy Commission's Docket Office or designated contact persons at the addresses noted below.

Fiscal Impacts

Cost to any Local Agency or School District Requiring Reimbursement Pursuant to Government Code 17500 et seq.

If adopted, the proposed regulations would impose a mandate on local agencies. Pursuant to Government Code section 17556(d), the costs would not be required to be reimbursed because the local agencies have the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. Public Utilities Code sections 10001, et seq., 11501, et seq., and 15501 et seq., and Water Code section 20500, et seq. provide revenue sources for the affected POU's to recoup any costs incurred through compliance with these proposed regulations.

Costs or Saving for State Agencies

Implementation of the proposed regulations would result in minor costs to one state agency - the California Energy Commission. It is estimated that implementation of these regulations would cost the Energy Commission approximately \$376,000 per year. This cost is incurred mainly in reviewing POU filings and annual reports, verifying POU compliance with the RPS requirements, issuing determinations of noncompliance, and referring violations to the California Air Resources Board. The proposed regulations could impose costs to local agencies in the amount of up to \$2,176,058 annually. Pursuant to Government Code section 17500 et seq. these costs would not be required to be reimbursed.

Other Non-Discretionary Costs or Savings on Local Agencies

Implementation of the proposed regulations would not result in other non-discretionary costs or savings on local agencies.

Costs or Savings in Federal Funding to the State

Implementation of the proposed regulations would not result in any costs or savings in federal funding.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including the Ability of California Businesses to Compete with Businesses in Other States

The Energy Commission has made an initial determination that there will be no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination also applies to small businesses, which, as defined in Government Code section 11342.610, are limited to business activities that are "independently owned and operated" and "not dominant in its field of operation." (Govt. Code, § 11342.610, subd. (a)(1) and (2).)

The Energy Commission is unaware of any legitimate cause and effect relationship between the proposed regulations and a significant statewide adverse economic impact directly affecting businesses. No business, including a small business, is legally required to comply with or enforce the proposed regulations. Nor will any business derive a direct benefit or detriment from the implementation of the proposed regulations. The proposed regulations would apply to a POU, which is a local agency and not an independently owned and operated business.

Cost Impact on Representative Person or Business

The Energy Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulations. The proposed regulations would not directly apply to private individuals or businesses. The proposed regulations would apply only to POUs, which are local agencies and not independently owned and operated businesses. The proposed regulations would require the governing boards of POUs to take certain actions to implement the RPS, as specified in statute, and to report various

information to the Energy Commission on the POU's implementation efforts, including procurement contracts for eligible renewable energy resources, expenditures of funds for eligible renewable energy resources, the resource mix used to serve its customers, and the POU's status and progress in implementing the RPS, so the Energy Commission can verify and determine the POU's compliance with the RPS.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Impacts to Jobs and Business

New Jobs and Businesses

The proposed regulations are not expected to directly create a significant number of new jobs or businesses. The proposed regulations may result in some of the POU's having to hire new full or part time employees in order to satisfy the various information and reporting requirements included in the proposed regulations. In addition, the proposed regulations may result in the creation of new consulting businesses that are developed to help POU's comply with the information and reporting requirements included in the proposed regulations. The Energy Commission does not expect jobs or businesses to be eliminated as a result of the proposed regulations.

Expansion of Existing Businesses

The proposed regulations are not expected to directly result in the expansion of existing businesses. However, if existing consulting businesses currently provide services to POU's for compliance reporting, such businesses may need to hire new staff to help with any increased POU reporting requirements as a result of the proposed regulations.

Benefits of the Regulation

Health and Welfare of California Residents, Worker Safety, or the Environment

The proposed regulations are not expected to directly impact the health and

welfare of California residents, worker safety, or the state's environment. However, the proposed regulations may have an indirect effect on the state's environment if the proposed regulations result in a more consistent application of the state's RPS with respect to POUs, and in turn help facilitate the underlying goals of the RPS, including reducing air pollution associated with fossil fuel-based electrical generation and helping to meet the state's climate change goals by reducing greenhouse gas emissions associated with electrical generation.

Business Reporting

The proposed regulations will not require businesses, including small businesses, to submit any new reports. However, the proposed regulation will require POUs, which are local agencies, to prepare and submit annual and periodic reports to the Energy Commission for purposes of verifying and determining compliance with the RPS requirements.

Small Business

The Energy Commission has determined that the proposed regulations will not negatively impact small businesses. The proposed regulations apply only to POUs, which are local agencies and not independently owned and operated small businesses. No small business is legally required to comply with or enforce the proposed regulations. Nor will any small business derive a direct benefit or detriment from the implementation of the proposed regulations.

Effect on Housing Costs

The Energy Commission has determined, based on the nature of the proposed regulations, that the proposed regulations will have no significant effect on housing costs.

Consideration of Alternatives

In accordance with Government Code section 11346.5, subdivision (a)(13), the Energy Commission must determine that no reasonable alternative it

considered or that has otherwise been identified and brought to the attention of the Energy Commission would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Energy Commission is not aware of any alternatives that would be as effective as and less burdensome than the proposed regulations. The proposed regulations are not expected to have any effect on private persons.

The Energy Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

Designated Contact Persons

For general information about the proceeding, contact:

Angela Gould
Renewable Energy Office
California Energy Commission
1516 Ninth Street, MS-45
Sacramento, California 95814-5512
(916) 654-488
angela.gould@energy.ca.gov

The designated backup for general information about the proceeding is:

Emily Chisholm
Renewable Energy Office
California Energy Commission
1516 Ninth Street, MS-45
Sacramento, California 95814-5512
(916) 654-4006
emily.chisholm@energy.ca.gov

For legal questions about this proceeding, contact:

Gabriel Herrera
Staff Counsel
California Energy Commission
1516 Ninth Street, MS-14
Sacramento, California 95814-5512
(916) 654-5141
gabe.herrera@energy.ca.gov

For documents related to the proceeding, go to: <http://www.energy.ca.gov/portfolio/documents/index.html>, or contact

Docket Office
Docket No. 13-RPS-01
California Energy Commission
1516 Ninth Street, MS-4
Sacramento, California 95814-5504
(916) 654-5076
docket@energy.ca.gov

Public Advisor

The Energy Commission's Public Advisor's Office provides public assistance in participating in Energy Commission proceedings. If you would like information on how to participate in this proceeding, please contact the Public Advisor's Office at (916) 654-4489 or toll-free in California at (800) 822-6228, or by email at PublicAdvisor@energy.ca.gov.

Media Inquiries

Media inquiries should be sent to the Media and Public Communications Office, at (916) 654-4989 or mediaoffice@energy.ca.gov.

Availability of Modified Amendments (15-Day Language)

At the May 8, 2013, adoption hearing, the Energy Commission may adopt the proposed regulations as described in this NOPA. If substantial,

sufficiently-related modifications are made to the original 45-day language Express Terms, the modified text with changes in underline/strikeout will be made available to the public for at least 15 days before the Energy Commission adopts the final version of the regulations.

A notice of availability of the modified text of the proposed regulations will be placed on the Energy Commission's website. The "15-day language" text will also be mailed and sent by e-mail to all persons who submitted comments with contact information during the public comment period or at a hearing, and all persons who requested to receive notices regarding the proposed regulations. In addition, copies of the modified text of the proposed regulations may be requested from the Docket Office. Adoption of the 15-day language will be considered at a public hearing scheduled in the notice of availability.

The proposed regulations could be substantively modified as a result of public comment, staff recommendation, or recommendations from Commissioners. In addition, modifications to the proposed regulations could be considered if the modifications improve the clarity or effectiveness of the regulations.

Final Statement of Reasons

The Energy Commission will prepare a final statement of reasons to support the final version of the proposed regulations. The final statement of reasons will also contain summaries and responses to relevant public comments received by the Energy Commission during the comment period.

The final statement of reasons will be posted on the Energy Commission's website at: <http://www.energy.ca.gov/portfolio/documents/index.html>.

Hard copies of the final statement of reasons may be also be obtained by the Docket Office.

Internet Access

The Energy Commission maintains a website to facilitate public access to

documents prepared and considered as part of this rulemaking proceeding. Documents prepared by the Energy Commission for this rulemaking, including this Notice of Proposed Action, the Express Terms, the initial statement of reasons, and the economic and fiscal impact statements, and many other documents in the rulemaking file, have been posted at: <http://www.energy.ca.gov/portfolio/documents/index.html>.

¹ SBX1-2 (Stats. 2011, 1st Ex. Sess., ch. 1). SB X1-2 is effective December 10, 2011, the 91st day following the adjournment of first extraordinary session of 2011-2012 legislative session pursuant to Government Code section 9600(a). SBX1-2 amends pertinent provisions in Public Resources Code sections 25740 through 25751, and amends and/or adds Public Utilities Code sections 399.11 through 399.31.

² AB 2227 (Stats. 2012, ch. 606, sec. 8). AB 2227 repealed some of the reporting requirements for POUs in Public Utilities Code section 399.30 and re-codified these requirements elsewhere in the Public Utilities Code without making substantive changes to the requirements. As a result of this change, subdivisions (h) through (p) of Public Utilities Code section 399.30, as enacted by SBX1-2, have now been renumbered subdivisions (g) through (n).

³ "Eligible renewable energy resources" generally refer to electrical generating facilities or power plants that utilize qualifying renewable energy resources, such as wind, solar, biomass, landfill gas, digester gas, geothermal, or small hydroelectric resources, to generate electricity. (Pub. Util. Code, § 399.12, subd. (e); Pub. Res. Code, § 25741, subd. (a).)

⁴ Former Public Utilities Code section 399.11(c), as enacted by SB 1078 (Stats. of 2002, ch. 516, sec.3). Section 399.11 was amended by SBX1-2 in 2011. Under SBX1-2 the intended benefits of the RPS include: (1) displacing fossil fuel consumption within the state, (2) adding new electrical generating facilities in the transmission network within the Western Electricity Coordinating Council service area, (3) reducing air pollution in the state, (4) meeting the state's climate change goals by reducing emissions of greenhouse gases associated with electrical generation, (5) promoting stable

retail rates for electric service, (6) meeting the state's need for a diversified and balanced energy generation portfolio, (7) assistance with meeting the state's resource adequacy requirements, (8) contributing to the safe and reliable operation of the electrical grid, including providing predictable electrical supply, voltage support, lower line losses, and congestion relief, and (9) implementing the state's transmission and land use planning activities related to development of eligible renewable energy resources. (Pub. Util. Code, § 399.11, subd. (b)(1)-(9).)

⁵ SB 1078 (Stats. of 2002, ch. 516).

⁶ By statute, the definition of "retailer sellers" includes electrical corporations, community choice aggregators, and electric service providers, but excludes local publicly owned electric utilities. (Pub. Util. Code, § 399.12, subd. (j).)

⁷ SB 107 (Stats. of 2006, ch. 464).

⁸ California Energy Commission, CEC-300-2010-007-CMF, August 2012. <http://www.energy.ca.gov/2012publications/CEC-300-2012-006/CEC-300-2012-006-CMF.pdf>.

⁹ California Energy Commission, CEC-300-2010-008-CDT, December 2010. <http://www.energy.ca.gov/2012publications/CEC-300-2012-005/CEC-300-2012-005-ED5-CMF.pdf>.

¹⁰ http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/134980.htm.

¹¹ <http://delaps1.cpuc.ca.gov/CPUCProceedingLookup/f?p=401:37:1037584482664301::NO>.