

Port of Oakland
FIRST AMENDED AND RESTATED RENEWABLE ENERGY RESOURCES
PROCUREMENT PLAN

INTRODUCTION

On April 12, 2011, Governor Jerry Brown signed Senate Bill 2 (*SBX1-2*) into law. *SBX1-2* modified the state’s renewable portfolio standard program (*RPS Program*), a comprehensive State program intended to help finance and increase the amount of electricity generated from certain eligible renewable energy resources each year. Under *SBX1-2*, the governing boards of local publicly owned utilities (“*POU*”) are responsible for implementing the requirements of the State’s *RPS Program*. However, *SBX1-2*, by adding Public Utilities Code (*PUC*) §399.30(a), requires *POUs* to adopt and implement a renewable energy resources procurement plan that establishes a minimum amount of electricity that must be purchased from eligible renewable energy resources during each of certain defined compliance periods set forth below.

The Board of Port Commissioners (the “*Board*”) adopted the Port’s Renewable Energy Resources Procurement Plan (the “*RPS Procurement Plan*”) in 2011. The Port’s existing *RPS Procurement Plan* included plan elements that are directly mandated by the *SBX1-2*. In October 2013, the CEC adopted provisions of the Enforcement Procedures for the Renewables Portfolio Standard For Local Publicly Owned Electric Utilities¹ (“*RPS Regulation*”) which further clarified the intent of *SBX1-2*. In order to further comply with the intent of *SBX1-2*, the Board hereby amends and restates its *RPS Procurement Plan* as follows:

1. Purpose (PUC §399.30(a))

In order to fulfill unmet long-term generation resource needs, the Board adopts and implements this *RPS Procurement Plan* to require the Port to procure a minimum quantity of electricity products from eligible renewable energy resources, including renewable energy credits, as a specified percentage of the Port’s total kilowatt hours sold to its retail end-use customers. The intent of this *RPS Procurement Plan* is to achieve the targets specified in *SBX1-2* during each compliance period set forth hereinbelow.

¹ Enforcement Procedures For The Renewable Portfolio Standards For Local Publicly Owned Electric Utilities are set forth in California Code of Regulations, Title 20, Division 2, Chapter 14, Sections 3200-3208; and Title 20, Division 2, Chapter 2, Article 4, Section 1240 adopted August 2013 and made effective October 1, 2013.

2. **Compliance Periods (PUC §399.30(b))**

The Board hereby adopts the following Compliance Periods for RPS Procurement:

- A. Compliance Period 1: January 1, 2011, to December 31, 2013, inclusive.
- B. Compliance Period 2: January 1, 2014, to December 31, 2016, inclusive.
- C. Compliance Period 3: January 1, 2017, to December 31, 2020, inclusive.
- D. Annual Compliance Periods: Annually after 2020.

3. **Procurement Targets of Renewable Energy Resources for Each Compliance Period (PUC §§399.30(c)(1) and (2); §3205 of the RPS Regulations)**

- A. During Compliance Period 1, January 1, 2011 to December 31, 2013, the Port shall procure renewable energy resources equivalent to an average of at least twenty percent (20%) of retail sales, applying the following formula:

$$EP_{2011} + EP_{2012} + EP_{2013} > .20(RS_{2011} + RS_{2012} + RS_{2013})$$

Where:

RS_X = total retail sales made by POU for the specified year X

EP_X = electricity products retired for the specified year X; this may include excess procurement and historic carryover that the POU has chosen to apply to the compliance period containing year x

- B. By the end of Compliance Period 2, December 31, 2016, the Port shall procure renewable energy resources equivalent to at least twenty-five percent (25%) of retail sales, applying the following formula:

$$EP_{2014} + EP_{2015} + EP_{2016} > 0.20(RS_{2014}) + 0.20(RS_{2015}) + 0.25(RS_{2016})$$

- C. By the end of Compliance Period 3, December 31, 2020, the Port shall procure renewable energy resources equivalent to at least thirty-three percent (33%) of retail sales. During the intervening years of Compliance Period 3, the Port shall increase procurement annually to reflect an imputed 2020 compliance obligation expressed as:

$$(EP_{2017} + EP_{2018} + EP_{2019} + EP_{2020}) > 0.27(RS_{2017}) + 0.29(RS_{2018}) + 0.31(RS_{2019}) + 0.33(RS_{2020})$$

- D. Commencing on December 31, 2021, and annually thereafter, the Port shall procure renewable energy resources equivalent to at least thirty-three percent (33%) of retail sales.

4. Reasonable Progress Towards Meeting Compliance Period Targets (PUC §§399.30(c)(1) and (2))

- A. By December 31, 2014, the Port shall demonstrate that it is making reasonable progress as determined by the Board towards ensuring that it shall meet the twenty-five percent (25%) renewable portfolio standard (“RPS”) target by 2016.
- B. By December 31, 2015, the Port shall demonstrate that it is making reasonable progress as determined by the Board towards ensuring that it shall meet the twenty-five percent (25%) RPS target by 2016.
- C. By December 31, 2017, the Port shall demonstrate that it is making reasonable progress as determined by the Board towards ensuring that it shall meet the thirty-three percent (33%) RPS target by 2020.
- D. By December 31, 2018, the Port shall demonstrate that it is making reasonable progress as determined by the Board towards ensuring that it shall meet the thirty-three percent (33%) RPS target by 2020.
- E. By December 31, 2019, the Port shall demonstrate that it is making reasonable progress as determined by the Board towards ensuring that it shall meet the thirty-three percent (33%) RPS target by 2020.

5. Procurement Requirements – Definitions for Portfolio Content Categories (PUC §399.30(c)(3); §3203 of the RPS Regulations)

The Port shall establish procurement Content Categories that meet the criteria for the following eligible renewable energy resource electricity products:

- A. Portfolio Content Category 1 (“PCC1”) (consistent with §399.16(b)(1): Resources in this category shall either:
 - 1) Have a first point of interconnection with a California balancing authority, have a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area, or are scheduled from the eligible renewable energy resource into a California balancing authority without substituting electricity from another source. The use of another source to provide real-time ancillary services required to maintain an hourly or sub-hourly import schedule into a California balancing authority shall be permitted, but only the fraction of the schedule actually generated by the eligible renewable energy resource shall count toward this portfolio content category; or
 - 2) Have an agreement to dynamically transfer electricity to a California balancing authority.
- B. Portfolio Content Category 2 (“PCC2”)(consistent with PUC §399.16(b)(2)): Resources in this category shall include firmed and shaped eligible renewable energy

resource electricity products providing incremental electricity and scheduled into a California balancing authority.

- C. Portfolio Content Category 3 (“PCC3”)(consistent with PUC §399.16(b)(3)): Resources in this category shall include eligible renewable energy resource electricity products, or any fraction of the electricity generated, including unbundled renewable energy credits, that do not qualify under the criteria of Content Category 1 or Content Category 2.
- D. Grandfathered Resources (§399.16(d)): Any contract or ownership agreement originally executed prior to June 1, 2010, shall count in full towards the procurement requirements without regard to the limitations on the use of each portfolio Content Category as described in Section 6, if all of the following conditions are met:
 - 1) The renewable energy resource was eligible under the rules in place as of the date when the contract was executed.
 - 2) Any contract amendments or modifications occurring after June 1, 2010, do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource.
 - 3) The duration of the contract may be extended if the original contract specified a procurement commitment of fifteen (15) or more years.
 - 4) “Eligible renewable energy resource” means an electrical generating facility that meets the definition of a “renewable electrical generation facility” in Section 25741 of the Public Resources Code, subject to the following: . . . (C) A facility approved by the governing board of a local publicly owned electric utility prior to June 1, 2010, for procurement to satisfy renewable energy procurement obligations adopted pursuant to former Section 387, shall be certified as an eligible renewable energy resource by the Energy Commission pursuant to this article, if the facility is a “renewable electrical generation facility” as defined in Section 25741 of the Public Resources Code. (§399.12(e)(1)(C)).

6. Procurement Requirements – Quantity for Content Categories (§399.30(c)(3), §§399.16(c)(1) and (2))

- A. Compliance Period 1 Procurement Requirements: For Compliance Period 1, the Port shall procure at least fifty percent (50%) of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010 from PCC1, and not more than twenty-five percent (25%) from PCC3.
- B. Compliance Period 2 Procurement Requirements: For Compliance Period 2, the Port shall procure at least sixty-five percent (65%) of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010 from PCC1, and not more than fifteen percent (15%) from PCC3.

- C. Compliance Period 3 Procurement Requirements: For Compliance Period 3, the Port shall procure at least seventy-five percent (75%) of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010 from PCC1, and not more than ten percent (10%) from PCC3.
- D. Annual Procurement Requirements After 2020: Beginning in calendar year 2021 and annually thereafter, the Port shall procure not less than seventy-five percent (75%) of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010 from PCC1, and not more than ten percent (10%) from PCC3.

7. **Excess Procurement (PUC §399.30(d)(1), PUC §399.13(a)(4)(B), §3206(a)(1) of the RPS Regulations)**

The Port shall be allowed to apply excess procurement as calculated in §3206(a)(1)(D) (“Excess Procurement”) from one compliance period to subsequent compliance periods as long as the following conditions are met:

- A. The Port accumulates, beginning on January 1, 2011, Excess Procurement from one Compliance Period to be applied in any subsequent Compliance Period, including compliance years following 2020.
- B. In calculating the quantity of Excess Procurement, the Port shall deduct from actual procurement quantities, the total amount of procurement associated with contracts of less than ten (10) years in duration.
- C. Eligible resources must be from PCC1 or PCC2 or Grandfathered Resources to be Excess Procurement.
- D. Resources from PCC3 shall not be counted as excess procurement.
- E. Excess procurement shall be calculated as follows:

- 1) The numerical expression of Excess Procurement permitted for the compliance period ending December 31, 2013, is:

$$\text{Excess Procurement} = (EP_{2011-2013}) - (RPS_{2011-2013} + S3_{2011-2013} + STC_{2011-2013})$$

Where:

EP_x = Electricity products retired and applied toward the RPS procurement target for the compliance period X

RPS_x = The RPS procurement target calculated for compliance period X

S3_x = Retired PCC 3 renewable energy credits (“RECs”) in excess of maximum allowable PCC 3 RECs for compliance period X

STC_x = All electricity product that meet PCC 1, PCC 2, or Grandfathered Resource, are associated with contracts less than 10 years in duration, and are retired and applied toward the RPS procurement target for compliance period X

- 2) The numerical express of Excess Procurement permitted for the compliance period ending December 31, 2016, is:

$$\text{Excess Procurement} = (EP_{2014-2016}) - (RPS_{2014-2016} + S3_{2014-2016} + STC_{2014-2016})$$

- 3) The numerical expression of the Excess Procurement permitted for the compliance period ending December 31, 2020 is:

$$\text{Excess Procurement} = (EP_{2017-2020}) - (RPS_{2017-2020} + S3_{2017-2020} + STC_{2017-2020})$$

- 4) The numerical expression of Excess Procurement permitted for the compliance period ending December 31, 2021, and each annual compliance period thereafter is:

$$\text{Excess Procurement} = (EP_Y) - (RPS_Y + S3_Y + STC_Y)$$

Where:

EP_Y = Electricity products retired and applied toward the RPS procurement target for the compliance year Y

RPS_Y = The RPS procurement target calculated for compliance year Y

S3_Y = Retired PCC3 RECs in excess of maximum allowable PCC3 RECs for compliance period X

STC_Y = All electricity product that meet PCC1, PCC2, or Grandfathered Resource, are associated with contracts less than 10 years in duration, and are retired and applied toward the RPS procurement target for compliance period Y

8. Waiver of Timely Compliance (PUC §399.30(d)(2), PUC §399.15(b)(5), §3206(a)(2) of the RPS Regulations)

- A. Waiver of Timely Compliance: Enforcement of timely compliance shall be waived if the Board finds that any of the following conditions are beyond the control of the Port, and will prevent timely compliance:

- 1) *Inadequate Transmission* (PUC §399.15(b)(5)(A); §3206(a)(2)(A)(1) of the RPS Regulations): There is inadequate transmission capacity to allow for sufficient electricity to be delivered from the Port's proposed eligible renewable energy resource projects using the current operational protocols of California Independent Systems Operator Balancing Authority. In making its findings relative to the existence of this condition, the Board's considerations shall include, but not be limited to, the following:

- a) Whether the Port has undertaken, in a timely fashion, reasonable measures under its control and consistent with its obligations under local, state, and federal laws and regulations, to develop and construct new transmission lines or upgrades to existing lines intended to transmit electricity generated by eligible renewable energy resources. In determining the reasonableness of the Port's actions, the Board shall consider its expectations for full-cost recovery for these transmission lines and upgrades, and
 - b) Whether the Port has taken all reasonable operational measures to maximize cost-effective deliveries of electricity from eligible renewable energy resources in advance of transmission availability.
- 2) *Permitting, interconnection, or other factors that delayed procurement or insufficient supply* (PUC §399.15(b)(5)(B), §3206(a)(2)(A)(2)). In making its findings relative to the existence of this condition, the Board's considerations shall include, but not be limited to, the following:
- a) Whether the Port prudently managed portfolio risks, including relying on a sufficient number of viable projects;
 - b) Whether the Port sought to develop one of the following: its own eligible renewable energy resources, transmission to interconnect to eligible renewable energy resources, or energy storage used to integrate eligible renewable energy resources.
 - c) Whether the Port procured an appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewable portfolio standard to compensate for foreseeable delays or insufficient supply;
 - d) Whether the Port has taken reasonable measures, under its control to procure cost-effective distributed generation and allowable unbundled renewable energy credits;
- 3) Unanticipated curtailment to address needs of the balancing authority (PUC §399.15(b)(5)(C), §3206(a)(2)(A)(3) of the RPS Regulation).
- 4) Unanticipated actions or events beyond the control of the Port that adversely impact timely deliveries of renewable energy resources including, but not limited to, acts of nature, terrorism, war, labor difficulty, civil disturbance, or market manipulation.
- B. Procedures Upon Approving Waiver: In the event of a Waiver of Timely Compliance due to any of the factors set forth above, the Board shall implement the following procedures:

- 1) Establish additional reporting for intervening years to show demonstration of reasonable actions under the POU's control are being taken (PUC §399.15(b)(6)).
 - 2) Require a demonstration that all reasonable actions within the Port's control have been taken to ensure compliance in order to grant the waiver (PUC §399.15(b)(7)).
- C. Prior Deficits: In no event shall a deficit from any prior compliance period be added to any future compliance periods (PUC §399.15(b)(9))

9. **Cost Limitations for Expenditures (PUC §399.30(d)(3), PUC §399.15(c), §3206(a)(3) of the RPS Regulations)**

The Board, in its sole discretion, may elect to establish cost limitations for all eligible renewable energy resources used to comply with the renewable portfolio standard. Any such cost limitations will be developed consistent with PUC §399.15(c) and §399.15(d).

- A. In adopting these rules, the Board shall rely on this procurement plan, as well as: 1) procurement expenditures that approximate the expected cost of building, owning, and operating eligible renewable energy resources, and 2) the potential that some planned resource additions may be delayed or canceled.
- B. In addition to section §399.15(c), the Board may take into account local and regional economic conditions and the ability of the Port's customers to afford produced or procured energy products. These economic conditions may include, but are not limited to, unemployment, wages, cost of living expenses, the housing market, and cost burden of other utility rates on the same customers. The Board may also consider cost disparities between customer classes within the Port, and between Port customers and other POU's as well as customers of investor owned utilities (an "IOU" if singular and "IOUs" if plural) in the region.
- C. The Board shall review the need for cost limitations as part of the annual review process described in Section 12.

10. **Exclusive Control (PUC §399.30(k))**

In all matters regarding compliance with the RPS program, the Port shall retain exclusive control and discretion over the following:

- A. The mix of eligible renewable energy resources procured by the Port and those additional generation resources procured by the Port for purposes of ensuring resource adequacy and reliability.
- B. The reasonable costs incurred by the Port for eligible renewable energy resources owned by it.

11. Reporting (§399.30(f), §3605 of the RPS Regulations)

A. Deliberations on Procurement Plan (§399.30(f)):

- 1) *Public Notice:* Annually, the Port shall post notice of meetings if the Board of Port Commissioners will deliberate in public regarding this RPS Procurement Plan.
- 2) *Notice to the California Energy Commission (CEC):* Contemporaneous with the posting of a notice for such a meeting, the Port shall notify the CEC of the date, time and location of the meeting in order to enable the CEC to post the information on its Internet website.
- 3) *Documents and Materials Related to Procurement Status and Plans:* When the Port provides information to its Board related to its renewable energy resources procurement status and future plans, for the Board's consideration at a noticed public meeting, the Port shall make that information available to the public and shall provide the CEC with an electronic copy of the documents for posting on the CEC's Internet website.

B. Compliance Reporting (per §3207 of the RPS Regulations):

- 1) Annual Reports – by July 1 for each year (see Section 3206(c))

The Port shall submit an annual report to the CEC that includes the information in paragraphs (1) - (4) below for the prior calendar year. The report submitted in 2013 shall include information required by paragraphs (1) - (4) below for both the 2011 and 2012 calendar years. The format for the annual report shall be specified by the CEC, but the information contained in the annual report may be combined with other existing reports that contain the same information and are also supplied to the CEC. If the annual report refers to information provided to the CEC through existing reports, the annual report shall reference the information by identifying the name, submittal date, and page number of the existing report. Included in the report will be the following:

- a) Identifying information, including:
 - (1) POU name, contact name, mailing address, phone number, and e-mail address.
 - (2) Year the Port's electric utility was established.
 - (3) Number of end-use retail customer accounts in California.
- b) RPS annual progress information for the prior calendar year, including:

- (1) Amount of total retail sales to end-use customers, in MWh, and projected retail sales for the current compliance period.
- (2) Amount of procured electricity products retired, in MWh.
- (3) WREGIS compliance report for procurement claims in the prior calendar year. For any procurement claims not tracked through WREGIS as permitted by the RPS Guidelines, The Port shall report procurement claims using the interim tracking system established by the Commission prior to the implementation of WREGIS.
- (4) An initial, nonbinding classification of retired electricity products qualifying for each portfolio content category or qualifying to count in full in accordance with §3202 (a)(2) of the RPS Regulations.
- (5) A description of each of the eligible renewable energy resources with which the Port has executed contracts or ownership agreements during the prior year, including but not limited to the contracted amount of MWh, the contracted amount of MWh as a percentage of retail sales, resource fuel type, the execution date of the procurement contract or ownership agreement, the duration of the procurement contract or ownership agreement, a summary of the procurement contract or ownership agreement, the operational status of the resource, the date the resource came on-line, the date the resource came on-line using a renewable fuel or technology, if different, the date on which procurement of electricity products begins, if different, RPS certification status, the county, state, and country in which the resource is located, and a summary of the resource names and identification numbers.
- (6) Documentation demonstrating the portfolio content category classification claimed for procured electricity products. This documentation may include interconnection agreements, NERC e-Tag data, scheduling agreements, firming and shaping agreements, and electricity product contract information.
- (7) An explanation of any public goods funds collected for eligible renewable energy resource development, including a

description of programs, expenditures, and expected or actual results.

- (8) A description of any identified issues that occurred that have the potential to delay timely compliance with the RPS procurement requirements defined in §3204 of the RPS Regulations, and planned actions to minimize the delay of timely compliance. Such issues may include, but are not limited to, inadequate transmission to allow for procurement to be delivered from eligible renewable energy resources, permitting, interconnection, or other circumstances that have delayed the procurement from eligible renewable energy resources, unanticipated curtailment of a contracted or owned eligible renewable energy resource, and higher-than-expected costs for the procurement or development of eligible renewable energy resources.
 - (9) An attestation, signed by an authorized agent, affirming that the information provided in the report is true and correct.
- c) Actions taken by the Port demonstrating reasonable progress toward meeting its RPS procurement requirements. The information reported shall include, but not be limited to, a discussion of the following actions taken by the Port during the prior calendar year:
- (1) Solicitations released to solicit bid for contracts to procure electricity products from eligible renewable energy resources to satisfy the Port' RPS procurement requirements.
 - (2) Solicitations released to solicit bid for ownership agreements for eligible renewable energy resources to satisfy the Port's RPS procurement requirements.
 - (3) Actions taken to develop eligible renewable energy resources to satisfy The Port' RPS procurement requirements, including initiating environmental studies, completing environmental studies, acquiring interests in land for facility siting or transmission, filing applications for facility or transmission siting permits, and receiving approval for facility or transmission siting permits.
 - (4) Interconnection requests filed for eligible renewable energy resources to satisfy the Port' RPS procurement requirements.

- (5) Interconnection agreements negotiated and executed for eligible renewable energy resources to satisfy the Port' RPS procurement requirements.
 - (6) Transmission-related agreements negotiated and executed to transmit electricity products procured from eligible renewable energy resources to satisfy the Port' RPS procurement requirements.
 - (7) Other planning activities to procure electricity products from eligible renewable energy resources.
- d) The Port shall include a description of all actions planned in the current calendar year to demonstrate progress towards achieving its RPS procurement requirements.
- 2) Compliance Period Reports – by July 1 of 2014, 2017, 2021, and annually thereafter. (see Section 3207(d) of the RPS Regulations)

By each of (i) July 1, 2014, (ii) July 1, 2017, (iii) July 1, 2021; and (iv) July 1 of each year thereafter, the Port shall submit to the CEC a compliance report that addresses the reporting requirements of the previous section and the following information for the preceding compliance period:

- a) Classification per RPS-certified facility of the amount of procurement qualifying for each portfolio content category and procurement that shall count in full.
- b) The Port's RPS procurement target for the compliance period, in MWh.
- c) The amount of excess procurement, in MWh, from previous compliance periods, if any, and historic carryover, if any, that the Port is applying to the compliance period.
- d) The amount of procurement retired, in MWh, that the Port wishes to claim toward the RPS procurement target for calculating the portfolio balance requirements.
- e) The amount of excess procurement, in MWh, for the compliance period, if any, that may be applied toward future compliance periods.
- f) If the compliance report indicates that the Port's RPS procurement requirements were not met, the Port' shall provide documentation to justify the application of any optional compliance measures adopted

in accordance with this plan. The documentation shall include all reports, analyses, proposed findings, and any other information upon which the Port relied in applying the measure. The Port shall also submit an updated enforcement program and/or procurement plan that includes a schedule identifying potential sources of electricity products currently available or anticipated to be available in the future for meeting the shortfall.

- g) If the Port applies adopted cost limitation measures, it shall report that cost limitation to the CEC in dollars spent during the compliance period. The Port shall also provide the CEC with an estimate of the total cost to procure sufficient electricity products to meet its RPS procurement requirements for the preceding compliance period. A report on actions taken in response to RPS procurement expenditures meeting or exceeding the cost limitation shall also be provided.

12. Annual Review

The Port's RPS Procurement Plan shall be reviewed annually by the Board in accordance with the Port's "Renewable Portfolio Standard Enforcement Program."

13. Plan Modifications/Amendments

This RPS Procurement Plan may be amended by an affirmative vote of the Board during a public meeting in accordance with Section 11A.

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