

RESOLUTION NO. 13-056

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VICTORVILLE, CALIFORNIA, ESTABLISHING A RENEWABLE ENERGY RESOURCES PROCUREMENT PLAN FOR VICTORVILLE MUNICIPAL UTILITY SERVICES IN FURTHERANCE OF RESOLUTION NO. 11-051 AND AUTHORIZING THE TAKING OF CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH

WHEREAS, the City of Victorville ("City"), a municipal corporation, is authorized under various provisions of the California Constitution and the general laws of California (including, specifically, Article XI, section 9(a) of the California Constitution, Public Utilities Code ("PUC") section 10004, and Government Code section 39732(a) to establish, purchase, and operate a public utility to furnish its inhabitants with, among other things, electricity; and

WHEREAS, the City of Victorville operates a municipal electric utility ("Victorville Municipal Utility Services" or "VMUS"); and

WHEREAS, as a municipal electric utility, VMUS is generally subject to the legislative and regulatory requirements applicable to local publicly owned electric utilities ("POUs"); and

WHEREAS, the State of California passed Senate Bill 2 (1st Extraordinary Session) ("SB 2-1X"), effective as of December 10, 2011, requiring POUs to adopt and implement, among other things, a renewable energy resources enforcement program that requires POUs, like VMUS, to procure a minimum quantity of eligible renewable energy resources over certain periods, subject to a cost limitation and other optional compliance measures adopted by the POUs' respective governing board; and

WHEREAS, in accordance with PUC section 399.30(e) (added by SB 2-1X), the City Council, as the governing board of VMUS, adopted Resolution No. 11-051 on December 6, 2011, to establish a renewable energy resources enforcement program for the enforcement of VMUS' obligations under SB 2-1X ("RPS Enforcement Program"); and

WHEREAS, in accordance with PUC section 399.30(a), the RPS Enforcement Program directs staff to develop and present a renewable energy resources procurement plan ("RPS Procurement Plan") to the City Council; and

WHEREAS, VMUS has taken various steps, including participation in a Request for Information issued jointly by VMUS and several other small POUs, to obtain information from market participants on the expected cost and sufficiency of supply of renewable resources meeting the requirements of SB 2-1X and the unique portfolio risks and cost limitations of small POUs ("RPS Information"); and

WHEREAS, VMUS has analyzed the RPS Information and factors underlying the use of optional compliance measures in a manner that seeks to assure good faith compliance with SB 2-1X while recognizing the unique circumstances facing VMUS as a small POU; and

WHEREAS, based on the RPS Information and factors analyzed by VMUS, VMUS has developed a RPS Procurement Plan that: (1) describes the electricity products VMUS plans to use to meet the procurement targets described in its RPS Enforcement Program; and (2) includes the optional compliance measures that VMUS requests the City Council to adopt for the first and subsequent compliance periods under SB 2-1X; and

WHEREAS, the City Council held a public hearing noticed in accordance with the provisions of PUC section 399.30(f) on November 5, 2013, providing interested parties the opportunity to comment on the proposed RPS Procurement Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VICTORVILLE DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. The RPS Procurement Plan for Victorville Municipal Utility Services set forth in Attachment A, which is attached hereto and incorporated as part of this Resolution, is hereby approved and adopted.

Section 2. As authorized in SB 2-1X, optional compliance measures are hereby approved and adopted, as follows:

A cost limitation for procurement expenditures by Victorville Municipal Utility Services is hereby approved and adopted as described in Section 9 of the RPS Procurement Plan.

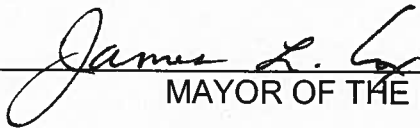
Section 3. The City Manager or his/her authorized designee is authorized and directed to do and perform all acts required to implement the RPS Procurement Plan, and to periodically report to the City Council.

Section 4. The City Clerk shall certify to the adoption of this Resolution.

Section 5. This Resolution shall take effect immediately upon its adoption.

Resolution No. 13-056


PASSED, APPROVED AND ADOPTED this 5th day of NOVEMBER 2013.


MAYOR OF THE CITY OF VICTORVILLE

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY


I, CAROLEE BATES, City Clerk of the City of Victorville and ex-officio Clerk to the City Council of said City, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 13-056 which was adopted at a meeting held on the 5th day of November 2013, by the following roll call vote, to wit:

AYES: Councilmembers Cox, Garcia, Kennedy, McEachron and Valles

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE


CITY CLERK

ATTACHMENT A

VMUS RENEWABLE ENERGY RESOURCES PROCUREMENT PLAN

This Renewable Energy Resources Procurement Plan ("RPS Procurement Plan" or "Plan") shall apply to the City of Victorville ("City"), operating through its municipal electric utility ("Victorville Municipal Utility Services" or "VMUS").

Section 1: Background

The California Renewables Portfolio Standard ("RPS") program was established by Senate Bill ("SB") 1078, and has been subsequently modified by SB 107, SB 1036 and most recently by SB 2 in the 2011-2012 First Extraordinary Session ("SB2-1X"). The RPS program is codified at Public Utilities Code ("PUC") sections 399.11-399.31. SB 2-1X requires California's electric utilities and other retail sellers to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources equals or exceeds a specified percentage of the total electricity sold to retail customers in California ("California Renewable Portfolio Standard" or "RPS Program"). SB 2-1X directed the California Energy Commission ("CEC") to adopt regulations specifying RPS enforcement procedures for local publicly-owned electric utilities ("POUs"); certify and verify eligible renewable energy resources procured by POU's; and refer any compliance failures of POU's to the California Air Resources Board ("CARB"), which may impose penalties. On June 12, 2013 the CEC adopted the "Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities," ("CEC Regulations"), which became effective as of October 1, 2013, following subsequent approval by the Office of Administrative Law.

Section 2: Definitions

The definitions set forth in Public Resources Code ("PRC") §25741 and PUC §399.12 are incorporated herein. Capitalized terms in this RPS Procurement Plan shall have the meaning given to such term in the body of this RPS Procurement Plan or in the PRC and PUC.

Section 3: Previous Adoption of RPS Enforcement Program

On December 6, 2011 via Resolution No. 11-051, the Victorville City Council ("City Council") adopted the Renewable Energy Resources Enforcement Program ("RPS Enforcement Program"). Through the RPS Enforcement Program, the City Council established three compliance periods consistent with SB 2-1X, adopted RPS-eligible procurement goals for each of the three compliance periods and described the framework for how VMUS would implement the requirements and measures in SB 2-1X with respect to the RPS Program. Section 10 of the RPS Enforcement Program directed the City Manager to develop and present a Renewable Energy Resources Procurement Plan to the City Council.

Section 4: Purpose

This document comprises VMUS' RPS Procurement Plan. As required by its RPS Enforcement Program, this Plan describes how VMUS will achieve its RPS procurement requirements consistent with the optional compliance measures specified in SB 2-1X and applicable to VMUS' status as a small POU.

Section 5: Eligible Renewable Energy Resources

Biodiesel	Fuel cells using renewable fuels	Ocean wave, ocean thermal, and tidal current
Biogas	Geothermal	Photovoltaic
Biomass	Hydroelectric incremental generation from efficiency improvements	Small hydroelectric (30 megawatts or less)
Conduit hydroelectric	Landfill gas	Solar thermal electric
Digester gas	Municipal solid waste	Wind

Section 6: RPS Requirements

The CEC Regulations impose three interim compliance periods:

Compliance Period	RPS Procurement Obligation (% of retail sales)
January 1, 2011 – December 31, 2013	Average of 20%
January 1, 2014 – December 31, 2016	25% by December 31, 2016
January 1, 2017 – December 31, 2020	33% by December 31, 2020

The CEC Regulations allow optional compliance measures, including banking (accumulating excess procurement in one compliance period to be applied in a subsequent compliance period); delayed compliance (inadequate transmission, insufficient eligible renewable resources, delays in permitting or interconnections or unanticipated curtailment for reliability needs) and cost limitations (cost limitations on expenditures for renewable energy resources).

The CEC Regulations identify three distinct Portfolio Content Categories ("PCCs" or "Buckets") that may be used to satisfy the procurement obligations ("RPS Procurement Obligation").

A. PCC 1 refers to bundled procurement from qualified renewable energy generators located within the State or from out-of-State generators that can meet strict scheduling requirements to ensure uninterrupted deliverability to California. The CEC Regulations set minimum procurement amounts for PCC 1, but impose no limitation on the amount of RPS procurement that can come from PCC 1.

B. PCC 2 refers to "firmed and shaped" transactions where the bundled procurement from a renewable resource is "matched" with an equivalent amount

of incremental, non-renewable energy, which is scheduled into a California Balancing Authority (“BA”). For purposes of PCC 1 and PCC 2, “bundled” procurement refers to a purchase of both the energy and the renewable energy attributes (“Renewable Energy Credits” or “RECs”), produced by the eligible renewable generator.

C. PPC 3 procurement relates to purchases of “unbundled” RECs with no physical delivery of associated or related energy.

The CEC Regulations describe the following specific procurement guidelines for each PCC:

Portfolio Content Category (PCC or Bucket)	Description	Usage Limits(% of Renewable Energy)
PCC 1	First point of interconnection inside of a California BA; Scheduled into a California BA without substituting electricity from another source; or dynamically transferred into a California BA.	Minimum of 50% through 2013; 65% through 2016, 75% beginning in 2017
PCC 2	Firmed and shaped	Limited to anything left over after meeting PCC 1 and PCC 3 limits.
PCC 3	Unbundled renewable energy certificates	Maximum of 25% through 2013, 15% through 2016, 10% beginning in 2017

Section 7: Specified RPS Procurement Targets

In the RPS Enforcement Program, the City Council adopted general RPS procurement targets for each of the three compliance periods. As further specified in the RPS Program and CEC Regulations, VMUS is not required to procure a specific quantity of RPS-eligible resources in any individual year during this compliance period. Pursuant to PUC §399.30(b) and (c), the City Council adopts and further specifies the RPS procurement targets, as follows:

A. Compliance Period 1 (January 1, 2011 – December 31, 2013)

Subject to the Initial Cost Limitation described in Section 9.A.4 of this Plan, the following table provides a forecast of VMUS’ Compliance Period 1 procurement targets with regard to the total RPS Procurement Obligation and each of the PCC products described in the RPS Program and CEC Regulations.

	2011	2012	2013	Total
Actual/Forecasted Retail Sales (MWh)	70,017	71,041	71,726	212,784
RPS Procurement Obligation (% of Total)	20%	20%	20%	20%
RPS Procurement Obligation (MWh)	14,003	14,208	14,345	42,556
Minimum Procurement of Portfolio Content Category 1 (MWh)	7,002	7,104	7,172	21,278
Maximum Procurement of Portfolio Content Category 3 (RECs)	3,501	3,552	3,586	10,639
Residual Procurement from Portfolio Content Category 2 (MWh)	3,500	3,552	3,587	10,639

Notes: (1) The retail sales figures listed above exclude electricity used by the City for water pumping.
(2) The annual procurement targets are for planning purposes only.

B. Compliance Period 2 (January 1, 2014 – December 31, 2016)

Subject to the Cost Limitation Guideline described in Section 9.A.5.(a) of this Plan, the following table provides a forecast of the VMUS' Compliance Period 2 procurement targets with regard to the total RPS Procurement Obligation and each of the PCC products described in the RPS Program and CEC Regulations.

	2014	2015	2016	Total
Forecasted Retail Sales (MWh)	71,700	71,700	71,700	215,100
RPS Procurement Obligation (% of Total)	20%	20%	25%	
RPS Procurement Obligation (MWh)	14,340	14,340	17,925	46,605
Minimum Procurement of Portfolio Content Category 1 (MWh)	9,321	9,321	11,651	30,293
Maximum Procurement of Portfolio Content Category 3 (RECs)	2,151	2,151	2,689	6,991
Residual Procurement from Portfolio Content Category 2 (MWh)	2,868	2,868	3,585	9,321

Notes: (1) The retail sales figures listed above exclude electricity used by the City for water pumping.
(2) The annual procurement targets are for planning purposes only.

C. Compliance Period 3 (January 1, 2017 – December 31, 2020)

Subject to the Cost Limitation Guideline described in Section 9.A.5.(a) of this Plan, the following table provides a forecast of the VMUS' Compliance Period 3 procurement targets with regard to the total RPS Procurement Obligation and each of the PCC products described in the RPS Program and CEC Regulations.

	2017	2018	2019	2020	Total
Forecasted Retail Sales (MWh)	71,700	71,700	71,700	71,700	286,800
RPS Procurement Obligation (% of Total)	27%	29%	31%	33%	
RPS Procurement Obligation (MWh)	19,359	20,793	22,227	23,661	86,040
Minimum Procurement of Portfolio Content Category 1 (MWh)	14,519	15,595	16,670	17,746	64,530
Maximum Procurement of Portfolio Content Category 3 (RECs)	1,936	2,079	2,223	2,366	8,604
Residual Procurement from Portfolio Content Category 2 (MWh)	2,904	3,119	3,334	3,549	12,906

Notes: (1) The retail sales figures listed above exclude electricity used by the City for water pumping.
 (2) The annual procurement targets are for planning purposes only.

D. Subsequent Annual Compliance Periods

For each subsequent annual compliance period, subject to modifications to the Cost Limitation Guidelines described in Sections 9.A.5.(a) - (b) of this Plan, VMUS will act in good faith to procure sufficient Eligible Renewable Energy Resources to equal an average of 33 percent of retail sales.

Section 8: Status of RPS Procurement Efforts

A. Local Eligible Renewable Energy Projects/Investments

1. *Bio-fuel Generation.* In March 2007, the City purchased five 1.25 MW, two 1.50 MW and three 2 MW Mitsubishi generators and related equipment to replace existing rental generators, reduce fuel costs, increase power generation reliability, and serve load growth. Several of the engines were installed and subsequently upgraded to operate with B100 (100% biodiesel) Methyl Esters Bio-Fuel to generate "green power" that would meet the RPS for VMUS and other load serving

entities. However, the generators did not operate properly and some experienced catastrophic failure. The Bio-Fuel generating units were ultimately sold in March 2010.

2. *Victorville 2 Hybrid Power Project.* In July 2008, the CEC granted the City a certificate to construct and operate the Victorville 2 Hybrid Power Project (VV2). VV2 was designed as a cost effective base load hybrid natural gas-fired combined cycle and solar-thermal power plant. The City invested a substantial amount of resources, time and effort to bring the project to a “build ready” state, including a contract to purchase the power island, which also included the steam turbine generator. The 250 acres of parabolic solar-thermal collectors with associated heat transfer equipment would have contributed up to 50 MW of the steam turbine-generator’s output. The collapse in the credit markets, depressed electric demand, falling natural gas prices, revised RPS Program, and changes in power plant configurations requirements caused the project to be delayed. The City was able to stave off a default under its existing contract, but the contractor, which had commenced development of the power island, retained the City’s \$50 million deposit. In June 2013, the CEC acknowledged the important role that facilities such as VV2 play in furthering the development of renewable energy resources and granted the City’s petition requesting that the deadline for the commencement of construction for VV2 be extended for an additional five (5) years, through July 2018.

B. Purchase of Unbundled Renewable Energy Credits

There was the initial expectation that smaller POU’s would be exempt from the RPS Program or could meet the total RPS procurement obligation with RECs. VMUS took all reasonable measures and procured sufficient RECs to meet its total RPS Procurement Obligation for Compliance Period 1. VMUS applied public goods funds to purchase 45,000 RECs and Green Attributes that conform to the RPS Program requirements and are associated with the 45,000 MWH of energy generated from a CEC-certified Eligible Renewable Resource during 2011. The RECs were transferred to VMUS’ Western Renewable Energy Generation Information System (“WREGIS”) account. This certificate volume represents approximately 106% of VMUS’ forecasted RPS Procurement Obligation for Compliance Period 1.

C. Request for Information – RPS Procurement

In an effort to better understand eligible renewable resource availability, pricing and transactional terms, that may apply to small POU’s, a group of small POU’s (“Small POU Group”), which at the time included VMUS, Cerritos Electric Utility, Corona Department of Water & Power, Eastside Power Authority, Moreno Valley Utility and Rancho Cucamonga Municipal

Utility, issued a Request for Information (“RFI”) in October 2012 for the purpose of gathering relevant information from sellers of PCC 1 resources sufficient to allow the members in the Small POU Group to develop renewable energy resources procurement plans pursuant to PUC §399.30(a), and to evaluate costs and options in connection with their respective obligations for Compliance Period 1, 2 and 3 pursuant to PUC §399.30(b). The responses to the RFI included project opportunities that could meet the short-and long-term PCC 1 needs of VMUS when funds become available as described in Section 9.A.5.

D. Incremental RPS Procurement Costs to Meet RPS Procurement Obligation

VMUS continues to monitor the indicative prices for renewable energy products. Based upon current market conditions, the forecasted “Incremental RPS Procurement Costs” (defined as the difference in the projected cost of non-renewable energy resources and the projected cost of Eligible Renewable Energy Resources) associated with meeting the total RPS Procurement Obligation are:

Compliance Period 1
January 1, 2011 – December 31, 2013

	Assumed Procurement (MWh)	Forecasted Incremental Cost
Portfolio Content Category 1	21,278	\$535,000
Portfolio Content Category 2	10,639	75,000
Portfolio Content Category 3	10,639	35,000
Total Compliance Obligation	42,556	\$645,000

Compliance Period 2
January 1, 2014 – December 31, 2016

	Assumed Procurement (MWh)	Forecasted Incremental Cost
Portfolio Content Category 1	30,293	\$765,000
Portfolio Content Category 2	9,321	50,000
Portfolio Content Category 3	6,991	5,000
Total Compliance Obligation	46,605	\$820,000

Compliance Period 3
January 1, 2017 – December 31, 2020

	Assumed Procurement (MWh)	Forecasted Incremental Cost
Portfolio Content Category 1	64,530	\$1,630,000
Portfolio Content Category 2	12,906	65,000
Portfolio Content Category 3	8,604	10,000
Total Compliance Obligation	86,040	\$1,705,000

Section 9: Application of Optional Compliance Measures

A. Cost Limitation

1. *Cost Limitation Rule.* Pursuant to the authority granted to the City Council by PUC §399.30(d)(3) to adopt conditions that allow for cost limitations for procurement expenditures used to comply with its RPS procurement requirements consistent with PUC §399.15, and consistent with section 3206(a)(3) of the CEC Regulations, the City Council adopts the following:

(a) The cost limitation rules shall ensure that:

- i. The limitation is set at a level that prevents disproportionate rate impacts;
- ii. The costs of all procurement credited toward achieving the RPS are counted toward the limitation; and
- iii. Procurement expenditures do not include any indirect expenses including, without limitation, imbalance energy charges, sale of excess energy, and decreased generation from existing resources.

(b) In setting the limitation, the City Council shall rely on all the following:

- i. The most recent renewable energy resources procurement plan for VMUS;
- ii. Procurement expenditures that approximate the expected cost of building, owning, and operating eligible renewable energy resources; and
- iii. The potential that some planned resource additions may be delayed or cancelled.

2. *Relevant Factors.* The following factors are relevant in the City Council's consideration of a cost limitation to determine the funding available to

procure Eligible Renewable Energy Resources and meet VMUS' RPS Procurement Obligation.

- (a) Victorville is a city of approximately 115,000 residents, located about 90 miles northeast of Los Angeles. The unemployment rate in the City is significantly greater than those of the County of San Bernardino, the State of California and the United States. Many residents travel long distances to their place of employment.
 - (b) VMUS began serving commercial customers in 2003 by offering competitive electric rates that would retain and attract businesses and jobs, and twenty-three percent of sales to customers have contractual rate limitations. Potential rate increases for the purpose of RPS compliance would be applicable to the remaining seventy-seven percent of sales to customers only, thereby creating an unfair burden and disproportionate rate impact for applicable VMUS customers.
 - (c) VMUS incurred significant start up costs, including payment of exit fees to Southern California Edison Company.
 - (d) VMUS has operated at a deficit since its inception, and its losses have been funded primarily through transfers and loans from the City's General Fund.
 - (e) The City's outside auditing firm issued a going-concern audit opinion. One of the major credit rating agencies pulled its rating on the City's debt; inhibiting the City's capacity to either refinance existing or issue new debt.
 - (f) Significant capital expenditures are required by VMUS to improve electric service reliability and expand capacity to serve new businesses.
 - (g) Substantial outstanding indebtedness associated with the unanticipated failure of the Foxborough Cogeneration Facility remains to be paid.
 - (h) In Compliance Period 1, VMUS' cumulative expenses (before the incremental cost of procuring electricity products to satisfy the RPS requirements and any associated indirect expenses) are forecasted to be greater than cumulative revenues.
 - (i) In Compliance Period 1, any procurement of Eligible Renewable Energy Resources would result in an increase in VMUS' deficit and restrict VMUS' ability to meet its financial obligations.
3. *Information Reviewed.* Pursuant to PUC §399.30(d)(3), and consistent with Section 9 of this RPS Enforcement Program, the City Council relied on the following information to consider a limitation on the Incremental RPS Procurement Costs for all Eligible Renewable Energy Resources in Compliance Period 1:
- (a) The information on cost and availability of Eligible Renewable Energy Resources that is contained in this RPS Procurement Plan

- and was obtained through the RFI and subsequent offers to sell eligible renewable energy products.
- (b) The forecast of the VMUS' revenues less expenses (before the incremental cost of procuring electricity products to satisfy the RPS requirements and any associated indirect expenses).
 - (c) The forecasted Incremental RPS Procurement Costs for RPS-eligible resources to fully satisfy the RPS Procurement Obligation in Compliance Period 1, which, as described in Section 8.D, is \$645,000 ("Full RPS Cost").
 - (d) The procurement expenditures associated with the offers received to build, own, and operate eligible renewable energy resources.
 - (e) Monitoring the offers received for planned resources that were delayed or cancelled.
4. *Establishment of Initial Cost Limitation.* Based on the foregoing factors and information, the City Council establishes a limitation on the procurement expenditures for RPS-eligible resources in Compliance Period 1. For Compliance Period 1, VMUS is forecasting expenses (before the incremental cost of procuring electricity products to satisfy the RPS requirements and any associated indirect expenses) greater than revenues. Therefore, the initial cost limitation is hereby set at zero ("Initial Cost Limitation"), and VMUS is not obligated to expend any funds on RPS procurement. Without limiting the foregoing, to demonstrate good faith in pursuing the objectives of SB 2-1X and meeting the State's overall RPS goals, VMUS will retain the 45,000 RECs and Green Attributes from a CEC certified Eligible Renewable Resource that were procured during 2011, as described in Section 8.B.
5. *Establishment of Cost Limitations for Compliance Period 2, Compliance Period 3, and Thereafter.* The City Council hereby establishes a cost limitation on the Incremental RPS Procurement Cost for Compliance Period 2, Compliance Period 3, and thereafter as follows:
- (a) During the annual budget approval process, VMUS will calculate the revenues less expenses (before the incremental cost of procuring electricity products to satisfy the RPS requirements; and any associated indirect expenses) and identify the funds available from such amount to concurrently satisfy the applicable RPS requirement and maintain prudent reserves ("Cost Limitation Guideline").
 - (b) VMUS will have no obligation to expend funds on RPS procurement in excess of the Cost Limitation Guideline or RPS procurement targets.
 - (c) In the event that the Cost Limitation Guideline results in an amount greater than zero, VMUS will seek contracts for eligible renewable energy resources on a least cost, best fit basis in an effort to achieve the procurement targets specified in Sections 7.B. and 7.C.

Procurement considerations will include availability of resources, financial feasibility, transmission availability and any other relevant factors to ensure procurement contracts fit VMUS' risk profile as a small POU.