

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Continue
Implementation and Administration, and Consider
Further Development, of California Renewables
Portfolio Standard Program.

Rulemaking 18-07-003
(Filed July 12, 2018)

**MOTION OF THE INDEPENDENT ENERGY PRODUCERS
ASSOCIATION SEEKING ADDENDA TO 2018 RENEWABLES
PORTFOLIO STANDARD PROCUREMENT PLANS
ADDRESSING IMPLEMENTATION OF PU CODE SECTION
399.13(b) RELATED TO LONG-TERM RPS CONTRACTING**

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The Independent Energy Producers Association (IEP) submits this motion requesting the Commission to direct each jurisdictional retail seller to submit within 30 days an Addendum to its 2018 Renewables Portfolio Standard (RPS) Procurement Plan presenting information on how it plans to address the long-term contracting obligations prescribed by Public Utilities (PU) Code Section 399.13(b).¹

PU Code Section 399.13(b) states:

Beginning January 1, 2021, at least 65 percent of the procurement a retail seller counts toward the renewables portfolio standard requirement of each compliance period shall be from its contracts of 10 years or more in duration or in its ownership or ownership agreements for eligible renewable resources.

¹ The *Assigned Commissioner's Corrected Ruling of the Assigned Commissioner and Assigned Administrative Law Judge's Ruling Identifying Issues and Schedule of Review for 2018 Renewables Portfolio Standard Procurement Plans Dated June 21, 2018*, issued on July 10, 2018 in Rulemaking (R.) 15-02-020, stated that "all pending matters in R.15-02-020, including 2018 RPS Procurement Plans," would be transferred to a new proceeding on RPS matters when the order instituting the new proceeding was authorized by the Commission and served on all parties. The new proceeding is this proceeding, R.18-07-003, which was authorized on July 12 and served on July 23, 2018. For that reason, this motion is filed in R.18-07-003, even though it addresses RPS procurement plans that were originally filed in R.15-02-020.

Decision 17-06-026 addresses how the Commission is to implement PU Code Section 399.13(b). In its Decision, the Commission noted that, because it included new Section 399.13(b), Senate Bill (SB) 350 shifted the focus from the “minimum quantity” requirement that had applied at the inception of the RPS procurement program to a minimum percentage of procurement that must be shown at the end of a compliance period.² In addition, the Commission noted that Section 399.13(b) does not provide any method for waiver or reduction, or indeed for any other alteration or adjustment, of the long-term contracting requirement.³ Moreover, the Commission clarified that if the renewable energy credits (RECs) associated with long-term contracts add up to less than 65 percent of the overall percentage of retail sales that must be supplied by eligible renewable resources in each compliance period (i.e., the procurement quantity requirement (PQR)), then all the RECs counted for compliance in the compliance period must be adjusted so that the RECs from long-term contracts equal 65 percent of the RECS used for compliance.⁴ In sum, the Commission concluded that the failure to meet the long-term contracting requirement forces failure to meet the PQR.⁵

Given the importance of this new SB 350 provision and Decision 17-06-026 implementing Section 399.13(b), retail sellers’ 2018 RPS Procurement Plans ought to address how jurisdictional retail sellers plan to meet the obligations prescribed by Section 399.13(b). The *Assigned Commissioner’s Corrected Ruling of the Assigned Commissioner and Assigned Administrative Law Judge’s Ruling Identifying Issues and Schedule of Review for 2018 Renewables Portfolio Standard Procurement Plans Dated June 21, 2018*, issued on July 10, 2018 in R.15-02-020, required the 2018 RPS Procurement Plans to “[d]escribe the overall plan

² Decision 17-06-026, p. 9.

³ Ibid, p. 10.

⁴ Ibid, p. 11.

⁵ Ibid, p. 11.

for procuring RPS resources for the purposes of *satisfying the RPS program requirements . . .*” (p. 7, emphasis added). The long-term procurement obligation of Section 399.13(b) is one of the statutory RPS program requirements. Yet, upon review of the 2018 RPS Procurement Plans submitted to the Commission, most retail sellers fail to even mention the Section 399.13(b) obligation, let alone present a plan for how and when they propose to contract with eligible renewable resources needed to ensure RPS compliance in the 2021-2024 Compliance Period.

The lack of planning for this statutory obligation is particularly surprising given Commission modeling indicating that a significant amount of new, incremental renewable resources is needed as early as 2022 to meet the Commission’s integrated resource planning (IRP) objectives. For example, the Energy Division reports that under the IRP Recommended Reference System Portfolio, approximately 10,000 MWs of *additional renewables* are needed as early as 2022 to meet the 42 MMT Planning Target for greenhouse gas (GHG) emissions.⁶ To achieve this level of investment, contracting with renewable resources, particularly low-cost large-scale renewables, ought to begin in 2019. Yet, based on the information presented in the 2018 RPS Procurement Plans, retail sellers indicate that the amount of new, incremental renewable resources expected to be online by 2020/2021 may not total much more than 1,319 MWs.

Overall, the 2018 RPS Procurement Plans are deficient in planning for the impending Section 399.13(b) long-term contracting obligation. In addition, long-term contracting will prove critical to incenting the additional, clean resources that modeling indicates will be needed to meet long-term GHG reduction planning targets. *Attachment A*, based on a preliminary review of the Public Version of the retail sellers’ 2018 RPS Plans, attempts to describe the extent

⁶ Presentation: *Proposed Reference System Plan (Executive Summary)*, CPUC Energy Division, September 18, 2017, p. 9.

to which jurisdictional retail sellers addressed the requirements of Section 399.13(b) in their 2018 RPS Procurement Plans. Overall, IEP finds that the clear majority of 2018 RPS Procurement Plans fail to acknowledge the looming long-term contracting obligation, let alone describe a plan or schedule for how they propose to meet the obligation.

By this motion, IEP requests the Commission to direct each jurisdictional retail seller to file within 30 days an Addendum to its 2018 RPS Procurement Plan addressing how it plans to comply with PU Code Section 399.13(b), including incorporating a planned schedule (if any) for procuring the necessary resources in a timely manner. The requested addenda would not only help inform the Commission as to the progress toward RPS compliance, but it will also help enlighten policymakers as to the steps taken today by retail sellers in the RPS arena that are counted on to help realize critical GHG emission-reduction goals by 2022 and beyond. A proposed ruling is provided as Attachment B to this motion.

Respectfully submitted September 5, 2018 at San Francisco, California.

A handwritten signature in black ink that reads "Steven Kelly". The signature is written in a cursive, flowing style with a large, sweeping flourish at the end.

Attachment A

	Long-term Contracting/ New Project Development: 2017-2021 (MWs)	RPS Plan Acknowledges LT RPS Contracting Obligation (Beginning January 1, 2021)	Plan Specifies Procurement in 2019/2020
<u>Utilities</u>			
PG&E	0	Y	N
SDG&E [1]	99.2	Y	N
SCE [2]	16.3	Y	N
Bear Valley Electric Service	8		Not Clear
Liberty Utilities	60		Yes
<u>ESPs</u>			
3 Phases Renewables, Inc		No	No
Calpine Energy Solutions		No	No
Calpine Power America - CA		No	No
Commercial Energy of CA		No	No
Constellation NewEnergy		Yes	No
EDF Industrial Power Services		No	No
Direct Energy Business, LLC [3]	*	No	No
Just Energy Solutions		NO	No
Pilot Power Group		Yes	No
Regents of the University of CA		Yes	Presumed to Be Satisfied
Shell Energy North America		Yes	No
Tiger Natural Gas, Inc.		No	No
<u>CCAs w LT Contracts</u>			
Cleans Power SF	37	Yes	Presumed to Be Satisfied
Marin Clean Energy	512	No	Presumed to Be Satisfied
Monterey Bay Community Power Auth.	90	No	Presumed to Be Satisfied
Peninsula Clean Energy	300	No	Presumed to Be Satisfied
Silicon Valley Clean Energy Authority	110	No	Presumed to Be Satisfied
Sonoma Clean Power Authority	86	Yes	Presumed to Be Satisfied
<u>CCAs w/o LT Contracts</u>			
Apple Valley Choice Energy	0	No	No
Clean Power Alliance of Southern CA	0	Yes	Yes
Desert Community Energy [4]	0	No	No
East Bay Community Energy [6]	0	No	No
King City Community Power m [5]	0	No	No
Lancaster Choice Energy	0	No	No
Pico Rivera Innovative Municipal Energy	0	No	No
Pioneer Community Energy	0	No	No
Rancho Mirage Energy Auth.	0	No	No
Redwood Coast Energy Auth.	0	No	No
San Jacinto Power	0	No	No
San Jose Clean Energy [7]	0	No	No
Valley Clean Energy Alliance [8]	0	Yes	No
TOTAL Additional MWs	1,319		

- [1] SDG&E Reports its GTSR Interim Pool Contracts will result in 99.20 MWs.
- [2] SCE indicates that in 2017 and in 2018, it has signed ReMat, QF SOC, and BioMat contracts totaling 16.30 MWs.
- [3] Direct Energy provides evidence of executing one long-term contract.
Resource is expected to reach COD in 2018. Contact amount is unstated
- [4] Desert Community Energy has a revised "launch" date of 2020.
- [5] King City Community Power began operations July 2, 2018.
- [6] East Bay Community Energy began operations June 2018.
- [7] San Jose Clean Energy will enroll customers starting in September 2018.
- [8] Valley Clean Energy Alliance initiated customer service on June 1, 2018.

Attachment B

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[Proposed] Administrative Law Judge's Ruling

On September 5, 2018, the Independent Energy Producers Association (IEP) filed its Motion Seeking Addenda to 2018 Renewables Portfolio Standard Procurement Plans Addressing Implementation of PU Code Section 399.13(b) Related to Long-term Contracting. IEP noted that although Public Utilities Code Section 399.13(b) requires that starting January 1, 2021, 65 percent of all RPS procurement by retail sellers must be from long-term contracts of ten years or more in duration (or comparable long-term commitment), few of the 2018 RPS procurement plans submitted by retail sellers provided any reference to this requirement or any plan for meeting this requirement. IEP accordingly asks the Commission to order each jurisdictional retail seller to submit an addendum to its 2018 RPS procurement plan to address how it plans to comply with this statutory requirement.

IEP has identified a widespread failure of retail sellers to describe their plans to comply with this statutory requirement.

Therefore, for good cause shown, **IT IS RULED THAT:**

1. Within 30 days of the date of this ruling, each retail seller that was required by the *Assigned Commissioner's Corrected Ruling of the Assigned Commissioner and Assigned Administrative Law Judge's Ruling Identifying Issues and Schedule of Review for 2018 Renewables Portfolio Standard Procurement Plans Dated June 21, 2018*, issued on July 10, 2018, to file a 2018 RPS Procurement Plan shall file an Addendum to its plan.
2. In the Addendum referred to in Paragraph 1, each retail seller shall address how it plans to comply with PU Code Section 399.13(b), including its planned schedule (if any) for procuring the resources needed to meet Section 399.13(b)'s requirements.

Dated September __, 2018, at San Francisco, California.

Administrative Law Judge