

**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)

**COMMENTS OF THE INDEPENDENT ENERGY PRODUCERS
ASSOCIATION ON THE PROPOSED DECISION ACCEPTING
DRAFT 2018 RENEWABLES PORTFOLIO STANDARD
PROCUREMENT PLANS**

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The Independent Energy Producers Association (IEP) provides these comments on the Proposed Decision (PD) Accepting Draft 2018 Renewables Portfolio Standard (RPS) Procurement Plans submitted by jurisdictional retail sellers on August 20, 2018.

I. Overview/Recommendations

At least 36 retail sellers submitted 2018 RPS Procurement Plans, including five from utilities, twelve from Electric Service Providers (ESPs), and nineteen from Community Choice Aggregators (CCAs). The PD essentially accepts the retail sellers' draft 2018 RPS Plans unaltered. As a result, except for biomass procurement related to tree mortality/wildfires that was directed by statute passed in 2018, no incremental procurement beyond existing RPS mandates is ordered in this decision.¹

¹ PD, p. 2. With regards to explicit legislation passed in 2018, Ordering Paragraph 14 directs the investor-owned utilities to modify their 2018 RPS procurement plans to reflect authorized procurement pursuant to Senate Bill 901 (stats. 2018, ch. 626) from existing forest bioenergy facilities receiving feedstock from high hazard zones, during the duration of the 2019 RPS solicitation.

The PD accepts the draft 2018 RPS Procurement Plans despite evidence that renewable development is at a standstill and future renewable development is unlikely to achieve the pace and scale needed to meet current RPS obligations and greenhouse gas (GHG) emission-reduction targets. When commenting on the Draft 2018 RPS Procurement Plans submitted by retail sellers, IEP reported that the planned development of new additional renewable resources by retail sellers collectively is woefully inadequate to meet statewide planning objectives. Overall, retail sellers collectively revealed an intent to procure approximately 1,319 MWs of new, incremental RPS-eligible capacity over the 10-year planning horizon.²

Even if the Commission optimistically assumes that retail sellers' plans to develop over the next 10 years approximately 1300-1400 MWs of new, incremental RPS capacity resulted in a zero "failure rate" in new development,³ this planned procurement of new, incremental RPS-eligible resources falls far short of the forecast need for new, incremental RPS-eligible resources to meet RPS mandates and GHG-reduction goals. Indeed, the IRP models forecast a need for 10,000-11,000 MWs of new, additional renewable resources by 2022 to help achieve California's environmental and carbon reduction goals.⁴ Moreover, in an era in which new development of large-scale renewables, typically the lowest-cost option for consumers, can take 3-5 years to develop, construct, and begin operations, the evidence suggests a total absence of planning for timely development of these resources needed to meet state RPS mandates and GHG goals.

² See Comments of the Independent Energy Producers Association on the 2018 Renewable Portfolio Standard (RPS) Procurement Plans, Sept. 21, 2018, pp. 7-8, Attachment A, Column D.

³ Relatively sophisticated and experienced retail sellers assume a 70% success rate when planning new development. See *Southern California Edison Company's 2018 Draft Renewables Portfolio Standard Procurement Plan, Volume 1*, p. 38.

⁴ See *Proposed Reference System Plan (Executive Summary)*, CPUC Energy Division Presentation, September 18, 2018, p. 9. See also Comments of the Independent Energy Producers Association on the 2018 Renewable Portfolio Standard (RPS) Procurement Plans, Sept. 21, 2018, pp. 1-2.

In acceding to a “no procurement now” philosophy, the PD totally misses the critical importance of beginning procurement early to help meet the RPS and GHG goals in a timely and cost-effective manner. To rectify this error, the Commission should take the opportunity now to simply *begin* in 2019/2020 the process of timely, periodic procurement of RPS-eligible resources forecast to be needed over the next 3-5 years in order to be operational in time to meet the RPS mandates and GHG-reduction goals. Specifically, the Commission should do the following:

- *Reject* the 2018 RPS Procurement Plans submitted by jurisdictional retail sellers;
- *Direct* an increase in the RPS Minimum Procurement Quantity (MPQ) imposed on all jurisdictional retail sellers such that 2,000-3,000 MWs of incremental, new RPS-eligible resources are procured in the 2019/2020 timeframe;
 - *Or, alternatively, direct jurisdictional utilities to procure an equivalent amount of new, incremental renewables in 2019-2020 and allocate the costs and benefits of such procurement to all benefiting load consistent with the Power Charge Indifference Adjustment (PCIA) mechanism⁵;*
- *Direct* retail sellers to file within 30 days Revised 2018 RPS Procurement Plans incorporating their plans for 2019-2020 procurement as directed by the Commission; and
- *Adopt* retail sellers’ Revised 2018 RPS Procurement Plans within 30 days of filing.

IEP describes below the reasoning supporting this course of action.

⁵ The Commission has the authority to allocate RPS-related procurement costs (and benefits) in order to ensure that bundled retail customers do not experience any cost increases due to departing load to retail sellers (PU Code Section 365.2) or to community choice aggregation (PU Code Section 366.3). In addition, the Commission has the authority to authorize a procurement entity to enter into contracts on behalf of customers or a retail seller for electricity products from eligible renewable energy resources to satisfy the retail seller’s renewables portfolio standard procurement obligations (PU Code Section 399.13(f)).

II. The RPS Procurement “Gap”

The 2014 RPS Procurement Plans represent the last time the Commission directed one or more utilities to conduct a general RPS solicitation (i.e., above and beyond that which occurs through various automatic feed-in tariffs typically directed toward small-scale, technology-specific renewables).⁶ Following the authorizations related to the 2014 RPS Procurement Plans, little if any procurement of utility-scale RPS-eligible renewables has been directed by the Commission to help meet state RPS mandates and GHG policy objectives even though (a) a kWh from a utility-scale renewables tends to be significantly less expensive than other forms of renewables authorized by the Commission during this period (e.g., behind-the-meter solar, various feed-in tariffs for targeted legislative prescribed purposes, etc.), and (b) the Commission has the authority to increase minimum RPS procurement quantities (MPQ) above that prescribed in statute.⁷

The absence of any significant procurement directed by the Commission since 2014 has resulted in missed opportunities to acquire needed RPS-eligible renewables at relatively attractive prices. For example, project developers executing contracts during this period would have been able to access favorable federal renewable tax credits and incentives that significantly lower the cost of renewables.⁸ Project developers also would have had access to relatively lower

⁶ D.14-11-042 conditionally accepted the 2014 RPS Procurement Plans; directed Pacific Gas & Electric Company (PG&E) and Southern California Edison Company (SCE) to initiate the RPS solicitation process for 2014; and accepted San Diego Gas & Electric Company’s (SDG&E) request to not hold a 2014 RPS solicitation. See D.14-11-042, at p. 2.

⁷ PU Code Section 399.15(a): “In order to fulfil unmet long-term resource needs, the commission shall establish a renewables portfolio standard *requiring all retail sellers to procure a minimum quantity* of electricity products from eligible renewable energy resources ...” [emphasis added.]

⁸Based on the 2016 RPS Calculator, an analysis performed for IEP suggests that federal tax incentives reduce the levelized cost of energy (LCOE) for solar and wind resources significantly. For example, for projects qualifying in 2019, a 34% reduction in solar PV levelized costs and a 15% reduction in wind levelized costs would be anticipated. Even when accounting for declines in future technology cost, the analysis shows higher costs of solar and wind in 2022 than in 2019 (25% and 13% higher, respectively). As a result, the analysis estimates that for every 1,000 MW of resources contracted at the 2022 LCOE

interest rates thereby driving down the cost of capital, and they would have avoided the impact of the solar and steel tariffs that affect market prices today.

Having missed these opportunities, the Commission should not now exacerbate the situation and further delay RPS-eligible procurement in the hope that matters will change for the better in the future. Delay is not the friend of consumers in this context; rather, delay risks a “boom and bust” procurement/investment cycle that will drive up the cost of meeting state mandates. As illustrated in Table 1-2, delay in procurement of needed resources simply shifts the amount of renewable MWs to be procured to later years. Not only does this delay risk higher costs, but the delay risks exacerbating the difficulty of siting new renewable generation in a timely manner as local planning agencies responsible for siting much of the new renewable resources become overwhelmed with new siting applications, thereby exacerbating strained resources and risking delay.

instead of the 2019 LCOE, annual costs would increase by \$54 million per year for solar PV (\$1 billion over 20 years) and \$30 million per year for wind (\$600 million over 20 years). See *Comments of the Independent Energy Producers Association on the Renewables Portfolio Standard Procurement Plans Submitted by the Load-serving Entities*, Rulemaking 15-02-020, August 18, 2017.

Table 1:
“Paced” RPS Procurement to Achieve 11,000 MWs of New Renewables to Meet RPS Mandates and GHG Goals



Table 2:
“Delayed” RPS Procurement to Achieve 11,000 MWs of New Renewables to Meet RPS Mandates and GHG Goals



Some retail sellers argue that they are planning to engage in the procurement of RPS-eligible resources and/or they plan to adhere to state law; therefore, the Commission should not now mandate any renewable procurement.⁹ This logic is misplaced. First, any renewable procurement successfully undertaken by these retail sellers on their own initiative will count against any RPS obligations to which they are subject. Second, the evidence derived from retail sellers' most recent RPS Procurement Plans shows that planned procurement of RPS-eligible renewable resources is collectively insufficient to meet the RPS obligations,¹⁰ including the requirement to meet at least 60% of their RPS obligations through long-term contracts of at least 10-years.¹¹ In fact, evidence points to a trend in which retail sellers are increasingly relying on short-term contracts to meet future needs.¹²

Importantly, the Commission should not find acceptable any retail seller's 2018 RPS Procurement Plan in which RPS compliance is reflected merely in the commitment to adhere to state law as many retail sellers' plans assert.¹³ Adherence to state law should be treated as a given. The Commission should not fall into the trap of allowing a retail seller's "commitment to adhere to state law" substitute as a plan as to how an individual retail seller will meet state

⁹ See *Comments of the Joint CCAs on Proposed Preferred System Portfolio and Transmission Planning Process Recommendations*, filed January 31, 2019 (R.16-02-027), p. 3.

¹⁰ The Energy Division estimates that approximately 10,000 MWs of additional renewables will be needed as early as 2022 to help meet the 42 MMT Planning Target for GHG emissions. See *Proposed Reference System Plan (Executive Summary)*, CPUC Energy Division Presentation, September 18, 2018, p. 9.

¹¹ PU Code Section 399.13(b): "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 ten years or more induration or in its ownership or ownership agreements for eligible renewable resources." See also *Comments of the Independent Energy Producers Association on the 2018 Renewable Portfolio Standard (RPS) Procurement Plans*, p. 5-7.

¹² The volume of short-term purchases by LSEs is expected to increase by over 250% between 2020 and 2030, i.e., from approximately 20 TWhs to approximately 50 TWhs. See *Proposed Preferred System Portfolio for IRP 2017-18*, Staff Presentation, slide 24.

¹³ See *Comments of the Independent Energy Producers Association on the 2018 Renewable Portfolio Standard (RPS) Procurement Plans*, Sept. 21, 2018, pp. 3-5.

mandates. The Commission should consider commitments to simply adhere to state law as insufficient for purposes of RPS planning and procurement, and in response to such inadequate plans, the Commission should exercise its authorities to mandate the requisite RPS procurement needed to meet RPS statutory obligations and GHG policy goals in a timely manner.

III. The Commission Has the Authority to Exercise Leadership

The legislature has been very clear when establishing the Commission’s authorities related to achieving RPS statutory obligations and GHG policy goals. For example, the Commission has the authority to establish a renewables procurement standard requiring all retail sellers to procure a minimum quantity of RPS electricity products from eligible renewable resources (as a percent of retail sales).¹⁴ The Commission has the authority to establish minimum RPS procurement quantities that exceed the minimum quantities prescribed in statute.¹⁵ The Commission has the authority to allocate RPS-related procurement costs (and benefits) in order to ensure that bundled retail customers do not experience any cost increases due to departing load¹⁶ or to community choice aggregation.¹⁷ The Commission has the authority to authorize a procurement entity to enter into contracts on behalf of customers of a retail seller for electricity products from eligible renewable energy resources to satisfy the retail seller’s renewables portfolio standard procurement requirements.¹⁸

The Commission should exert leadership in achieving the RPS statutory obligations imposed on jurisdictional retail sellers by directing the procurement in 2019/2020 of a minimum 2,000-3,000 MWs of RPS-eligible renewable resources as a “down payment” on the 11,000

¹⁴ PU Code Section 399.15(a).

¹⁵ PU Code Section 399.15(a)(3).

¹⁶ PU Code Section 365.2.

¹⁷ PU Code Section 366.3.

¹⁸ PU Code Section 399.13(f).

MWs of forecast need by 2030. Specifically, in the context of accepting retail sellers' 2018 RPS Procurement Plans, the Commission should do the following:

- *Reject* the 2018 RPS Procurement Plans submitted by jurisdictional retail sellers;
- *Direct* an increase in the RPS Minimum Procurement Quantity (MPQ) imposed on all jurisdictional retail sellers such that 2,000-3,000 MWs of incremental, new RPS-eligible resources are procured in the 2019/2020 timeframe;
 - *Or, alternatively, direct jurisdictional utilities to procure an equivalent amount of new, incremental renewables in 2019-2020 and allocate the costs and benefits of such procurement to all benefiting load consistent with the Power Charge Indifference Adjustment (PCIA) mechanism;*
- *Direct* retail sellers to file within 30 days Revised 2018 RPS Procurement Plans incorporating their plans for 2019-2020 procurement as directed by the Commission; and
- *Adopt* retail sellers' Revised 2018 Procurement Plans within 30 days of filing.

Respectfully submitted February 11, 2019 at San Francisco, California.

A handwritten signature in black ink that reads "Steven Kelly". The signature is written in a cursive style with a large, sweeping "K" and a long, horizontal stroke at the end.

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