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 ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS ON SENATE BILL 100 IMPLEMENTATION

INDEPENDENT ENERGY PRODUCERS
ASSOCIATION
Steven Kelly, Policy Director
P.O. Box 1287
Sloughhouse, CA 95683
Telephone: (916) 448-9499
Facsimile: (916) 448-0182
Email: steven@iepa.com

Dated: February 28, 2019

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 ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS ON SENATE BILL 100 IMPLEMENTATION

In response to the Administrative Law Judge's Ruling dated February 11, 2019 (Ruling), the Independent Energy Producers Association (IEP) is pleased to comment on matters related to the implementation of Senate Bill (SB) 100, including issues related to setting Renewables Portfolio Standard (RPS) procurement quantity requirements for each RPS compliance period.

I. Overview

SB 100 increases and accelerates the deployment of renewable energy over the next 10 years.[1] Moreover, SB 100 sets a policy objective of meeting 100 percent of all retail electricity sales with zero carbon resources by December 31, 2045.[2] In parallel, pursuant to the California Global Warming Solutions Act of 2006 (SB 350), the Commission is striving in its Integrated Resource Planning (IRP) proceeding (Rulemaking 16-02-007) to achieve significant reductions in statewide greenhouse gas (GHG) emissions by 2030. While the Commission is employing

[1] SB 100 amended Public Utilities (PU) Code Section 399.15(b)(2)(B) to raise the RPS minimum procurement quantity requirement for each RPS compliance period: 44 percent by December 31, 2024, 52 percent by December 31, 2027, and 60 percent by December 31, 2030. (PU Code Section 399.15(b)(2)(B).)

[2] PU Code Section 454.53(a).

separate proceedings to implement the RPS and the IRP, the two proceedings are inherently linked because the GHG goals in the IRP cannot be met in a cost-effective manner absent the aggressive development of RPS-eligible renewables.[3]

Given the RPS and IRP pathways, the Commission is at a critical juncture and faces a couple important decisions. First, should the Commission rely on the RPS now to incent retail sellers to take steps in the near- and mid-term toward achieving 2030 GHG goals or, alternatively, should the Commission defer its decisions pending completion of the 2019-2020 IRP cycle? Second, if the Commission chooses to take modest steps now in the context of the RPS, should the Commission increase the RPS minimum procurement quantities (MPQs) above the minimum quantities prescribed in statute as a mechanism to incent retail seller behavior in the near- and medium-term while the next IRP cycle concludes?

Below, IEP offers several observations and recommendations related to the choices before the Commission today.

a. Should the Commission rely on the RPS now to incent retail sellers to take steps in the near- and mid-term to take actions aimed toward achieving 2030 GHG goals or, alternatively, should the Commission defer its decisions pending completion of the 2019-2020 IRP cycle?

Some parties in the RPS proceeding have urged the Commission to defer any action with regards to renewable procurement as a means to lower GHG emissions pending completion of the IRP process.[4] Yet, parties also have challenged the Commission's authority to direct the

[3] Recent IRP modeling indicates that between 9,861 MW and 18,323 MWs of new, incremental renewable capacity will be needed to meet the state's 2030 GHG goals. See *Energy Division Staff Presentation on IRP and TPP Portfolio*s, January 7, 2019 (R.16-02-007). In addition, IRP modeling indicates that a significant number of new renewables (approximately 11,000 MWs) needs to be procured to help meet 2030 GHG goals. See *Proposed Reference System Plan (Executive Summary)*, CPUC Energy Division Presentation, September 18, 2018, p. 9.

[4] "While it is appropriate for the Commission to consider these issues [incorporating GHG metrics] more broadly, that discussion is already happening in the IRP proceeding. For Community Choice

behavior of a majority of retail sellers (e.g., Electric Service Providers and Community Choice Aggregators) in the context of implementing the IRP to achieve the SB 350 goals.[5] The Commission should be wary of falling into the trap of deferring action from the RPS to the IRP while the Commission's authorities in the IRP are challenged and remain untested in court.

The Commission's authorities to affect jurisdictional retail sellers' procurement behavior in the context of RPS implementation are clear. For example, the Commission has the authority to do the following in the context of the RPS:

- Direct all jurisdictional retail sellers to procure a minimum quantity of RPS-eligible energy, as a percentage of total kilowatt-hours sold to their retail end-use customers, needed to achieve RPS mandates.[6]
- Establish minimum procurement quantities for each RPS compliance period in the same manner and in the same percentages for all jurisdictional retail sellers.[7]
- Adopt an appropriate minimum margin of procurement above the minimum level necessary to comply with the RPS to mitigate the risk that renewable projects planned or under contract are delayed or canceled.[8]
- Establish procurement quantities that exceed the minimum quantities prescribed in statute.[9]

Aggregators, actual RPS compliance requirements should not be modified to incorporate any GHG reduction elements." See *Joint CCA Parties Comments on Order Instituting Rulemaking* (R.18-07-003), August 13, 2018, p. 4.

[5] See Decision18-02-018, p. 24.

[6] PU Code Section 399.15(a).

[7] PU Code Section 399.15(b)(2).

[8] PU Code Section 399.13(a)(4)(D).

[9] PU Code Section 399.15(b)(3).

Is there a strong rationale for the Commission to use the RPS at this time to affect retail sellers' behavior in the near- and medium-term to achieve 2030 GHG goals in a timely and cost-effective manner? The answer is "yes" for multiple reasons.

First, even if retail sellers voluntarily double or even triple their planned procurement of new renewables over the next decade, the evidence indicates that this level of development will be inadequate to meet 2030 GHG goals. The 2018 RPS Procurement Plans accepted by the Commission indicate that only 1,300-1,500 MWs of new, incremental renewable capacity is planned over the next 10 years (assuming a zero-failure rate). Assuming that retail sellers' 2019 RPS Procurement Plans triple their planned RPS procurement to 4,500 MWs over the next decade, IRP modeling indicates that 11,000 MWs of new renewable capacity ought to be procured by 2022 to help meet 2030 GHG goals.[10] In addition, IRP modeling indicates that approximately 10,000 - 18, 000 MWs of new, incremental renewable capacity in aggregate will be needed to meet the state's 2030 GHG goals.[11]

Second, the Commission risks shifting needed renewable development later in time by delaying decision-making pending completion of the 2019-2020 IRP; thereby, the Commission risks compressing the time for developing the needed resources to meet the 2030 GHG goals into too short of a time period to ensure success. Typically, following actual procurement and contract award, project development may require 3-5 years to energize due to construction, delays due to litigation, etc. As project development becomes increasingly rushed, one should assume that the failure rate of project development will increase. As a practical matter, therefore, a schedule for renewable development that relies disproportionately on the 2024-2027

[10] 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 Renewables Portfolio Standard (RPS) Procurement Plans, submitted September 21, 2018, pp. 1-2.
[11] See *Energy Division Staff Presentation on IRP and TPP Portfolio*s, January 7, 2019 (R.16-02-007).

timeframe following completion of the next IRP cycle risks undermining achievement of the 2030 GHG emission targets in a timely and cost-effective manner.

b. Should the Commission increase the RPS minimum procurement quantities above the minimum levels prescribed in statute as a mechanism to incent retail seller behavior in the near- and medium-term while the next IRP cycle concludes?

While the Commission is required to raise the historic RPS MPQs to match those prescribed in SB 100, the Commission has the choice (and the authority) to go beyond the statutory minimums in order to help ensure that the resources needed to achieve compliance with the 2030 GHG goals are operational in a timely manner. Accordingly, the Commission should take this opportunity to employ the MPQs as a mechanism to create near- and medium-term incentives for retail sellers to begin the process of achieving the 2030 GHG goals, rather than delay action until the completion of the next IRP cycle or later.

As a practical matter, the MPQs determine the volume of Renewable Energy Credits (RECs) retired in a compliance period.[12] Notably, retail sellers are permitted to acquire RECs in one RPS compliance period and apply them against their obligations in a later RPS compliance period.[13] In effect, retail sellers are permitted to "bank" RECs for later use. Effectively, the lower the MPQ established by the Commission, the more RECs created in one compliance period are "banked" for compliance in a later compliance period.

Currently, planners assume that "banked" RECS will be used to meet a significant portion of a retail sellers' future RPS compliance obligations, i.e., approximately 4.4% in 2030

[12] RECs mean a certificate of proof associated with the generation of electricity from an eligible renewable energy resource. PU Code Section 399.12(h)(1).
[13] Retail sellers are permitted to accumulate "excess procurement" (i.e., that which exceeds the minimum procurement quantity established by the Commission) in one compliance period to be applied to *any* subsequent compliance period. PU Code Section 399.13(a)(4)(B).

(assuming a 50% RPS Compliance Obligation).[14] This suggests that 8,360 GWh of RPS-eligible energy delivered to consumers as early as 2019 may be used to meet the retail sellers' RPS compliance obligations in 2030.[15]

Quite simply, "banked" RECs create the illusion of environmental performance that may not be accurate in the years in which the "banked" RECs are applied for RPS compliance. Thus, increasing the MPQs above the statutory minimums prescribed in SB 100 likely will lower the volume of "banked" RECs held by retail sellers for use in later compliance periods, thereby better aligning consumer perceptions of the environmental benefit associated with the RPS with the physical delivery of clean, RPS-eligible energy. Consumers would be well-served if the Commission adjusted the MPQs upward if for no other reason than to incent retail sellers to use RECs in the compliance period in which they were created.

In summary, the Commission has clear authority to establish RPS minimum procurement quantities that exceed minimum levels prescribe in statute. In doing so, the Commission may affect retail sellers' activities in the near- and medium-term in a way that is helpful in achieving 2030 GHG goals in a timely and cost-effective manner while avoiding the risky consequences of "boom/bust" procurement cycles. The Commission can and should use the MPQ as a mechanism (a) to incent retail sellers to begin taking action in the near- and medium-term toward

[14] See *Proposed Preferred System Portfolio for IRP 2017-2018: System Analysis and Production Cost Modeling Results*, California Public Utilities Commission Presentation, January 11, 2019, slide 85.

[15] To derive an estimate of the capacity value of "banked" RECs used in 2030 to achieve a 50% RPS obligation, IEP relied on *Proposed Preferred System Portfolio for IRP 2017-2018: System Analysis and Production Cost Modeling Results*, California Public Utilities Commission Presentation, January 11, 2019, slide 85. First, IEP calculated the average "RPS-bound Retail Sales" (i.e., 191,018 GWhs) for the RESOLVE, SERV, Hybrid Conforming, and Hybrid Conforming Calibrated LOLE scenarios as presented in Slide 85; multiplied the average RPS-bound Retail Sales by the average "Spent Bank" (i.e., 4.4%) to derive the average forecast "Spent Bank" applied in 2030 (i.e., 8,404 GWhs); and then converted the 8,404 GWhs associated with the Spent Bank RECs to a capacity equivalent assuming a 35% Capacity Factor (wind/solar). The 8,404 GWhs of "Spent Bank" RECs is associated with 2,741 MWs of wind/solar renewable capacity.

achieving 2030 GHG goals, and (b) to better align the public's perception of environmental performance of RPS-eligible generation with the claims made by retail sellers in order to create stronger linkages between ratepayer investments in these resources and the actual performance of the generation fleet.

IEP recommends that the Energy Division should make recommendations no later than May 2019 on what the preferred MPQ for each compliance period ought to be.[16] In making its recommendations, the Energy Division should take into account the IRP forecasts of incremental renewable capacity/energy needed to achieve 2030 GHG goals; the value in sustained development of needed renewable resources to avoid "boom/bust" cycles; and the time it typically takes to procure, construct, and energize new RPS-eligible generation in California.

II. Response to Specific Questions Posed in the Ruling

Below, IEP offers responses to the questions posed in the Ruling.

a. Is there any reason the Commission should not continue the straight-line trend method in determining the targets for the compliance periods between 2020-2030 that have been modified by SB 100? If yes, please provide a method and a rationale for any proposed difference in treatment.

Notably, the level at which the MPQ is set for each RPS compliance period is more important to program success than the trajectory of the line (e.g., straight-line, step-function). Moreover, if the Commission were to adopt a straight-line trend method, the critical factor is the angle of the straight-line, i.e., the "rise" over the "run". In this context, assuming the

[16] Due to confidentiality rules, the data needed to determine how much the RPS minimum procurement quantities ought to be increased for the RPS Compliance Periods 2020-2024, 2025-2027, and 2028-2030, respectively, are redacted. The Energy Division should be directed to calculate the amount of procurement of RPS-eligible energy needed to eliminate excessive "banked" RECs in retail sellers' RPS portfolios to incent the procurement of at least 11,000 MWs of new, incremental RPS-eligible resources by 2022.

Commission adopts a straight-line trend method, the straight-line setting the annual compliance obligations within any specific RPS compliance period should be based on a trajectory to realize the number of RPS-eligible renewable resources forecast to be needed and operational to meet the 2030 GHG goals (in addition to the 2026 and 2030 RPS mandates).

Alternatively, the Commission could employ a step-function to achieve the same results. However, when using a step-function mechanism, as the procurement of needed RPS resources gets deferred or delayed in time, then the amount needed to meet GHG goals increases significantly. Tables 1 and 2 schematically depict how the scope/scale of procurement can change by year if action in the near- and medium-term is delayed. The Tables assume that the development of new renewables typically takes from 3-5 years to become commercially operable. For example, if the goal is to achieve a level of operations in 2030 to reduce GHG emissions, then the procurement associated with meeting that need ought to be completed by no later than 2027.

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

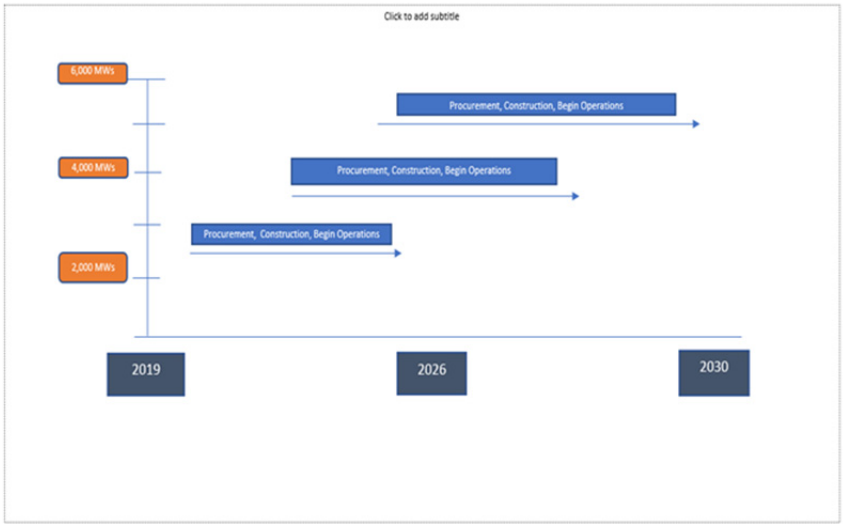
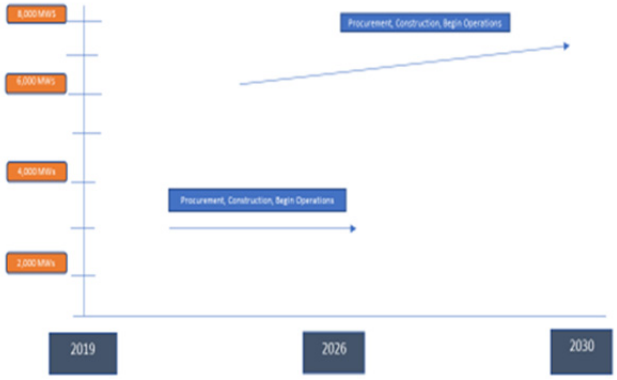


Table 2:
"Delayed" RPS Procurement to Achieve 11,000 MWs of New Renewables to Meet RPS Mandates and GHG Goals



b. Is there any reason for the Commission to change the method of establishing the procurement quantity requirements for compliance periods subsequent to 2030? If yes, please provide a method and rationale for any difference in treatment.

The Commission should tailor the procurement quantity requirements to match GHG emission reduction goals for 2030 and 2045. SB 100 established a goal of achieving zero-carbon emissions for the electric sector by 2045. IEP suspects that the procurement quantities established in the RPS will need to be adjusted upward to meet the 2045 GHG goals.

Respectfully submitted February 28, 2019 at San Francisco, California.

INDEPENDENT ENERGY PRODUCERS ASSOCIATION
Steven Kelly, Policy Director
P.O. Box 1287
Sloughhouse, CA 95683
Telephone: (916) 448-9499
Facsimile: (916) 448-0182
Email: steven@iepa.com