

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 22, 2012

To: The Commission
(Meeting of May 24, 2012)

From: Lynn Sadler, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 2187 (Bradford) – Renewable energy resources.
As amended: May 1, 2012**

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: NEUTRAL

SUMMARY OF BILL

SB 2 (1X) (Simitian, Stats. 2011, ch. 1) established that procurement from contracts executed prior to June 1, 2010 shall “count in full” for the state’s 33% Renewables Portfolio Standard (RPS) program. Contracts executed prior to this date are exempt from new RPS portfolio content category “bucket” requirements pursuant to SB 2 (1X). This bill would extend this exemption date to contracts signed prior to January 14, 2011, for electric service providers only.

Public Utilities Code Section 399.16 both defines the “buckets” and sets limitations on different types of procurement. Section 399.16(c)(1) requires a minimum amount of procurement from facilities that are directly interconnected to a California balancing authority area, facilities that can deliver electricity to California without substituting electricity from another source, or electricity that can be dynamically transferred to a California balancing authority area. Section 399.16(c)(2) limits the amount of procurement from facilities that that are not directly connected to a California balancing authority or can deliver to California in real time.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION

The California Public Utilities Commission (CPUC) has already taken initial steps to implement these provisions in SB 2 (1X) and further decisions are expected soon to establish the RPS procurement obligations for all retail sellers. This bill would require the CPUC to modify Decision (D.)11-12-052 and subsequent RPS compliance decisions, which may impact the timing of other 33% RPS implementation work (e.g., new RPS cost limitation requirements).

It is difficult to quantify the actual impact this bill would have on electric service providers' RPS compliance positions both because contract execution date was not a data point commonly tracked for the RPS program prior to the enactment of SB 2 (1X) and because the CPUC does not approve contracts for electric service providers. In any event, this bill would permit more generation to count for compliance without regard to the portfolio content categories than set forth in SB 2 (1X).

SUMMARY OF SUGGESTED AMENDMENTS

None.

DIVISION ANALYSIS (Energy Division)

In D.11-12-052, the CPUC established that procurement from contracts executed prior to June 1, 2010 are not subject to the portfolio content categories set forth in Section 399.16. This bill would require that the CPUC modify D.11-12-052 and upcoming decisions implementing new RPS compliance rules under SB 2 (1X).

Public Utilities Code Section 399.16 both defines the "buckets" and sets limitations on different types of procurement. Section 399.16(c)(1) requires a minimum amount of procurement from facilities that are directly interconnected to a California balancing authority area, facilities that can deliver electricity to California without substituting electricity from another source, or electricity that can be dynamically transferred to a California balancing authority area. Section 399.16(c)(2) limits the amount of procurement from facilities that are not directly connected to a California balancing authority or can deliver to California in real time.

Extending protection for prior procurement from contracts signed before June 1, 2010 to contracts signed before January 14, 2011 will allow more RPS eligible generation to count for electric service providers' RPS compliance obligations without regard to the portfolio content categories and the limitations put on the use of Category 1 and Category 3 products for RPS compliance (Sections 399.16(b) - (c)).

This bill will require the CPUC to modify D.11-12-052 and an upcoming decision implementing new RPS compliance rules under SB 2 (1X) in order to apply new grandfathering date for electric service providers.

PROGRAM BACKGROUND

The RPS program, as set forth in Public Utilities Code Sections 399.11- 399.31, requires that California retail sellers and publically owned utilities increase the portion of retail sales that comes from RPS-eligible resources so that by 2020 and for each year thereafter 33% of California's retail electricity sales is supplied by RPS-eligible resources.

The RPS program was adopted in SB 1078 (Sher, Stats. 2002, ch. 516), and subsequently modified by SB 107 (Simitian, Stats. 2006, ch. 464), SB 1036 (Perata,

Stats. 2007, ch. 685) and SB 2 (1X) (Simitian, Stats. 2011, ch. 1). The CPUC is statutorily responsible for 1) requiring each utility to submit an RPS Procurement Plan, 2) establishing a RPS cost limitation, 3) adopting a process that utilities must use to evaluate renewable energy projects proposed by independent power producers in response to the utilities' RPS solicitations, 4) adopting RPS compliance rules, 5) reviewing and approving or rejecting utilities' RPS contracts, and 6) reporting to the Legislature on various aspects of the RPS program.

The CPUC has adopted over 40 decisions to implement the RPS program and has approved approximately 200 RPS contracts for approximately 17,000 megawatts (2,500 megawatts of which have already begun delivering RPS eligible energy).

In May 2011, the CPUC initiated Rulemaking (R.) 11-05-005 to implement significant modifications made to the RPS program by SB 2 (1X). In December 2011, the CPUC implemented the three new portfolio content categories into which all procurement executed after June 1, 2010 will be classified. In April 2012, the CPUC issued a proposed decision to implement new RPS compliance established under SB 2 (1X); a final decision is expected in Q2 2012. If enacted, this bill would require modification to D.11-12-052 and the forthcoming compliance decision.

FISCAL IMPACT

AB 2187 would require a one-time cost of \$80,936 for one ALJ II for 6 months to oversee the proceeding needed to modify all relevant RPS compliance rules.

STATUS

AB 2187 is pending consideration on the Assembly Floor.

SUPPORT/OPPOSITION

Support:

Noble Americas Energy Solutions (sponsor)
California Manufacturers & Technology Association

Oppose:

Large-scale Solar Association
The Utility Reform Network (TURN)

STAFF CONTACTS

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BILL LANGUAGE

BILL NUMBER: AB 2187 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MAY 1, 2012
AMENDED IN ASSEMBLY APRIL 17, 2012
AMENDED IN ASSEMBLY MARCH 26, 2012

INTRODUCED BY Assembly Member Bradford

FEBRUARY 23, 2012

An act to amend Section 399.16 of the Public Utilities Code,
relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2187, as amended, Bradford. Renewable energy resources.

The California renewables portfolio standard program (RPS program) requires the Public Utilities Commission to establish the quantity of electricity products from eligible renewable energy resources, as defined, to be procured by each retail seller, as defined, for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 20% of retail sales for the period January 1, 2011, to December 31, 2013, inclusive, 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and in all subsequent years. The RPS program, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, requires that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified (portfolio content requirements). The RPS program conditions certain eligibility requirements upon whether the contract for electricity products from eligible renewable energy resources was executed after June 1, 2010.

This bill , *for purposes of electric service providers only*, would ~~instead condition those eligibility requirements upon whether the contract is executed after January 13, 2011~~ *require specified restrictions on crediting eligible renewable energy resource electricity products to each compliance period to apply to contracts executed after January 13, 2011* .

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 399.16 of the Public Utilities Code is amended to read:

399.16. (a) Various electricity products from eligible renewable energy resources located within the WECC transmission network service

area shall be eligible to comply with the renewables portfolio standard procurement requirements in Section 399.15. These electricity products may be differentiated by their impacts on the operation of the grid in supplying electricity, as well as, meeting the requirements of this article.

(b) Consistent with the goals of procuring the least-cost and best-fit electricity products from eligible renewable energy resources that meet project viability principles adopted by the commission pursuant to paragraph (4) of subdivision (a) of Section 399.13 and that provide the benefits set forth in Section 399.11, a balanced portfolio of eligible renewable energy resources shall be procured consisting of the following portfolio content categories:

(1) Eligible renewable energy resource electricity products that meet either of the following criteria:

(A) 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 subhourly 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.

(B) Have an agreement to dynamically transfer electricity to a California balancing authority.

(2) Firm and shaped eligible renewable energy resource electricity products providing incremental electricity and scheduled into a California balancing authority.

(3) 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 paragraph (1) or (2).

(c) In order to achieve a balanced portfolio, all retail sellers shall meet the following requirements for all procurement credited ~~towards~~ toward each compliance period:

(1) Not less than 50 percent for the compliance period ending December 31, 2013, 65 percent for the compliance period ending December 31, 2016, and 75 percent thereafter of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010, shall meet the product content requirements of paragraph (1) of subdivision (b).

(2) Not more than 25 percent for the compliance period ending December 31, 2013, 15 percent for the compliance period ending December 31, 2016, and 10 percent thereafter of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010, shall meet the product content requirements of paragraph (3) of subdivision (b).

(3) Any renewable energy resources contracts executed on or after June 1, 2010, not subject to the limitations of paragraph (1) or (2), shall meet the product content requirements of paragraph (2) of subdivision (b).

(4) *For purposes of electric service providers only, the restrictions in this subdivision on crediting eligible renewable energy resource electricity products to each compliance period shall apply to contracts executed after January 13, 2011.*

(d) Any contract or ownership agreement originally executed prior to June 1, 2010, shall count in full ~~towards~~ toward the procurement requirements established pursuant to this article, 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) For an electrical corporation, the contract has been approved by the commission, even if that approval occurs after June 1, 2010.

(3) 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. The duration of the contract may be extended if the original contract specified a procurement commitment of 15 or more years.

(e) A retail seller may apply to the commission for a reduction of a procurement content requirement of subdivision (c). The commission may reduce a procurement content requirement of subdivision (c) to the extent the retail seller demonstrates that it cannot comply with that subdivision because of conditions beyond the control of the retail seller as provided in paragraph (5) of subdivision (b) of Section 399.15. The commission shall not, under any circumstance, reduce the obligation specified in paragraph (1) of subdivision (c) below 65 percent for any compliance obligation after December 31, 2016.

~~SECTION 1. Section 399.16 of the Public Utilities Code is amended to read:~~

~~399.16. (a) Various electricity products from eligible renewable energy resources located within the WECC transmission network service area shall be eligible to comply with the renewables portfolio standard procurement requirements in Section 399.15. These electricity products may be differentiated by their impacts on the operation of the grid in supplying electricity, as well as, meeting the requirements of this article.~~

~~(b) Consistent with the goals of procuring the least cost and best fit electricity products from eligible renewable energy resources that meet project viability principles adopted by the commission pursuant to paragraph (4) of subdivision (a) of Section 399.13 and that provide the benefits set forth in Section 399.11, a balanced portfolio of eligible renewable energy resources shall be procured consisting of the following portfolio content categories:~~

~~(1) Eligible renewable energy resource electricity products that meet either of the following criteria:~~

~~(A) 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 subhourly 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.~~

~~(B) Have an agreement to dynamically transfer electricity to a California balancing authority.~~

~~(2) Firm and shaped eligible renewable energy resource electricity products providing incremental electricity and scheduled~~

into a California balancing authority.

~~— (3) 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 paragraph (1) or (2).~~

~~— (c) In order to achieve a balanced portfolio, all retail sellers shall meet the following requirements for all procurement credited toward each compliance period:~~

~~— (1) Not less than 50 percent for the compliance period ending December 31, 2013, 65 percent for the compliance period ending December 31, 2016, and 75 percent thereafter of the eligible renewable energy resource electricity products associated with contracts executed after January 13, 2011, shall meet the product content requirements of paragraph (1) of subdivision (b).~~

~~— (2) Not more than 25 percent for the compliance period ending December 31, 2013, 15 percent for the compliance period ending December 31, 2016, and 10 percent thereafter of the eligible renewable energy resource electricity products associated with contracts executed after January 13, 2011, shall meet the product content requirements of paragraph (3) of subdivision (b).~~

~~— (3) Any renewable energy resources contracts executed after January 13, 2011, not subject to the limitations of paragraph (1) or (2), shall meet the product content requirements of paragraph (2) of subdivision (b).~~

~~— (d) Any contract or ownership agreement originally executed prior to January 14, 2011, shall count in full toward meeting any of the procurement requirements established pursuant to this article, 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) For an electrical corporation, the contract has been approved by the commission, even if that approval occurs after January 13, 2011.~~

~~— (3) Any contract amendments or modifications occurring after January 13, 2011, do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource. The duration of the contract may be extended if the original contract specified a procurement commitment of 15 or more years.~~

~~— (4) For retail sellers, any contract with an eligible renewable energy resource shall also include a supply of electricity that is scheduled or delivered into a California balancing authority.~~

~~— (e) A retail seller may apply to the commission for a reduction of a procurement content requirement of subdivision (c). The commission may reduce a procurement content requirement of subdivision (c) to the extent the retail seller demonstrates that it cannot comply with that subdivision because of conditions beyond the control of the retail seller as provided in paragraph (5) of subdivision (b) of Section 399.15. The commission shall not, under any circumstance, reduce the obligation specified in paragraph (1) of subdivision (c) below 65 percent for any compliance obligation after December 31, 2016.~~