

Agenda Report

November 21, 2011

TO: Honorable Mayor and City Council

FROM: Water and Power Department

SUBJECT: FIND THAT RENEWABLE ENERGY RESOURCE CONTRACTS PREVIOUSLY EXECUTED BY THE CITY OR APPROVED BY THE CITY COUNCIL MEET THE STATUTORY DEFINITION AND REQUIREMENTS TO QUALIFY FOR RENEWABLE PORTFOLIO STANDARD OBLIGATIONS AND THE PORTFOLIO CONTENT CATEGORY CRITERIA PURSUANT TO SECTION 399.16(b)(1) OF THE CALIFORNIA PUBLIC UTILITIES CODE ESTABLISHED BY SENATE BILL X1-2

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the proposed action is exempt from the California Environmental Quality Act (CEQA) per Section 15061 (b)(3);
2. Find that the renewable electricity resource contracts previously executed by the City of Pasadena (City) or approved by the City Council for Pasadena Water and Power Department (PWP) listed in Attachment 1:
 - (A) Meet the statutory definition and requirements to qualify for Renewable Portfolio Standard (RPS) obligations; and
 - (B) Meet the Portfolio Content Category criteria pursuant to Section 399.16(b)(1) of the California Public Utilities Code (PUC) for the purpose of PWP's compliance with RPS requirements established by Senate Bill X1-2 (SBX1-2.)

EXECUTIVE SUMMARY:

SBX1-2, which becomes effective on December 10, 2011, establishes statewide RPS targets and resource categories. Unlike prior RPS legislation, it applies to publicly owned utilities (POU) such as PWP as well as investor owned utilities.

SBX1-2 includes general provisions that create categories of renewable resources, and these provisions have been interpreted in different ways by various stakeholders. The California Energy Commission (CEC) has been directed to develop RPS guidelines and regulations applicable to POUs. The CEC is expected to finalize this process by June 2012.

Since 2003, the City has executed or approved several contracts as listed in Attachment 1 for renewable energy and fuel resources to meet its RPS goals and in anticipation of meeting the statutory goals embodied in SBX1-2. Each of these renewable resources meets the current CEC RPS eligibility requirements as well as the criteria for the "Category 1" RPS resources as defined in SBX1-2. The recommended actions are to make a clear and unambiguous finding by the City Council, as PWP's regulatory authority, that the existing contracts listed in Attachment 1 are intended for PWP's RPS compliance and qualify as Category 1 RPS resources under SBX1-2.

BACKGROUND:

Statutory Background – Senate Bill X1-2:

SBX1-2 is the first state law that mandates specific RPS compliance by POUs. Since it was approved through the extraordinary session of the state legislature it becomes effective on December 10, 2011. SBX1-2 amends PUC Section 399 to include the following requirements relevant to the proposed action:

1. Creates categories of renewable resources, as summarized in Table 1, based on their locations, to be used as criteria to meet RPS targets;
2. Mandates a 33% RPS by December 31, 2020 with interim targets of 20% average of 2011 to 2013 and 25% by 2016 using renewable resource category criteria summarized in Table 1; and,
3. Permits renewable resource contracts approved by the Council prior to June 1, 2010 to count towards RPS compliance (commonly called "grandfathering").

Table 1: Renewable Resource Categories and RPS Requirements*

Category	Definition	2011-2013	2016	2020
1	"In-state" or "out-of-state" resources scheduling power to CA balancing authority per PUC 399.16(b)(1)	Minimum 50% of RPS	Minimum 65% of RPS	Minimum 75% of RPS
2	"Firmed and Shaped" resources, for which the energy is delivered on a firm schedule at times and/or locations other than when the energy is actually produced per PUC 399.16(b)(2)	Maximum 50% of RPS	Maximum 35% of RPS	Maximum 25% of RPS
3	Renewable energy credit (REC) certificates with no associated energy delivery, or any other resource not qualified under Categories 1 and 2 per PUC 399.16(b)(3)	Maximum 25% of RPS	Maximum 15% of RPS	Maximum 10% of RPS
Total	Minimum total renewable energy as a percent of retail sales (RPS)	20% (on average)	25%	33%

* *These categories and criteria are specified in PUC 399.16(b), as amended by SBX1-2. The full text of PUC 399.16(b) is attached hereto as Attachment 2*

Many provisions of SBX1-2 are subject to multiple interpretations, and the CEC has initiated proceedings to develop rules and regulations that will be applicable to POU's such as PWP. These proceedings may provide additional clarity with respect to definitions and criteria for RPS compliant resources and categorization. The CEC is expected to adopt regulations by June 2012.

Grandfathering and Categorizing Existing Contracts:

On October 13, 2003, the Council adopted RPS goals for PWP to serve 10% of its retail sales with renewable resources by year 2010 and 20% by year 2017. On March 16, 2009, the Council adopted revised RPS goals of 15% by 2010, 33% by 2015 and 40% by 2020. These goals exceed the RPS goals established by SBX1-2.

In order to meet Pasadena's RPS goals, the Council has approved a number of renewable resource contracts since 2003. Similarly, PWP has entered into a number of short-term renewable resource contracts under the procurement authority delegated to the General Manager of PWP. These contracts were intended to be used for RPS compliance purposes and, as a result, typically cost more than non-renewable energy resources that otherwise would have been procured to meet PWP's retail electric loads. The contracts were authorized in good faith and consistent with the laws, rules, and regulations applicable to RPS-qualifying renewable resources in effect at the time.

Grandfathering Agreements Authorized Prior to June 1, 2010

Although SBX1-2 explicitly permits grandfathering renewable resource contracts approved by the Council prior to June 1, 2010, it is not clear if the portfolio content category criteria will be used for these resources to evaluate RPS compliance. Each of these contracts, listed in Table A-1 of Attachment 1, is RPS eligible or certified by the CEC. Furthermore, each of these resources meets the criteria for Category 1 resources, which have the highest RPS compliance priority and thus highest market value. The supporting facts are as follows:

- The City-owned Azusa Hydro plant located in City of Azusa meets the RPS certification requirement and the CEC is currently reviewing PWP's application for RPS certification. All other contracts are CEC certified;
- The First Wind Milford Phase 1 (formerly known as UPC Wind 1) contract is with a wind project located in Utah. The project is connected by a dedicated radial transmission line to the Intermountain Power Project switching station, and thus the first point of interconnection is to a California Balancing Authority operated by the Los Angeles Department of Water and Power. The energy produced is also dynamically scheduled to the Los Angeles Department of Water and Power Balancing Authority, under an agreement with Pasadena, thus meeting the Category 1 criteria according to PUC section 399.16 (b)(1)(B); and,
- All other resources are located in California and have first point of interconnection with a California Balancing Authority, thus meeting the Category 1 criteria according to PUC section 399.16 (b)(1)(A).

Grandfathering Agreements Authorized On or After June 1, 2010

SBX1-2 specifies that all contracts approved on or after June 1, 2010 will have portfolio content category criteria applied. Pasadena has six RPS eligible contracts, listed in Table A-2 of Attachment 1, approved since June 1, 2010:

1. **Solar Energy:** The Enviromission La Paz solar power tower contract was approved by the City Council in November 2010. The contract has not been signed by Pasadena because the project developer has not yet met all of the pre-requisite conditions.
2. **Biogas Fuel:** The other five contracts involve the consumption of biogas fuel that has been treated to natural gas pipeline quality and transported for consumption in California power plants to produce renewable energy. These contracts were authorized with the specific intent of meeting Category 1 RPS requirements. The cost of these contracts is substantially higher than lesser-quality renewable resources, such as Category 3 renewable energy credits, and they would not have been approved if they were not Category 1 compliant. PWP has applied for certification of these biogas contracts for RPS eligibility. Thus far, the CEC has pre-certified PWP's local generators and the Magnolia Power Plant with two of these biogas resources, and their review of the others is pending.

Each of these contract resources meets the criteria for Category 1 RPS resources. The supporting facts are as follows:

1. **Solar Energy:** The agreement with Enviromission requires renewable energy to be delivered to the California Independent System Operator, a California Balancing Authority, without substituting electricity from another resource. This is consistent with the Category 1 criteria pursuant to PUC section 399.16 (b)(1)(A);
2. **Biogas Fuel:** SBX1-2 lists landfill or digester gas resources (generally called biogas) as eligible renewable resources and does not distinguish between in-state or out-of-state biogas resources for RPS categorization purposes. The biogas will be delivered to in-state generators. The renewable energy produced using biogas will be certified by CEC as RPS eligible and will be delivered to a California Balancing Authority. This is consistent with the Category 1 criteria pursuant to PUC section 399.16 (b)(1)(A).

The CEC has indicated that it wants to revisit the eligibility and category criteria for out-of-state biogas through public proceedings and is expected to make a determination by June 2012. The Council's finding that these contracts are intended for PWP's RPS compliance and meet the Category 1 resource criteria is intended to preserve the higher value of these contract resources for RPS compliance.

COUNCIL POLICY CONSIDERATION:

The recommended action is consistent with Pasadena's Urban Accords Goals with respect to renewable energy and GHG emission reduction goals, the General Plan Energy Element, the City Council's Strategic Planning Goals, the 2009 energy IRP and general practice of complying with federal, state and local laws. This action will help

PWP achieve the state's legislative goals and regulatory compliance as well as City Council goals in a cost-effective manner.

ENVIRONMENTAL ANALYSIS:

The action proposed herein is exempt from the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines Section 15061(b)(3). The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

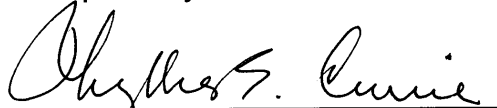
The proposed action is the finding that all renewable electricity resource contracts previously executed by the City or approved by the City Council for PWP are related to renewable energy compliance which is mandatory under State law. There are no specific projects proposed at this time. This report lists all contracts for renewable resources approved and/or executed to date. It may be that further environmental review is required as future actions are taken to comply with Senate Bill SBX1-2, and those actions will receive proper environmental review at the time the action is developed to the point where its potential environmental effects can be analyzed.

FISCAL IMPACT:

The Council action for the individual contracts subject to this proposal included individual fiscal impact at the time of approval.

There is no additional or direct fiscal impact as a result of this action and it will not have any indirect or support cost requirements. There will be no anticipated impact to other operational programs or capital projects as a result of this action.

Respectfully submitted,

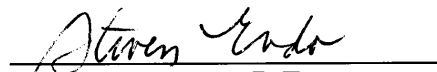


PHYLLIS E. CURRIE

General Manager

Water and Power Department

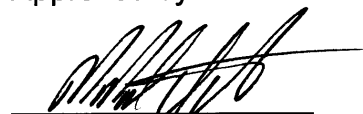
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Attachments:

Attachment 1 –Grandfathered Existing Contracts

Attachment 2 – RPS Resource Categorization per PUC 399.16(b)

Attachment 1
Grandfathered Existing Contracts

Table A-1: Contracts Executed or Approved Before June 1, 2010

Each of the following resources and contracts are RPS eligible and meet portfolio content Category 1 requirements pursuant to PUC §399.16 (b)(1).

Contracts	Project	Technology	Origin	Date Signed	Agreement #	Term	Electricity Delivery	SBX1 2 Category
Long-Term Renewable Contracts								
Azusa Hydro	Azusa Hydro	Small Hydro	CA	1933	Owned by Pasadena	Life of facility	CAISO to PWP	Grandfathered - Category 1
Iberdrola Renewables (fka. PPM Energy Inc.)	Solano Wind Project	Wind	CA	08/15/2003	18242	20 years	CAISO to PWP ¹	Grandfathered - Category 1
Ormat	Heber South	Geothermal	CA	06/23/2005	18802 and 18802-1	25 years	CAISO to PWP	Grandfathered - Category 1
Fortistar (fka. Minnesota Methane)	MM West Covina LLC (Unit 1)	LFGTE	CA	11/20/2006	19237	10 years	CAISO to PWP	Grandfathered - Category 1
Fortistar (fka. Minnesota Methane)	MM West Covina LLC (Unit 2)	LFGTE	CA	11/20/2006	19238	10 years	CAISO to PWP	Grandfathered - Category 1
Fortistar (fka. Minnesota Methane)	MM Tulare Energy LLC	LFGTE	CA	11/20/2006	19239	10 years	CAISO to PWP	Grandfathered - Category 1
Ameresco	Chiquita Landfill	LFGTE	CA	11/2006	18405	20 years	CAISO to PWP	Grandfathered - Category 1
First Wind (fka UPC Wind I)	Milford Wind Corridor Phase 1	Wind	UT	10/01/2007	19488	20 years	LADWP to PWP ²	Grandfathered - Category 1
Short-Term Renewable Contracts								
Glendale Water and Power	Scholl Canyon Landfill	Landfill Energy	CA	05/05/2010	15609	1 year	LADWP to PWP	Grandfathered - Category 1

Note:

- 1 - Dynamically scheduled to California Independent System Operator (CAISO) balancing authority area
 - 2 - Dynamically scheduled to Los Angeles Department of Water and Power (LADWP) balancing authority area
- LFGE - Landfill Gas to Energy
Category 1 refers to California Public Utilities Code section 399.16 (b) (1)
Grandfathered refers to California Public Utilities Code section 399.16 (d)

Attachment 1
Grandfathered Existing Contracts

Table A-2: Contracts Approved On or After June 1, 2010

Each of the following resources and contracts are RPS eligible and meet portfolio content Category 1 requirements pursuant to PUC §399.16 (b)(1).

Contracts	Project	Technology	Origin	Date Signed	Agreement #	Term	Electricity Delivery'	SBX1 2 Category
Long-Term Renewable Contracts								
Enviromission, LLC	La Paz	Solar Thermal	AZ	approved 12/26/2010	Pending	30 years	CAISO to PWP	Category 1
EDF Trading North America*	Dos Rios	Biomethane Digester	TX	05/26/2011	20655	10 years	LADWP to PWP	Category 1
WMRE of Ohio-American, LLC*	Long Term	Biomethane Landfill	OH	08/15/2011	20707	10 years	LADWP to PWP	Category 1
Sequent*	Meadow Branch	Biomethane Landfill	TN	07/22/2011	20706	10 years	LADWP to PWP	Category 1
Short-Term Renewable Contracts								
Shell Q3 2011	La Rosita and High Desert	Biomethane Energy	**	06/29/2011	15609	3 months	CAISO to PWP	Category 1
WMRE of Ohio-American, LLC*	Short Term	Biomethane Landfill	OH	09/29/2011	20707	1 year	LADWP to PWP	Category 1

Note:

* Biomethane from out of state to be transported through natural gas pipeline system to power plant in CA in accordance with CEC RPS Eligibility Guidebook, 4th edition

** Source of biomethane unknown, contracted for CEC certified Category 1 renewable energy generated in California

Category 1 refers to California Public Utilities Code section 399.16 (b) (1)

Attachment 2

Public Utilities Code Section 399.16 (as amended by SBX1-2)

(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) Firmed 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).