

Agenda Report

December 12, 2011

TO: Honorable Mayor and City Council

FROM: Water and Power Department

SUBJECT: PUBLIC HEARING: CONSIDERATION TO ADOPT A PROGRAM OF ENFORCEMENT FOR THE PASADENA WATER AND POWER DEPARTMENT PURSUANT TO SECTION 399.30(e) OF THE PUBLIC UTILITIES CODE REVISED RECENTLY BY ENACTMENT OF THE CALIFORNIA RENEWABLE ENERGY RESOURCES ACT, SENATE BILL X1-2

RECOMMENDATION:

It is recommended that, after a public hearing, the City Council:

1. Find that the adoption of the enforcement program pursuant to Section 399.30(e) of the Public Utilities Code is exempt from the California Environmental Quality Act (CEQA) per Section 15061(b)(3); and
2. Adopt the attached proposed Enforcement Program for the Pasadena Water and Power Department (PWP) pursuant to Section 399.30(e) of the Public Utilities Code.

EXECUTIVE SUMMARY:

On April 12, 2011, the California Renewable Energy Resources Act, Senate Bill X1-2 (SBX1-2) was chaptered, establishing renewable portfolio standard (RPS) requirements for all electric utilities in the state. As applied to the City of Pasadena (City), SBX1-2 requires that prior to January 1, 2012; the City Council must adopt an Enforcement Program to ensure compliance with the statutory RPS requirements. It is recommended that the City Council adopt the Enforcement Program attached hereto as Attachment 1.

The Enforcement Program includes provisions related to development, adoption, progress reporting, violation reporting, and contingency relief with respect to PWP's procurement of renewable resources. It directs PWP to develop a plan to procure renewable resources to comply with RPS targets (RPS Procurement Plan) based on specific criteria stated in the statute and provide timely notices and reports to the public and the California Energy Commission (CEC). SBX1-2 provides broad requirements

and guidelines that the CEC is assigned to elaborate through a regulatory process for publicly owned utilities (POU), which is expected to be completed by June of 2012. PWP will submit revisions to the enforcement program, if necessary, for the City Council's consideration after the regulations are finalized.

The CEC will use the City Council's adopted Enforcement Program to evaluate PWP's compliance with SBX1-2 requirements. The statute requires the CEC to report non-compliance to the California Air Resources Board (CARB) to determine penalties; CARB has not yet developed penalty provisions.

As a clarification, to the extent the City of Pasadena's energy Integrated Resource Plan (IRP) goals are in excess of statutory requirements, achieving the higher RPS goal is solely voluntary and not subject to any provisions of the Enforcement Program or any other legislative or regulatory compliance obligation.

BACKGROUND:

SBX1-2 is the first state law that mandates 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 added Section 399.30 to the Public Utilities Code which includes the following major requirements that directly affect PWP's business practices and the City Council's role in governing PWP:

1. By January 1, 2012, the City Council shall adopt an Enforcement Program for PWP in a public meeting that was publicly noticed for at least 30 days.
2. The City Council shall approve an RPS Procurement Plan annually.
3. Portfolio content categories of renewable resources, based on their locations, to be used as criteria to meet RPS targets. In-state or out-of-state renewable resources that provide renewable electricity directly to California are included in a category that should constitute at least 50% of the RPS target between 2011 and 2013, gradually increasing to 75% by 2020.
4. 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.
5. Provides limited relief from RPS procurement obligations based on reasons beyond PWP's control such as a delay in commissioning of projects or transmission constraints, or if the renewable resources cost is higher than any limit imposed by the City Council.

SBX1-2 authorized the CEC to develop rules and regulations applicable to POUs and the California Public Utilities Commission (CPUC) to perform these actions for investor owned utilities and other CPUC regulated entities. The CEC and CPUC have initiated independent proceedings to develop regulations. The CEC is expected to adopt its regulation by June 2012. The CPUC schedule is a few months ahead of the CEC. Many provisions of SBX1-2 are subject to multiple interpretations. There are also multitudes of

jurisdictional issues that PWP is working to resolve along with other POUs. The City Council's reasonable interpretation for SBX1-2 provisions, including adoption of the proposed Enforcement Program, will govern PWP's RPS compliance obligation prior to adoption of regulations by the CEC. After the CEC adopts regulations, PWP will propose an RPS Procurement Plan and revised Enforcement Program, if necessary, for adoption by the City Council.

Pasadena's RPS Goals Pursuant To Energy IRP

On March 16, 2009, the City adopted RPS goals of 15% by 2010, 33% by 2015 and 40% by 2020 that exceed the RPS goals established by SBX1-2. PWP will provide a more detailed description of its compliance strategies to the City Council after the CEC develops its regulations. PWP is currently reviewing its Energy IRP and will present an updated plan to the City Council in the near future.

The Enforcement Program

The Enforcement Program includes provisions related to the development, adoption, progress reporting, violation reporting, and contingency relief with respect to PWP's RPS Procurement Plan for renewable resources.

The keys provisions of the proposed Enforcement Program include:

- A. Guidelines directing PWP to develop an RPS Procurement Plan for City Council adoption in conformance with with SBX1-2. The guidelines include RPS compliance targets, interim progress goals, and specify the required mix of various categories of eligible renewable energy resources as shown in Table 1.
- B. Public notice provisions with respect to the RPS Procurement Plan;
- C. Reporting requirements with respect to renewable resource procurement activities, implementation of the RPS Procurement Plan, and expenditures of Public Benefits Charge funds associated with renewable energy procurement;
- D. Ability to carry forward for future use, credits for actual renewable energy procurement in excess of specific compliance targets;
- E. Exclusion from enforcement or penalties of any deficiencies in meeting City Council-adopted RPS goals to the extent they exceed statutory minimum requirements;
- F. Grandfathering and Category provisions, as adopted by City Council on November 21, 2011 (Attachment 1- Exhibit 1), for the treatment of existing contracts as meeting the Category 1 definition; and
- G. Relief mechanisms that provide for flexibility in compliance obligations when circumstances beyond PWP's reasonable control have adverse reliability or excessive cost impacts.

Table 1: Renewable Resource Categories and RPS Requirements

Category	Definition	2011-2013	2016	After 2016
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 that may be delivered at times 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%	25%	33%

* *“Firmed and Shaped”*: A commonly used energy delivery arrangement for intermittent resources such as wind and solar. “Firmed” refers to a process by which a backup energy resource such as hydro or natural gas plant supplements the energy output of an intermittent resource to ensure that the total energy provided is sufficient to meet customer load. “Shaped” refers to an energy exchange arrangement when the energy equivalent to the output of an intermittent resource is delivered at a time different than actual time of generation.

Relief Mechanisms to Reduce RPS Targets

The statute provides for reducing RPS targets under certain conditions such as transmission limitations, project delays, when the cost of renewable resources exceeds limit set by the City Council, or, if PWP does not need additional energy resources because it already has sufficient energy resources to meet its projected retail sales. The statutory language related to most of these provisions is subject to different interpretations; however, the CEC is expected to clarify ambiguities through its regulations. At this time, the PWP is proposing to comply with RPS targets as provided in the SBX1-2. In the future, if PWP does not expect to be able to comply with RPS targets as set by the SBX1-2 due to reasons allowed by the statute, it would propose a modified Procurement Plan indicating new RPS targets along with justification for consideration of the City Council.

CITY COUNCIL POLICY CONSIDERATION

The proposed Enforcement Program is mandatory under State law and is consistent with the City’s Urban Environmental Accords Goals with respect to increasing renewable energy and reducing greenhouse gas emissions, the General Plan Energy Element, the City Council’s Strategic Planning Goals, and the 2009 Energy IRP.

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, therefore, this activity is not subject to CEQA.

The proposed action is the adoption of an Enforcement Program related to renewable energy compliance which is mandatory under State law. There are no specific projects proposed at this time. The Enforcement Program is a guidance document which does not commit the City or PWP to undertake any particular project at this time. It may be that further environmental review is required as particular actions are taken to comply with Senate Bill SBX1-2, and those actions will receive proper environmental review at the time an action is developed to the point where its potential environmental effects can be analyzed.

FISCAL IMPACT:

There is no anticipated fiscal impact as a result of this action and it will not have any indirect or support cost requirements. Although the Enforcement Program establishes the framework to procure renewable energy resources which may have substantial cost implications for PWP and its electric ratepayers, actual cost implications will not be known until PWP develops and implements a Procurement Plan pursuant to the Enforcement Program. Staff will return to the City Council with a Procurement Plan that includes projected budgeting and funding information in the future.

Respectfully submitted,

for 

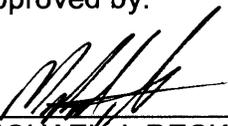
PHYLLIS E. CURRIE
General Manager
Water and Power Department

Prepared by:



GURCHARAN S. BAWA
Assistant General Manager
(Power Supply)

Approved by:



MICHAEL J. BECK
City Manager

Attachments:

Attachment 1 – RPS Enforcement Program

**City of Pasadena
RPS Enforcement Program
Pursuant to California Public Utilities Section 399.30**

December 12, 2011

PURPOSE:

The purpose of this Enforcement Program for the Pasadena Water and Power Department (PWP) is to comply with the Renewable Portfolio Standard pursuant to Public Utilities Code (PUC) Section 399.30 as established by Senate Bill X1-2 (SBX1-2).

SECTION A: PROCUREMENT PLAN GUIDELINES

PWP is hereby directed to develop a Procurement Plan for the City Council to consider for adoption. The Procurement Plan should at minimum include the following elements:

A. RPS Procurement Targets

Consistent with PUC Sections 399.30(c)(1) and (2), procure a minimum quantity of electricity products from eligible renewable energy resources, including renewable energy credits, as a specified percentage of total Retail Sales also known as Renewable Portfolio Standard (RPS) to achieve the following targets:

- (i) January 1, 2011 through December 31, 2013 (Compliance Period One):
20% RPS as an average for the period starting January 1, 2011 through December 31, 2013;
- (ii) January 1, 2014 through December 31, 2016 (Compliance Period Two):
25% RPS by December 31, 2016 and a reasonable progress in the intervening years 2014 and 2015; and,
- (iii) January 1, 2017 through December 31, 2020 (Compliance Period Three):
33% RPS by December 31, 2020 and a reasonable progress in the intervening years 2017 through 2019.

For the purpose of this Section A, Retail Sales shall be defined as the total volume of energy sold, in kilowatt-hours, to all retail end-use customers taking service under Pasadena Municipal Code (PMC) Sections 13.04.040 to 13.04.090, inclusive, and Sections 13.04.177 to 13.04.179, inclusive. This includes sales to customers taking service under the optional Green Power Service (PMC 13.04.179). Sales to retail customers taking Direct Access Service under PMC 13.04.095 shall not be included.

City of Pasadena RPS Enforcement Program
December 12, 2011

B. Portfolio Content Categories

Pursuant to PUC Section 399.30(c)(3), the following categories of the renewable resources should be used to meet the statutory RPS procurement targets:

- (i) Category 1: Eligible renewable energy resource electricity that meet the requirement of "in-state" or "out-of-state" resources scheduling power directly to a California balancing authority in accordance with PUC section 399.16(b)(1);
- (ii) Category 2: Firmed and shaped eligible renewable energy resource electricity products providing incremental electricity and scheduled into a California balancing authority, in accordance with PUC Section 399.16(b)(2); and,
- (iii) Category 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 Categories 1 or 2.

C. Crediting Portfolio Content Categories

PWP shall assign eligible renewable energy resource electricity products to their appropriate procurement content category consistent with Grandfathering provisions in Section F of this Enforcement Program and PUC Section 399.19(c)(3) as follows:

- (i) During the Compliance Period One, not less than 50 percent of eligible renewable energy resource procurement shall be Category 1, and not more than 25 percent shall be Category 3;
- (ii) For the Compliance Period ending December 31,2016, not less than 65 percent of eligible renewable energy resource procurement shall be Category 1, and not more than 15 percent shall be Category 3;
- (iii) From January 1, 2017, not less than 75 percent of eligible renewable energy resource procurement shall be Category 1, and not more than 10 percent shall be Category 3; and,
- (iv) The remaining amount needed to meet the RPS procurement targets can be fulfilled by procuring Category 2 renewable energy resources.

To the extent PWP's portfolio has a deficiency in Category 1 resources as a result of any regulatory or legislative action after December 10, 2011 that disqualifies any Grandfathered resources, no enforcement or penalties shall apply for such deficiencies.

D. Annual Review of the Procurement Plan

PWP shall annually provide progress and assessment of the approved Procurement Plan for Council consideration.

City of Pasadena RPS Enforcement Program

December 12, 2011

SECTION B: PUBLIC NOTICE FOR PROCUREMENT PLAN

Any time the City Council plans to consider adopting a new or modified Procurement Plan, PWP shall follow the following guidelines consistent with PUC Sections 399.30(f):

- A. Post public notice pursuant to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code (aka, Brown Act); and,
- B. Contemporaneously provide notice of the date, time, and location of the meeting and an electronic copy of the Procurement Plan and other documents to the California Energy Commission (CEC). This requirement is satisfied if PWP provides the Uniform Resource Locator (URL) that links this information to the CEC website.

SECTION C: REPORTING

Consistent with PUC Sections 399.30(g) and (l), PWP shall comply with the following reporting requirements.

- A. Annually submit to the CEC documentation regarding eligible renewable energy resources procurement contracts that were executed during the prior year, as follows:
 - (i) A description of the eligible renewable energy resource, including the duration of the contract or electricity purchase agreement;
 - (ii) A description and identification of the electrical generating facility providing the eligible renewable energy resource under the contract; and
 - (iii) An estimate of the percentage increase in the utility's total retail sales of electricity from eligible renewable energy resources that will result from the contract.
- B. Annually report to its customers and to the CEC, all of the following:
 - (i) Expenditures of Public Benefits Charge funds, as requested by the CEC, for eligible renewable energy resource development. Reports shall contain a description of programs, expenditures, and expected or actual results;
 - (ii) The resource mix used to serve its customers by energy source; and
 - (iii) PWP's progress and assessment of the Procurement Plan.

SECTION D. EXCESS PROCUREMENT

Pursuant to PUC Section 399.30(d), excess procurement in one compliance period may be applied without limit to a subsequent compliance period in the same manner as allowed for retail sellers by PUC Section 399.13. However, there will be no carryover of deficits between compliance periods.

City of Pasadena RPS Enforcement Program
December 12, 2011

SECTION E. VOLUNTARY RENEWABLE ENERGY PROCUREMENT IN EXCESS OF STATUTORY PROCUREMENT TARGETS

If the City Council establishes RPS goals for PWP higher than the Procurement Targets defined in PUC Section 399.30(c), or procures energy to serve PWP Green Power Service customers taking service under PMC 13.04.179, the eligible renewable resources procured in excess of the statutory minimum shall be deemed voluntary and not subject to:

- A. Any mandatory enforcement provisions under SBX1-2 or rules or regulations;
- B. Any restriction from carry over or banking provisions to subsequent Compliance Periods; sale, purchase or exchange; or any other use; and,
- C. Any restrictions on portfolio content categorization pursuant to PUC Section 399.30(c)(3).

SECTION F: GRANDFATHERING OF PRE-EXISTING RESOURCE AGREEMENTS

To meet RPS Procurement Targets, PWP will count the existing renewable resources under contract or approved by the City Council in accordance with the findings of the City Council, dated November 21, 2011 (attached hereto as Exhibit 1).

SECTION G: PROCUREMENT PLAN LIMITATIONS AND RELIEF

PWP shall use its best efforts to procure adequate supplies of renewable energy as set forth in this Enforcement Plan; however, PWP shall at all times maintain system reliability and maintain average procurement costs for retail electric sales in accordance with the approved budget and retail electric rates approved by the City Council. SBX1-2 and the City Council recognize that adverse situations beyond PWP's control may arise and prevent PWP from fulfilling the RPS Procurement Targets in a timely manner and consistent with such limitations.

In the event PWP discovers that such conditions may potentially prevent PWP from meeting the RPS Procurement Targets set forth in this Enforcement Plan, it shall notify the City Council of the adverse conditions and submit a revised Procurement Plan for discussion, approval, and implementation. Pursuant to PUC Section 399.30(m) and consistent with PUC Section 399.16(e) and PUC Section 399.15(b)(5), conditions which shall be accepted as grounds for reducing the goals of the Procurement Plan are as follows:

- A. Pursuant to PUC Section 399.30(m)(2) and consistent with Section 399.15(b)(5)(A), if PWP is unable to comply with an approved Procurement Plan due to inadequate transmission availability, PWP shall notify the City Council and submit a revised Procurement Plan for approval and implementation.

City of Pasadena RPS Enforcement Program
December 12, 2011

- B. Pursuant to PUC Section 399.30 (m) (1), if an approved Procurement Plan is subsequently projected to adversely affect system reliability or resource adequacy, PWP shall notify the City Council and submit a revised Procurement Plan for City Council approval and implementation.
- C. Pursuant to PUC Section 399.30(m)(2) and consistent with PUC Section 399.15(b)(5)(B), if an approved Procurement Plan is subsequently projected to be delayed due to permitting, interconnection, development (e.g., permitting, financing, etc.), operational problems (fires, balancing authority constraints, accidents, outages, etc.) or other circumstances such as legislative or regulatory problems, PWP shall notify the City Council and submit a revised Procurement Plan for approval and implementation.
- D. Pursuant to PUC Section 399.30(m)(2) and consistent with PUC Sections 399.15(c) and (d), if an approved Procurement Plan is subsequently projected to cause procurement expenditures or rates to increase beyond City Council approved limits or be short of revenue requirements, PWP shall notify the City Council and submit a revised Procurement Plan for approval and implementation.

Section H: ENFORCEMENT

The Council directs the PWP General Manager to inform the Council at a public meeting in the event that PWP will not meet the renewable energy procurement requirements as set forth in this RPS Enforcement Program. The PWP General Manager shall notify the CEC of such non-compliance, in the manner and schedule established by the CEC pursuant to regulations developed by the CEC in accordance with PUC Section 399.30(n).

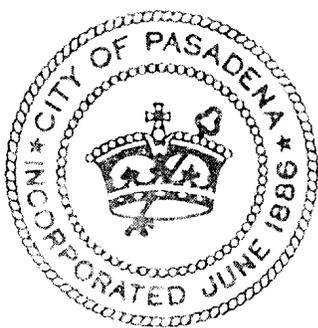
ATTACHMENTS

- Exhibit 1 – Findings of the City Council dated November 21, 2011 with respect to grandfathering of existing contracts and resources

City of Pasadena RPS Enforcement Program
December 12, 2011

Exhibit 1

**Findings of the City Council dated November 21, 2011 with respect to
grandfathering of existing contracts and resources**



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 POU's. 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.

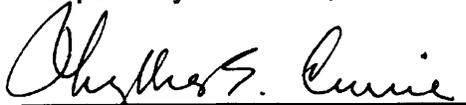
The proposed action is the finding that all renewable electricity resource contracts previously executed by the City or approved by the City Council for PWP are related to renewable energy compliance which is mandatory under State law. There are no specific projects proposed at this time. This report 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,

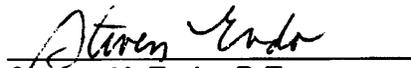


PHYLLIS E. CURRIE

General Manager

Water and Power Department

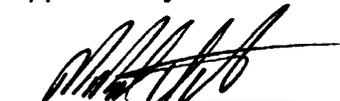
Prepared by:



Steven K. Endo, P.E.

Principal Engineer

Approved by:



MICHAEL J. BECK

City Manager

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	Schoil 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
- LFGTE - 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	SBX12 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).