

Decision PROPOSED DECISION OF ALJ ATAMTURK (Mailed 5/22/2019)

**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

**DECISION IMPLEMENTING PROVISIONS OF SENATE BILL 100 RELATING TO PROCUREMENT QUANTITY REQUIREMENTS UNDER THE CALIFORNIA RENEWABLES PORTFOLIO STANDARD**

**Summary**

This decision implements the procurement quantity requirements for the California renewables portfolio standard program for years beginning in 2021 that are revised by Senate Bill 100 (De León), Stats. 2018, ch. 312. In summary, the decision requires:

1. For the compliance period 2021-2024, retail sellers must procure no less than 44 percent of their retail sales from eligible renewable energy resources by December 31, 2024.
2. For the compliance period 2025-2027, retail sellers must procure no less than 52 percent of their retail sales from eligible renewable energy resources by December 31, 2027.
3. For the compliance period 2028-2030, retail sellers must procure no less than 60 percent of their retail sales from eligible renewable energy resources by December 31, 2030.
4. Progress toward compliance during intervening years of each compliance period from 2021 through 2030 will continue to be

treated using the same “straight-line” method set out in Decision (D) 11-12-020 and continued in D.16-12-040.

5. For each compliance period beginning with the 2031-2033 compliance period, each retail seller must procure not less than 60 percent of retail sales from eligible renewable resources, measured as an average over the compliance period.

## 1. Background

Senate Bill (SB) 100 (De León), Stats. 2018, ch. 312, enacted significant changes to California's energy policies, including several discrete changes to the renewables portfolio standard (RPS) program.<sup>1</sup> Prior to SB 100, the Commission implemented SB 350 (De León), Stats. 2015, ch. 547, and set the rules on the timing of compliance periods, changes to the procurement quantity requirements, long-term contracting requirements, excess procurement, and early compliance, among other things.<sup>2</sup>

In this proceeding, implementation of SB 100's provisions for the RPS program began with the Administrative Law Judge's Ruling Requesting Comment on Implementation of Elements of Senate Bill 100 Relating to Procurement under the California Renewables Portfolio Standard (Ruling) (February 11, 2019). Comments were filed on February 28, 2019 by Defenders of Wildlife; Green Power Institute (GPI); the Joint CCA Parties;<sup>3</sup> Independent Energy Producers Association (IEP); Liberty Utilities (CalPeco Electric L.L.C.), Bear Valley Electric Service, PacifiCorp (jointly) (collectively, CASMU); Pacific

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<sup>1</sup> The RPS program is codified at Public (Pub.) Utilities (Util.) Code §§ 399.11-399.33. All further references to sections are to the Pub. Util. Code, unless otherwise specified.

<sup>2</sup> See Decision (D.) 16-12-040 and D.17-06-026.

<sup>3</sup> Apple Valley Choice Energy, Clean Power Alliance of Southern California, Marin Clean Energy, Monterey Bay Community Power Authority, Peninsula Clean Energy Authority, Pioneer Community Energy, Redwood Coast Energy Authority, Silicon Valley Clean Energy Authority, and Sonoma Clean Power Authority.

Gas and Electric Company (PG&E); San Diego Gas & Electric Company (SDG&E) and Southern California Edison Company (SCE) (jointly); Small Business Utility Advocates (SBUA); The Utility Reform Network (TURN).

Reply comments were filed on March 11, 2019 by the Joint CCA Parties; PG&E, SDG&E and SCE (jointly); SBUA; and Public Advocates Office.

## **2. Procurement Quantity Requirements**

Under the RPS program, retail sellers must meet the procurement quantity requirements established for each compliance period. Procurement quantity requirements are defined by Section 399.15(b)(2)(B) and originally implemented in D.11-12-020.

SB 100 amended Section 399.15(b)(2)(B), raising the procurement quantity requirement for each compliance period through 2030, increasing the procurement quantity requirement to 60 percent from 50 percent for the year 2030, and requiring that retail sellers achieve not less than 60 percent for all subsequent three-year compliance periods. The amended Section 399.15(b)(2)(B) provides:

In establishing quantities for the compliance period from January 1, 2011, to December 31, 2013, inclusive, the Commission shall require procurement for each retail seller equal to an average of 20 percent of retail sales. For the following compliance periods, the quantities shall reflect reasonable progress in each of the intervening years sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25 percent of retail sales by December 31, 2016, 33 percent by December 31, 2020, 44 percent by December 31, 2024, 52 percent by December 31, 2027, and 60 percent by December 31, 2030. The commission shall establish appropriate three-year compliance periods for all subsequent years that require retail sellers to procure not less than 60 percent of retail sales of electricity products from eligible renewable energy resources.

This decision implements changes to the RPS procurement quantity requirements as mandated by the amendments to Section 399.15(b)(2)(B) and does not address SB 100's mandate for zero-carbon electricity for 2030 and beyond. As zero-carbon electricity is inherently broader than RPS resources, we expect that the issue will be examined in the Integrated Resource Planning proceeding (Rulemaking 16-02-007) or a successor proceeding.

### **2.1. Compliance through 2030**

Section 399.15(b)(2)(B) establishes new procurement quantity requirements for the compliance periods starting 2021 through 2030:

44 percent [of retail sales] by December 31, 2024; 52 percent by December 31, 2027; and 60 percent by December 31, 2030.

These requirements are analogous to those set by SB 350 and implemented by D.16-12-040 (Ordering Paragraphs 1-3) for the compliance periods through 2030.

In D.11-12-020, the Commission considered the concept of "reasonable progress in each of the intervening years" of a compliance period, set out in then Section 399.15(b)(2)(B) and operationalized in then-Section 399.15(b)(2)(C) by adopting quantitative targets for the intervening years in a compliance period. Within a compliance period, the intervening year targets would be determined by a straight-line trend, i.e., uniform increases in each of the years of the compliance period, from the procurement quantity requirement from the past compliance period to the procurement quantity requirements for the current compliance period.<sup>4</sup>

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<sup>4</sup> D.11-12-020, Section 3.2.

In implementing SB 350, the Commission continued the straight-line trend method adopted in D.11-12-020 to monitor a retail seller's progress toward compliance during intervening years of each compliance period from 2021 through 2030.

The majority of parties agree that the straight-line trend method should be continued under SB 100.<sup>5</sup> SBUA, IEP, and Defenders of Wildlife support modifications to achieve the overall policy of 100 percent eligible renewable energy resource and zero-carbon resource by 2045.

No party provided any evidence that the straight-line method adopted in D.11-12-020 has created any problems in complying with RPS procurement obligations to date. Furthermore, as TURN points out, SB 100 only increases the RPS targets for each compliance period without making any changes to the structure of the program. Therefore, there is no reason to revisit the Commission's decision in order to implement SB 100's analogous requirements. The implementation of SB 100 should be consistent with the implementation of SB 350. As such, and as majority of parties recommend, it is reasonable to continue to use the same straight-line method for implementing the RPS goals adopted in SB 100. We reiterate that this decision does not address procurement activities to achieve California's zero-carbon electricity goals for beyond 2030.

In their opening comments, SCE and SDG&E note that SB 100, at Pub. Util. Code § 399.11(a) "declares" a target of 50 percent RPS-eligible resources by December 31, 2026 and SB 100, at Pub. Util. Code § 399.15(b)(2)(B) identifies a target of 52 percent RPS-eligible resource by December 31, 2027. SCE and SDG&E explain that relying on §399.11(a) to determine the December 31, 2026

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<sup>5</sup> These include Public Advocates, PG&E, TURN, GPI, CASMU, SCE and SDG&E (jointly), and the Joint CCAs.

interim year target would deviate from the straight-line method which would require a 49.3 percent goal by December 31, 2026. In SCE and SDG&E's view, the 50 percent target by December 31, 2026 "appears to be an erroneous remnant of an earlier version of SB 100 which had different Compliance Periods."<sup>6</sup> SCE and SDG&E recommend that the Commission continue the use of the "straight line" method and utilize the target of 52 percent RPS-eligible resources by December 31, 2027, as the way to resolve this difference. While no party objects, PG&E recommends using a modified-straight line method in one compliance period to accommodate the 50 percent target stated in §399.11(a).

As SCE and SDG&E note, Section §399.15 establishes compliance period parameters and governs the implementation of the revised RPS targets, while Section 399.11(a) makes a declaratory statement. As such, we find it reasonable to adopt the target of 52 percent as procurement quantity requirement, as mandated by §399.15(b)(2)(B).

In sum, each retail seller must procure sufficient RPS-eligible resources to demonstrate reasonable progress in meeting the procurement targets for each compliance period from 2021 through 2030. The numerical expression of this requirement for the compliance period 2021-2024 is:

Megawatt-hours (MWh) of RPS-eligible procurement required =  
 $(.3575 * 2021 \text{ retail sales}) + (.385 * 2022 \text{ retail sales}) + (.4125 * 2023 \text{ retail sales}) + (.44 * 2024 \text{ retail sales})$ , where retail sales are expressed in MWh.

The numerical expression for the compliance period 2025-2027 is:

MWh of RPS-eligible procurement required =  
 $(.4667 * 2025 \text{ retail sales}) + (.4933 * 2026 \text{ retail sales}) + (.52 * 2027 \text{ retail sales})$ , where retail sales are expressed in MWh.

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<sup>6</sup> SCE and SDG&E Joint Opening Comments, February 28, 2019, at 3.

The numerical expression for the compliance period 2028-2030 is:

$$\text{MWh of RPS-eligible procurement required} =$$

$$(.5467 * 2028 \text{ retail sales}) + (.5733 * 2029 \text{ retail sales}) + (.60 * 2030 \text{ retail sales}),$$

where retail sales are expressed in MWh.

**Table I: Procurement Targets**

	Year	Procurement Targets (D.16-12-040)	Revised Procurement Targets
<b>Compliance Period 4</b>	2021	34.8 percent	35.75 percent
	2022	36.5 percent	38.5 percent
	2023	38.3 percent	41.25 percent
	2024	40 percent	44 percent
<b>Compliance Period 5</b>	2025	41.7 percent	46.67 percent
	2026	43.3 percent	49.33 percent
	2027	45 percent	52 percent
<b>Compliance Period 6</b>	2028	46.7 percent	54.67 percent
	2029	48.3 percent	57.33 percent
	2030	50 percent	60 percent

### **2.1.1. Compliance beginning 2031**

In implementing SB 350, the Commission determined that for each compliance period beginning with the 2031-2033 compliance period, each retail seller must procure not less than 50 percent of retail sales from eligible renewable resources, measured as an average over the compliance period. SB 100 raised the procurement target to 60 percent, but did not require any other structural changes.

The majority of parties agree that there is no reason for the Commission to change the method of establishing the procurement quantity requirements for compliance periods subsequent to 2030.

SB 100 treats the requirements for compliance periods beginning in 2031 in a way similar to the treatment of earlier compliance periods. It is therefore reasonable to maintain the procurement quantity requirement compliance periods beginning in 2031 as established in D.16-12-020. For each compliance period commencing after 2030, each retail seller must procure not less than 60 percent of retail sales from RPS-eligible resources. Because the procurement quantity requirement does not escalate from one post-2030 compliance period to the next, there is no need for any measure of reasonable progress within a compliance period. The procurement quantity requirements for compliance periods beginning in 2031 should be an average of 60 percent of retail sales over the compliance period. The numerical expression of this requirement is:

MWh of RPS-eligible energy required =

$.60 * (\text{Year 1 of period retail sales} + \text{Year 2 of period retail sales} + \text{Year 3 of period retail sales})$ , where retail sales are expressed in MWh.

### **3. Next Steps**

Retail sellers should promptly incorporate the compliance periods and procurement quantity requirements established by this decision into their RPS procurement planning processes.

Since nothing in SB 100 changes any of the compliance requirements for the current compliance period, retail sellers should continue to follow the instructions of the Director of Energy Division in reporting on their RPS compliance.



#### **4. Comments on Proposed Decision**

The proposed decision of Administrative Law Judge (ALJ) Nilgun Atamturk in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on June 11, 2019, by GPI, PG&E, and SCE, supporting the proposed decision. SCE also suggested a minor correction. In response, we revised the Compliance Period numbering in Table I from 1, 2 and 3, to Compliance Period 4, 5 and 6, respectively. No substantive changes were made to the proposed decision.

#### **5. Assignment of Proceeding**

Clifford Rechtschaffen is the assigned Commissioner; Nilgun Atamturk and Sarah R. Thomas are the co-assigned ALJs in this proceeding.

#### **Findings of Fact**

1. SB 100 increased procurement quantity requirements for compliance with RPS procurement requirements, beginning in 2021.
2. SB 100 did not change the overall structure of the RPS program.
3. The current structure of the RPS program uses the straight-line method for determining progress toward procurement quantity requirements.
4. There is no evidence that the straight-line method has created any RPS compliance problems.

#### **Conclusions of Law**

1. In order to implement the requirements of SB 100, procurement quantity requirements should be revised for all compliance periods, beginning with the 2021-2024 compliance period.

2. Reasonable progress for the compliance periods 2021-2024, 2025-2027, and 2028-2030 should continue to be determined by using the straight-line method set by D.11-12-020 and continued by D.16-12-020.

3. Retail sellers should continue to show compliance with the procurement quantity requirement for a compliance period by procuring the cumulative quantity of RPS-eligible resources required for the compliance period.

4. For the compliance period 2021-2024, the RPS procurement quantity requirement of each retail seller should be:

MWh of RPS-eligible procurement required =  
 $(.3575 * 2021 \text{ retail sales}) + (.3850 * 2022 \text{ retail sales}) + (.4125 * 2023 \text{ retail sales}) + (.44 * 2024 \text{ retail sales})$ , where retail sales are expressed in MWh.

5. For the compliance period 2025-2027, the RPS procurement quantity requirement of each retail seller should be:

MWh of RPS-eligible procurement required =  
 $(.4667 * 2025 \text{ retail sales}) + (.4933 * 2026 \text{ retail sales}) + (.52 * 2027 \text{ retail sales})$ , where retail sales are expressed in MWh.

6. For the compliance period 2028-2030, the RPS procurement quantity requirement of each retail seller should be:

MWh of RPS-eligible procurement required =  
 $(.5467 * 2028 \text{ retail sales}) + (.5733 * 2029 \text{ retail sales}) + (.60 * 2030 \text{ retail sales})$ , where retail sales are expressed in MWh.

7. For the compliance period 2031-2033, and for each compliance period thereafter, the RPS procurement quantity requirement of each retail seller should be:

MWh of RPS-eligible energy required =

.60 \* (Year 1 of period retail sales + Year 2 of period retail sales + Year 3 of period retail sales), where retail sales are expressed in MWh.

8. In order to allow retail sellers to plan effectively for continued RPS compliance, this order should be effective today.

## ORDER

**IT IS ORDERED** that:

1. For compliance with the California renewables portfolio standard (RPS) in the compliance period beginning January 1, 2021 and ending December 31, 2024, each retail seller must procure sufficient renewable energy resources eligible under the RPS to demonstrate reasonable progress in meeting the procurement target of 44 percent of retail sales by December 31, 2024, and to procure no less than the quantities calculated by the straight-line trend method in the intervening years. The numerical expression of this procurement quantity requirement is:

Megawatt-hours of procurement eligible under the RPS required =  
(.3575 \* 2021 retail sales) + (.385 \* 2022 retail sales) + (.4125 \* 2023 retail sales) + (.44 \* 2024 retail sales), where retail sales are expressed in megawatt-hours.

2. For compliance with the California renewables portfolio standard (RPS) in the compliance period beginning January 1, 2025 and ending December 31, 2027, each retail seller must procure sufficient renewable energy resources eligible under the RPS to demonstrate reasonable progress in meeting the procurement target of 52 percent of retail sales by December 31, 2027, and to procure no less than the quantities calculated by the straight-line trend method in the

intervening years. The numerical expression of this procurement quantity requirement is:

Megawatt-hours of procurement eligible under the RPS required =  
 $(.4667 * 2025 \text{ retail sales}) + (.4933 * 2026 \text{ retail sales}) + (.52 * 2027 \text{ retail sales})$ , where retail sales are expressed in megawatt-hours.

3. For compliance with the California renewables portfolio standard (RPS) in the compliance period beginning January 1, 2028 and ending December 31, 2030, each retail seller must procure sufficient renewable energy resources eligible under the RPS to demonstrate reasonable progress in meeting the procurement target of 60 percent of retail sales by December 31, 2030, and to procure no less than the quantities calculated by the straight-line trend method in the intervening years. The numerical expression of this procurement quantity requirement is:

Megawatt-hours of procurement eligible under the RPS required =  
 $(.5467 * 2028 \text{ retail sales}) + (.5733 * 2029 \text{ retail sales}) + (.60 * 2030 \text{ retail sales})$ , where retail sales are expressed in megawatt-hours.

4. For compliance with the California renewables portfolio standard (RPS) in the compliance period beginning January 1, 2031 and ending December 31, 2033, and in each three-year compliance period thereafter, each retail seller must procure sufficient renewable energy resources eligible under the RPS to meet the procurement target of 60 percent of retail sales on average during the compliance period. The numerical expression of this procurement quantity requirement is:

Megawatt-hours of procurement eligible under the RPS required =  
 $.60 * (\text{Year 1 of period retail sales} + \text{Year 2 of period retail sales} + \text{Year 3 of period retail sales})$ , where retail sales are expressed in megawatt-hours.

5. Rulemaking 18-07-003 remains open.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.