

Decision **PROPOSED DECISION OF ALJ SIMON** (Mailed 6/12/2007)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop
Additional Methods to Implement the
California Renewables Portfolio Standard
Program.

Rulemaking 06-02-012
(Filed February 16, 2006)

OPINION MODIFYING DECISION 06-10-019

Summary

We modify the formula for calculating the renewable procurement baseline amounts of energy service providers (ESPs) for the renewables portfolio standard (RPS) program set out in Decision (D.) 06-10-019 to be consistent with the renewable baseline formula we adopted in D.07-03-046. We also make additional changes to clarify the RPS baseline formula for new load serving entities (LSEs) and to remove inconsistencies.

Background

As part of the continuing development of the RPS program, D.06-10-019 set forth the rules covering the participation of ESPs and community choice aggregators (CCAs) in the RPS program, including instructions for calculating RPS procurement baseline amounts for these categories of LSEs. In D.06-10-050, we organized and explained the methodology for RPS reporting and compliance. Southern California Edison Company (SCE) filed an application for rehearing of D.06-10-050 on November 22, 2006. Among other issues, SCE sought rehearing on the method for calculating baseline procurement amounts provided in

D.06-10-050. In D.07-03-046, we modified the baseline calculation set out in D.06-10-050 and denied rehearing of that decision as modified.

Discussion

As noted in D.06-10-019, SB 107 (Simitian), 2006 Stats. ch. 464, sets January 1, 2006 as the beginning of ESPs' RPS procurement obligations.¹ Taking this newly enacted legislation into account, in D.06-10-019 we expressed the baseline procurement amount for a respondent ESP as its total RPS-eligible procurement in 2005. (See D.06-10-019, Appendix B.)

In D.07-03-046, we modified the formula for calculating the baseline procurement amount for investor-owned utilities (IOUs) to be:

$$\text{2003 Initial Baseline Procurement Amount} = (\text{2001 RPS-eligible procurement} / \text{2001 total retail sales}) \times \text{2003 total retail sales} + 1\% \text{ of 2001 total retail sales}$$

In keeping with our intention to have the most uniform possible administration of the RPS program among different types of LSEs, we now on our own motion revisit the ESP baseline formula in D.06-10-019. We conclude that the formula for IOUs set out in D.07-03-046 can be easily adapted for use by respondent ESPs.² The baseline procurement amount for respondent ESPs should therefore be calculated according to the following formula:

¹ This provision is codified at Pub. Util. Code § 399.12(h)(3).

² Because ESPs are not subject to RPS procurement requirements prior to 2006 and did not participate in the 2002-2003 interim renewables solicitation, we do not apply the additional "1% of 2001 total retail sales" to them.

2005 Initial Baseline Procurement Amount = (2001 RPS-eligible procurement/2001 total retail sales) x 2005 total California retail sales

We modify the text, findings of fact, conclusions of law, and order in D.06-10-019 to include this new baseline formula. We also clarify in the text, findings of fact, conclusions of law, and order our direction that the baseline procurement amount for LSEs that begin retail operations in California on or after January 1, 2006 should be calculated on the basis of the LSE's total California retail sales in its first calendar year of retail operations.³

Comments on Proposed Decision

The proposed decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and Rule 14.2(a) of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____.

Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Anne E. Simon is the assigned ALJ in this proceeding.

Findings of Fact

1. D.07-03-046 modified the formula for calculating the RPS baseline procurement amount for IOUs.

³ The Findings of Fact, Conclusions of Law, and Interim Order, as modified, are set out in Appendix C hereto.

2. D.06-10-019 adopted a formula for calculating the RPS baseline procurement amount for respondent ESPs that is based on different criteria than the formula in D.07-03-046.

3. It is reasonable to modify the baseline procurement amount formula in D.06-10-019 to be consistent with the formula in D.07-03-046.

4. It is reasonable to modify D.06-10-019 to clarify that the calculation of baseline procurement amounts for LSEs beginning retail operations in California on or after January 1, 2006 will be based on their total California retail sales in their first calendar year of operation.

Conclusions of Law

1. The formula for calculating RPS baseline procurement amounts for respondent ESPs in D.06-10-019 should be modified to be consistent with the formula for baseline procurement amounts in D.07-03-046.

2. D.06-10-019 should be modified to clarify that the baseline procurement amounts of LSEs beginning retail operations in California on or after January 1, 2006 will be based on their total California retail sales in their first calendar year of operation.

3. In order to allow efficient administration of the RPS program, this order should be effective immediately.

O R D E R

IT IS ORDERED that Decision 06-10-019 shall be modified as follows:

- a. The paragraph beginning on the bottom of page 11 and carrying over to page 12 shall have added as its last sentence: "The formula for calculating respondent ESPs' 2005 baseline procurement amounts is: 2005 Initial Baseline Procurement

Amount = (2001 RPS-eligible procurement/2001 total retail sales) x 2005 total California retail sales.”

- b. The second full paragraph on p. 12 shall be modified by adding “respondent” between “the” and “ESPs” in the second sentence.
- c. Footnote 26 on page 12 shall be modified by deleting “registered” and “registration” and replacing them with “operating” and “retail operations,” respectively.
- d. The last paragraph on p. 18 shall be modified by deleting the third sentence and replacing it with: “Its baseline procurement amount would be its RPS-eligible procurement in its first year of operation; its APT in the second year would consist of its initial baseline procurement amount plus its IPT, calculated as 1% of its first-year retail sales.”
- e. Finding of Fact (FOF) 1 shall be modified by deleting it and replacing it with: “It is reasonable to use 2005 as the procurement year for determining the baseline RPS procurement amounts of respondent ESPs in California, according to the formula: 2005 initial baseline procurement amount = (2001 RPS-eligible procurement/2001 total retail sales) x 2005 total California retail sales.”
- f. FOF 2 shall be modified by deleting it and replacing it with: “It is reasonable to use the first year of California retail operations as the year for determining the baseline RPS procurement amount for those ESPs, if any, commencing California operations on or after January 1, 2006, with the baseline being the total RPS-eligible procurement in the ESP's first calendar year of California retail operation.”
- g. FOF 3 shall be modified by adding "respondent" between “allow” and “ESPs.”

- h. FOF 10 shall be modified by adding at the end, “with the baseline being the total RPS-eligible procurement in the CCA's first calendar year of California retail operation.”
- i. Conclusion of Law (COL) 1 shall be modified by deleting it and replacing it with: “The year 2005 should be used as the procurement year for determining the baseline RPS procurement of respondent ESPs in California, according to the formula: 2005 initial baseline procurement amount = (2001 RPS-eligible procurement/2001 total retail sales) x 2005 total California retail sales.”
- j. COL 2 shall be modified by deleting it and replacing it with: “The first year of California retail operations should be used as the year for determining the baseline RPS procurement amount for those ESPs, if any, commencing California operations on or after January 1, 2006, with the baseline being the total RPS-eligible procurement in the ESP's first calendar year of California retail operation.”
- k. COL 3 shall be modified by adding as its first word, “Respondent.”
- l. COL 8 shall be modified by adding at the end of the sentence, “with the baseline being the total RPS-eligible procurement in the CCA's first calendar year of California retail operation.”
- m. Ordering Paragraph (OP) 1 shall be modified by adding “and community choice aggregator (CCA)” after “ESP,” and adding at the end of the sentence, “with the renewable procurement baseline amount of each respondent ESP calculated in accordance with the formula: 2005 Initial Baseline Procurement Amount = (2001 RPS-eligible procurement/2001 total retail sales) x 2005 total California retail sales.”
- n. OP 2 shall be modified by adding between “Each” and “ESP,” the word “respondent.”

- o. OP 8 shall be modified by deleting it and replacing it with “The renewable procurement baseline of a community choice aggregator (CCA) shall be the total RPS-eligible procurement in the CCA’s first calendar year of California retail operation.”

- p. Appendix B shall be modified by deleting it and replacing it with “Appendix B: Sample ESP/CCA Baseline and Annual Procurement Target (APT) Calculations,” which is Appendix B to this order.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

APPENDIX B**SAMPLE ESP / CCA BASELINE AND ANNUAL PROCUREMENT TARGET (APT) CALCULATIONS**

#	MWh	2001	2005	2006	2007	2008	Calculation
A	Total California Retail Sales	18,000	20,000	21,000	20,500	23,000	
B	Total RPS-Eligible Procurement	450	N/A	N/A	N/A	N/A	As verified by CEC
C	2001 RPS percentage	2.5%	N/A	N/A	N/A	N/A	Line B / Line A
D	2005 Baseline Procurement Amount ⁴	N/A	500	N/A	N/A	N/A	2001 renewable percentage * 2005 total retail sales
E	Incremental Procurement Target (IPT)	N/A	N/A	200	210	205	1% * Prior Year Line A
F	Annual Procurement Target (APT) ⁵	N/A	N/A	700	910	1115	Line E + Prior Year Line F ⁶

⁴ For any ESP or CCA not currently operating in California, the baseline procurement amount will be calculated as: total RPS-eligible procurement in first calendar year of operation.

⁵ Unless and until RPS procurement targets of greater than 20% are established, APT will not be greater than 20% of the prior year's retail sales.

⁶ Because there is no APT for ESPs in 2005, the APT in 2006 is calculated by adding the 2006 IPT to the 2005 baseline procurement amount.

(END OF APPENDIX B)