

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298**FILED**08/19/20  
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August 19 ,2020

**Agenda ID #18713**  
**Ratesetting**

TO PARTIES OF RECORD IN RULEMAKING 18-07-003:

This is the proposed decision of Administrative Law Judges Nilgun Atamturk and Manisha Lakhanpal. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's September 24, 2020 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4)(B).

/s/ ANNE E. SIMON  
Anne E. Simon  
Chief Administrative Law Judge

AES:gp2  
Attachment

Decision PROPOSED DECISION OF ALJS ATAMTURK AND LAKHANPAL  
(Mailed 8/19/2020)

**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 ON NEW COMMUNITY CHOICE AGGREGATORS' 2019 RENEWABLES PORTFOLIO STANDARD PROCUREMENT PLANS, PACIFICORP'S ON-YEAR SUPPLEMENT, AND ENERCAL'S REQUEST FOR WAIVER**

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**DECISION ON NEW COMMUNITY CHOICE AGGREGATORS' 2019  
RENEWABLES PORTFOLIO STANDARD PROCUREMENT PLANS,  
PACIFICORP'S ON-YEAR SUPPLEMENT, AND ENERCAL'S  
REQUEST FOR WAIVER**

**Summary**

This decision deems as final and accepts the 2019 Renewables Portfolio Standard (RPS) Procurement Plans (Plans) submitted by four new Community Choice Aggregators (CCAs) but cautions the CCAs that more detail is required in their future RPS Plans. The four affected CCAs are the following: Butte Choice Energy Authority; Clean Energy Alliance; the City of Santa Barbara; and San Diego Community Power. Each of these CCAs is anticipated to start providing electricity to customers in 2021.

This decision also deems as final and accepts PacifiCorp's on-year supplement to its 2019 Integrated Resource Plan.

This decision grants the request of EnerCal USA, LLC (DBA Yep Energy) (EnerCal) for a waiver from filing RPS Plans, until such time that EnerCal serves retail load.

This proceeding remains open.

**1. RPS Requirements Applicable to Community Choice Aggregators**

Senate Bill (SB) 350 (De León, Stats. 2015, ch. 547) (SB 350) revised the Commission's requirements regarding what entities it shall direct to file RPS Procurement Plans (RPS Plans). Electric Service Providers (ESPs) and Community Choice Aggregators (CCAs) must file RPS Plans consistent with the requirements of Pub. Util. Code § 399.13(a)(5). All new CCAs and ESPs are required to file RPS Plans when they register with the Commission or 90 days prior to commercial operation, whichever is first.<sup>1</sup>

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<sup>1</sup> Decision (D.) 17-12-007 at Ordering Paragraph 4.

*The Assigned Commissioner and Assigned Administrative Law Judge's Ruling Identifying Issues and Schedule of Review for 2019 Renewables Portfolio Standard Procurement Plans* issued in April 19, 2019 (2019 RPS ACR) directed all CCAs and ESPs to include the following RPS information in their 2019 RPS Plans that is responsive to Pub. Util. Code § 399.13(a)(5).

**Table 1. Summary of 2019 RPS Plan Requirements**

5.1 Assessment of RPS Portfolio Supplies and Demand	Details the RPS portfolio and technology mix and the percentage of power served with renewable resources. The demand assessment focuses on retail sales and annual procurement need.
5.2 Project Development Status Update	Update of development of RPS-eligible resources currently under contract. These resources may be either in development, under construction, or online.
5.3 Potential Compliance Delays	Rationale for potential delays in achieving compliance with the RPS program.
5.4 Risk Assessment	Evaluation of risks associated with retail sales, generation, project failure, curtailment events, and project delays.
5.5 Quantitative Information	Quantitative information, such as retail sales forecasts, renewable net short calculations, and annual procurement data.
5.6 "Minimum Margin" of Procurement	Analysis of data on minimum margin of procurement, defined as the minimum amount of renewables needed to address anticipated project failure or delay.
5.7 Bid Solicitation Protocol, Including Least Cost Best Fit Methodologies	Bid solicitation protocols for procuring additional RPS resources.
5.8 Consideration of Price Adjustment Mechanisms	Include perspective on price-adjustment mechanisms in contracts and evaluate what impacts they will have on ratepayers.
5.9 Curtailment frequency, costs, and forecasting	Detail on curtailment activities (e.g., economic curtailment) and how curtailment has affected RPS planning and compliance.

5.10 Cost Quantification	Annual summary of actual and forecasted RPS procurement costs and generation by technology type.
5.11 Important Changes to Plans Noted	
5.12 Redlined Copy of Plans Required	
5.13 Safety Considerations	Information on RPS contract provisions related to safety of a facility's operations, construction, and decommissioning

## 2. RPS Requirements Applicable to PacifiCorp

RPS procurement requirements for multi-jurisdictional utilities and their successors allow these utilities to meet their RPS procurement obligations without regard to the portfolio content category limitations in Pub. Util. Code § 399.16.

For RPS purposes, PacifiCorp is a multi-jurisdictional utility and is permitted to use an Integrated Resource Plan (IRP) prepared for regulatory agencies in other states to satisfy its annual California RPS Procurement Plan requirements so long as the IRP complies with the requirements specified in Pub. Util. Code § 399.17(d). PacifiCorp prepares its IRP on a biennial schedule, filing its plan with the Commission in odd numbered years. It files a supplement to this plan in even numbered years. As required by Decision (D.) 08-05-029, PacifiCorp must file and serve its IRP in Rulemaking (R.) 06-05-027 or its successor proceeding. Pursuant to D.11-04-030, in years that PacifiCorp does not file an IRP, a comprehensive supplement to its IRP is filed by July 15. This supplement is to include an analysis of how the IRP and the supplement comply with the requirements in Pub. Util. Code § 399.17(d).

## 3. New CCAs' and PacifiCorp's Filings

As new CCAs, Butte Choice Energy Authority,<sup>2</sup> Clean Energy Alliance,<sup>3</sup> the City of Santa Barbara,<sup>4</sup> and San Diego Community Power<sup>5</sup> (collectively, new CCAs) timely submitted their 2019 RPS Plans.

D.17-12-007 directed CCAs to file their RPS Procurement Plans upon registering with the Commission or 90 days prior to delivering load, whichever happens first. All the new CCAs received registration certification letters from the Energy Division. The new CCAs submitted their Implementation Plans and Statements of Intent between December 2019 and January 2020.<sup>6</sup> They submitted their 2019 RPS Procurement Plans in early 2020.<sup>7</sup> The new CCAs all stated that they intend to serve residential and/or commercial load starting in 2021.<sup>8</sup>

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<sup>2</sup> Butte Choice Energy Authority initially intends to provide electric generation service to approximately 90,500 service accounts located within Unincorporated Butte County and the City of Chico, which are expected to consume approximately 1,035 gigawatt-hour (GWh) per year.

<sup>3</sup> Clean Energy Alliance plans to provide electric generation service to approximately 58,000 service accounts located within the cities of Carlsbad, Del Mar and Solana Beach, which are expected to consume approximately 950 GWh per year.

<sup>4</sup> The City of Santa Barbara plans to provide electric generation service to approximately 41,000 service accounts located within the City of Santa Barbara, which are expected to consume approximately 330 GWh per year.

<sup>5</sup> San Diego Community Power originally plans to provide electric generation service to approximately 696,000 service accounts located within the cities of Chula Vista, Encinitas, Imperial Beach, LaMesa and San Diego which are expected to consume approximately 7,100 GWh per year.

<sup>6</sup> Implementation Plan and Statement of Intent submitted on December 23, 2019 by Butte Choice Energy Authority, December 19, 2019 by Clean Energy Alliance, January 29, 2020 by the City of Santa Barbara, December 9, 2019 by San Diego Community Power. Letters of certification are available here: <https://www.cpuc.ca.gov/general.aspx?id=2567>

<sup>7</sup> 2019 RPS Procurement Plans were submitted on April 30, 2020 by Butte Choice Energy Authority, March 30, 2020 by Clean Energy Alliance, January 29, 2020 by the City of Santa Barbara, March 30, 2020 by San Diego Community Power.

<sup>8</sup> In its 2019 Annual RPS Compliance Report submitted on August 3, 2020, Butte Choice Energy Authority stated that it will not begin operations until 2022.

The new CCAs have all submitted similar RPS Procurement Plans.

Highlights of these plans are listed below:

- Overall, the new CCAs' initial plans reflect more of a notice of what they may do in the future, including statements of awareness of RPS rules.
- New CCAs assert that they will meet the RPS requirements but none of the new CCAs have executed long-term or short-term RPS procurement contracts yet. New CCAs anticipate completing initial contract executions by the first quarter of 2021.
- New CCAs state that they have no costs to report as they have not undertaken any procurement yet.
- Because these CCAs have not yet begun to serve load or undertaken procurement activities, they provide little planning criteria for risk assessment, Minimum Margin of Procurement (MMoP) strategies, or a Least-Cost Best-Fit (LCBF) methodology.
- There is a lack of information and quality in the filings of the new CCAs.

On October 18, 2019 PacifiCorp filed its IRP and on November 8, 2019

PacifiCorp filed its 2019 on-year supplement to its 2019 IRP. Highlights of PacifiCorp's on-year supplement are as follows:

- PacifiCorp's Renewable Net Short calculations show some deficiency for Compliance Period 3 (2017-2020);<sup>9</sup> and PacifiCorp plans to procure unbundled RECs.<sup>10</sup>
- PacifiCorp submitted its RPS cost data and indicated it spent approximately eight million dollars on RPS

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<sup>9</sup> Attachment B, PacifiCorp's Public 2019 IRP On-Year Supplement.

<sup>10</sup> PacifiCorp filed a Tier 1 Advice Letter (AL 610-E) on April 21, 2020 requesting approval of unbundled REC transaction as a result of their November 2019 Request for Proposal for capacity and energy supply.



procurement of biomass, solar, small hydro, and wind resources in 2019.<sup>11</sup>

Table 2 below is an analysis of the new CCAs’ and PacifiCorp’s progress toward meeting the RPS statute’s long-term contracting requirement, ranging from those appearing to be on track in meeting the requirement to those farthest from meeting it. We will continue to monitor progress toward long-term contracting carefully for all load serving entities.

**Table 2: CCA Long-Term Contracting Positions  
(Including Launch Year)**

<b>On Track: Met 65% Long-Term Contracting Requirement</b>	<b>In Progress: Achieved Less Than 65% Long-Term Contracting</b>	<b>Off Track: No Long- Term Contracts</b>
PacifiCorp		Butte Choice Energy Authority  Clean Energy Alliance  San Diego Community Power  City of Santa Barbara

**4. Deficiencies in 2019 RPS Plans**

While we accept the 2019 RPS Plans and deem them complete for 2019, the CCAs must submit more detailed RPS Plans going forward and improve the quality of their filings. The discussion below refers to the requirements for 2019 RPS Plans set forth in the 2019 RPS ACR. Some of these requirements are

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<sup>11</sup> See Attachment C in PacifiCorp’s Public 2019 IRP On-Year Supplement for its Cost Quantification.

either unmet or the responses presented in the plans need improvement. These requirements are listed in Table 3 and explained in Sections 4.1 through 4.6.

In summary, the CCAs provided scant information, as was noted with respect to other CCAs in D.19-02-007, D.19-09-007, and D. 19-12-042. CCAs should provide detailed information that is responsive to this Decision and to the Commission’s directions in subsequent ACRs and Decisions.

**Table 3: Deficiencies in 2019 RPS Plans<sup>12</sup>**

ACR Section #	ACR Requirement	Butte Choice Energy Authority	Clean Energy Alliance	PacifiCorp	San Diego Community Power	City of Santa Barbara
5.1	Assessment of RPS Portfolio Supplies and Demand	√	√	√	√	√
5.2	Project Development Status Update	√	√	√	√	√
5.3	Potential Compliance Delays	√	√	√	√	√
5.4	Risk Assessment	Needs improvement	Needs improvement	√	Needs improvement	Needs improvement
5.5	Quantitative Information	√	√	√	√	√
5.6	Minimum Margin of Procurement	Did not meet requirement	Needs improvement	√	Needs improvement	Needs improvement
5.7	Bid Solicitation Protocol, Including LCBF Methodologies	Needs improvement	Needs improvement	√	Needs improvement	Needs improvement
5.8	Consideration of price adjustment mechanisms	√	√	Did not meet requirement	√	√

<sup>12</sup> The symbol “√” denotes that the requirement is met.

5.9	<b>Curtailed frequency, costs and forecasting</b>	Needs improvement	Needs improvement	Not required, but included	Needs improvement	Needs improvement
5.10	<b>Cost quantification</b>	√	√	√	√	√
5.11	<b>Important changes to plans noted</b>	N/A - First RPS Plan	N/A - First RPS Plan	Did not meet requirement	N/A - First RPS Plan	N/A - First RPS Plan
5.12	<b>Redline copy of plan required</b>	N/A - First RPS Plan	N/A - First RPS Plan	Did not meet requirement	N/A - First RPS Plan	N/A - First RPS Plan
5.13	<b>Safety considerations</b>	Needs improvement	Needs improvement	√	Needs improvement	Needs improvement

#### 4.1. Risk Assessment

Section 5.4 of the 2019 RPS ACR requires the load-serving entities to provide a written assessment of the risk in their RPS portfolios in relation to the RPS compliance requirements.

PacifiCorp provided robust information on risk, whereas the new CCAs provided minimal information, expressing that it was premature to perform quantitative risk analysis.

A summary of the CCAs' and PacifiCorp's responses to this requirement is provided below:

- PacifiCorp includes a robust description of risk modeling from its 2019 IRP using deterministic and probabilistic assessments; conducts assessments for risk of failure to build or construction delays for new RPS resources; and does not anticipate significant delays except in purchasing RECs.
- Butte Choice Energy Authority Board of Directors intends to adopt an Energy Risk Management Policy, which examines potential risk in forecasting as well as during

procurement review and decision making. Butte Choice Energy Authority will use seller qualifications and staggering contracts to mitigate risk.

- Clean Energy Alliance provides a boilerplate assessment of risk and notes that it is attempting to gain an improved understanding of the impacts of the upcoming reopening of direct access market to its customer base.
- San Diego Community Power states that it does not anticipate any compliance delays. San Diego Community Power is concerned about impacts of COVID-19 pandemic and ramping up with long-term procurement; but does not explain what their exact concerns are or what the impacts of supply chain disruption could be for new renewable project development to justify their concerns.
- The City of Santa Barbara also provides a boilerplate risk assessment.

#### **4.2. Minimum Margin of Procurement**

Section 5.6 of the 2019 RPS ACR requires all LSEs to provide data analysis on MMoP, defined as the minimum amount of renewables needed above RPS requirements to address anticipated project failure or delay.

None of the new CCAs have formally set MMoP criteria, but most indicate that they intend to procure renewables above the minimum RPS requirement.

- Butte Choice Energy Authority failed to include any MMoP, which is inconsistent with the 2019 RPS ACR requirements and Pub. Util. Code § 399.13(a)(4)(D). Butte Choice Energy Authority plans to procure only what is required by law, but its Board has approved an option to offer customers a choice of 100 percent renewables.
- The City of Santa Barbara has not established an MMoP, stating that it intends to implement a local default goal of 100 percent renewable resources, with an option for customers to “opt-down” to a lower percentage but does not identify any lower proportion(s).

- PacifiCorp does not have a set MMoP and plans to procure only the amount of RECs necessary for compliance. PacifiCorp seeks to minimize the over-procurement of RECs to reduce costs for its customers.

The following CCAs have some amount of over-procurement but have not set an official MMoP:

- Clean Energy Alliance does not have an established MMoP, but has an interim renewable resource goal of 50 percent (with a 100 percent renewable service offering available on a voluntary basis). Clean Energy Alliance should clarify whether it anticipates being able to use its excess renewable resources as its MMoP.
- San Diego Community Power does not have an established MMoP but has an interim renewable requirement of 50 percent. San Diego Community Power should clarify whether it anticipates being able to use its excess renewable resources as its MMoP.

#### **4.3. Bid Solicitation Protocol**

Section 5.7 of the 2019 RPS ACR directs load-serving entities to provide information on bid solicitation protocols for procuring additional RPS resources. Because new CCAs have not commenced any procurement activities, they provide high-level boiler plate language on how they may approach procuring RPS-eligible resources.

PacifiCorp proposes to meet its near and long-term needs through the acquisition of renewable resources and purchase of unbundled RECs, as needed. The Commission notes that if PacifiCorp decides to construct, own, and operate a new renewable resource, they must submit an application to the Commission only if they intend to allocate 100 percent of the output to California customers.

#### **4.4. Price Adjustment Mechanism**

Section 5.8 of the 2019 RPS ACR directs LSEs to provide their perspectives on price-adjustment mechanisms in contracts and evaluate what impacts they will have on ratepayers. Because new CCAs have not commenced any procurement activities, they provide high-level boiler plate language, stating that they will consider price adjustment mechanisms in future procurement.

PacifiCorp does not address the ACR this requirement in its on-year supplement.

#### **4.5. Curtailment Frequency, Costs, and Forecasting**

Section 5.9 of the 2019 RPS ACR requires details on curtailment activities (*e.g.*, economic curtailment) and how curtailment has affected RPS planning and compliance.

New CCAs did not provide much useful information on how they will specifically address curtailment concerns with new procurement. Most CCAs did include CAISO-wide statistics on curtailment and state they will consider curtailment when procuring in the future.

Even though PacifiCorp is not required to provide this information, PacifiCorp states that it does not expect curtailment of existing RPS projects to impact its generation or deliveries. PacifiCorp models new RPS resources in its IRP as dispatchable resources and accounts for curtailment in those resource forecasts. PacifiCorp procures from a geographically diverse set of system resources and states that curtailment of any one facility is unlikely to have a major impact on their RPS position.

#### **4.6. Safety**

Section 5.13 of 2019 RPS ACR requires information on RPS contract provisions related to safety of a facility's operations, construction, and decommissioning

New CCAs use the same language to respond to this requirement. They state that while safety is a top priority, this requirement is not applicable, because they do not own and operate any renewable resources.

PacifiCorp includes a description of its organizational approach to safety and notes that there are stringent "safety provisions and standards in all contracts with RPS-eligible resources."<sup>13</sup>

#### **4.7. Quality of Plans**

Overall, there is a lack of information and the quality of filings from the new CCAs is far from satisfactory, which is a consistent pattern observed with most new CCAs. All new CCAs' RPS Plans use a significant amount of boilerplate language with minimal information and report no set procurement planning activities.

Unlike the new CCAs, PacifiCorp generally delivers high content quality in its on-year supplement with a robust reference to its 2019 IRP filing.<sup>14</sup>

#### **4.8. Requests**

All CCAs, except for Butte Choice Energy Authority, requested that the Commission consider an "on-ramp" for the long-term contracting requirement, particularly for new CCAs. Because the statute governing RPS requirements does

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<sup>13</sup> PacifiCorp's safety considerations are discussed in Section IV of their IRP On-Year Supplement.

<sup>14</sup> PacifiCorp's IRP is a detailed document that provides an assessment of PacifiCorp's overall portfolio resource needs in all states that it operates in.

not provide for such a ramp-up process for meeting the long-term contracting requirement, the CCA's request for a ramp-up is denied.

Further, while the current long-term contracting requirement implemented in D.12-06-038 requires only a small portion of long-term contracts in an LSE's portfolio,<sup>15</sup> SB 350 changed the requirement to 65 percent of the total procurement quantity requirement for the compliance period.<sup>16</sup> While the new requirements do not take effect until the 2021 through 2024 compliance period, as noted in Table 2, the new CCAs have not done any long-term procurement, and we are concerned whether all CCAs are on target to comply with the long-term contracting requirement on schedule. That is why it is critical for CCAs to provide detailed and complete information in response to RPS requirements.

## **5. Conclusion**

It is reasonable to assume that if the new CCAs have not signed any contracts for RPS resources they do not have exact required information to report to the Commission. However, the purpose of RPS Plans is to ensure all LSEs have a *plan* to serve load that matches statutory requirements. The lack of information on CCA procurement planning is harmful to RPS procurement planning efforts, as the Commission is unsure what and when some CCAs will procure contracts to meet the RPS requirements.

The new CCAs must remedy the foregoing deficiencies as discussed in this decision as well as provide detailed RPS Plans that are responsive to all subsequent CPUC Decisions, RPS Procurement Plan ACRs, and the ALJ Ruling

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<sup>15</sup> D.12-06-038 implements the minimum quantity requirement of 0.25 percent of total retail sales specified by SB 2 (1X).

<sup>16</sup> Public Utilities Code Section 399.13(b).



on Renewable Net Short<sup>17</sup> in their future RPS Procurement Plans. These CCAs have already filed their draft 2020 RPS Procurement Plans, which will be considered in a Commission decision in the fourth quarter of 2020.<sup>18</sup>

Hence, we accept the CCAs' RPS Plans with direction to provide more responsive details and correct the noted deficiencies in their future RPS Procurement Plans, particularly for the following issues:

- New CCAs' future plans should provide more details on their long-term contracting processes and timeframe, particularly providing a basis for potential delays related to issues raised for COVID-19 pandemic or their ability as a new CCA to meet this requirement.
- New CCAs should clarify mixed messages of noting concerns for meeting requirements due to the current pandemic, reopening of direct access market and signaling the need for a long-term contracting on-ramp, while stating that they will be able to meet the procurement requirements.
- New CCAs should clarify whether over-procurement of renewables will be RPS-eligible. Further, they should clarify whether they anticipate being able to use their excess RPS resources as their MMoP as well as the process they will use for adjusting their MMoP in the future as the procurement quantity requirement increases, forecasts change, and risks evolve.
- Given the 65 percent long-term contracting requirement is commencing in 2021, new CCAs should clarify their plans for how they will meet the long-term procurement requirement in Compliance Period 2021-2024.

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<sup>17</sup> The 2014 ALJ Ruling on Renewable Net Short Methodology:  
<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M091/K331/91331194.PDF>

<sup>18</sup> Email Ruling on July 10, 2020 extending the Renewable Portfolio Standard Procurement Plans (RPS Plans) review schedule.

- Butte Choice Energy has no MMoP and only plans to meet the RPS procurement requirements with a 100 percent renewable option. It is unknown whether any customers would opt into a 100 percent renewable option and what portion would be RPS eligible. Butte Choice Energy Authority should include a defined MMoP in its future RPS Plans.
- The City of Santa Barbara should address the potential risk of what proportion of customers will opt-down from 100 percent renewable resources and what portion of that option are RPS eligible in order to identify the necessary margin of over-procurement of RPS resources.

The Commission also accepts PacifiCorp's 2019 on-year supplement with the following conditions:

- PacifiCorp did not file a redlined version of their previous RPS Procurement Plan filing and thereby does not meet the 2019 RPS ACR Requirement Section 5.12. PacifiCorp should include a redlined version of their previous RPS Plan filing in its next filing.
- PacifiCorp did not address the 2019 RPS ACR requirement of MMoP (399.13(a)(4)(D)) in a separate section but does state that it only plans to meet the minimum RPS procurement requirements and minimize any over procurement of RECs. While the Commission accepts the MMoP as provided in its 2019 on-year supplement, PacifiCorp should explicitly address the MMoP requirement in its next RPS Plan filing.
- PacifiCorp should address the Price Adjustment mechanisms requirement in its next RPS Plan filing.

## **6. EnerCal's Request**

This decision grants EnerCal's request by granting a waiver from filing RPS Plans. The waiver will expire immediately if and when EnerCal resumes serving load in California and thereby incurs RPS procurement obligations.

### **6.1. Procedural Background**

On April 16, 2019, the assigned Commissioner and assigned Administrative Law Judge (ALJ) issued a ruling (with dates modified by a May 7, 2019 ruling) setting the filing requirements and schedule for the 2019 RPS process. Retail sellers filed their proposed annual RPS Procurement Plans on or before June 21, 2019. In D.19-12-042, the Commission acted on the draft 2019 RPS Procurement Plans of the load serving entities, including EnerCal's. D.19-14-042 finds that EnerCal's Draft 2019 RPS Plan is deficient because it does not include sufficient information about EnerCal's RPS procurement costs, least-cost best-fit methodology, and minimum margin of procurement, among others.<sup>19</sup>

On January 7, 2020, EnerCal filed a petition to modify D. 19-12-042 and requested that the Commission modify D.19-12-042 to provide that EnerCal is not required to update its 2019 RPS Plan; and to add EnerCal to the list of ESPs in ordering Paragraph 34 that are exempt from the requirements to file RPS plans for future years. In its Petition, EnerCal explained that EnerCal has not signed up any retail customers since its ESP registration become effective in October 2010 and it has never served any retail load in California.

The ALJ Ruling issued on March 5, 2020 directed EnerCal to file a motion seeking exemption from filing its final 2019 Renewables Portfolio Standard (RPS) Procurement Plan and RPS Procurement Plans for future years until EnerCal begins serving load.

On April 3, 2020, EnerCal filed a motion seeking exemption from the requirement to file a final 2019 RPS Procurement Plan and the requirement to file RPS Procurement Plans in future years. The ALJ Ruling issued on July 6, 2020

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<sup>19</sup> D.19-12-042 at 56.

granted EnerCal a waiver to file 2019 (Final) and 2020 Renewable Portfolio Standard Procurement Plans (RPS Plan).

## **6.2. Discussion**

This decision exempts EnerCal from filing future RPS Plans. In D.13-11-024, the Commission determined that it is reasonable not to require an ESP to file a procurement plan if they do not serve any retail load.<sup>20</sup> The exemption is granted in response to motions seeking exemptions and will expire if and when a non-load serving ESP begins or resumes serving load in California and thereby incurs RPS procurement obligations. This exception does not exempt the non-load serving ESPs from filing RPS Compliance Reports or making submissions other than the RPS Procurement Plan itself, in order to ensure accurate record-keeping and account for the potential of serving load during a portion of the compliance period.

In its Motion, EnerCal explains that EnerCal does not serve any retail load in California and will not have any RPS procurement information to provide to the Commission unless and until it starts serving retail load in California. EnerCal adds that it does not currently have any plans to start serving retail load in California.<sup>21</sup>

Hence, it is reasonable to grant EnerCal's request by granting a waiver from filing future RPS Procurement Plans. The waiver will expire immediately if and when EnerCal resumes serving load in California and thereby incurs RPS procurement obligations. The requirement to file annual RPS Compliance Reports and other RPS required submissions remains unchanged. As stated in

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<sup>20</sup> D.13-11-04 at Conclusion of Law 28.

<sup>21</sup> Motion at 3.

the ALJ Ruling issued on March 5, 2020, EnerCal may withdraw its petition to modify D.19-12-042.

### **7. Comments on Proposed Decision**

The proposed decision of ALJs Atamturk and Lakhanpal 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 \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_ by \_\_\_\_\_.

### **8. Assignment of Proceeding**

Clifford Rechtschaffen is the assigned Commissioner and ALJ Nilgun Atamturk and ALJ Manisha Lakhanpal are the assigned Administrative Law Judges in this proceeding.

### **Findings of Fact**

1. CCAs Butte Choice Energy Authority, Clean Energy Alliance, the City of Santa Barbara, and San Diego Community Power filed 2019 RPS Procurement Plans that state they will start serving load in 2021.
2. Butte Choice Energy Authority, Clean Energy Alliance, the City of Santa Barbara, and San Diego Community Power filed 2019 RPS Procurement Plans that lacked detail required by the 2019 RPS ACR.
3. PacifiCorp submitted its Integrated Resource Plan and 2019 On-Year Supplement to its 2019 Integrated Resource Plan providing the information required under Sections 5.1-5.7, Section 5.10, and Section 5.13 of the 2019 RPS ACR.
4. Pursuant to D.13-11-024, it is reasonable not to require an ESP to file a procurement plan if they do not serve any retail load.

5. EnerCal is an ESP that does not serve load and has not served load since 2010.

### **Conclusions of Law**

1. Because the New CCAs will not serve load until 2021; have already filed draft 2020 RPS Plans; and D.19-02-007 accepted other CCAs' 2019 Plans that mirror those of the new CCAs, it is appropriate to deem the 2019 RPS Procurement Plans of CCAs Butte Choice Energy Authority, Clean Energy Alliance, the City of Santa Barbara, and San Diego Community as final and accepted.

2. Because the statute governing RPS requirements does not provide for a ramp-up process for meeting the long-term contracting requirement, the CCAs' request for a ramp-up should be denied.

3. The New CCAs should address the deficiencies in their 2019 RPS Procurement Plans identified in this decision in their final 2020 RPS Procurement Plans.

4. In accordance with D.13-11-024, it is reasonable to grant EnerCal's request for a limited, provisional waiver of its obligation to submit an RPS Procurement Plan, if the waiver expires immediately if and when EnerCal resumes service.

5. PacifiCorp's motion for confidential treatment is consistent with Commission decisions and should be granted.

## **O R D E R**

### **IT IS ORDERED** that:

1. Pursuant to Public Utilities Code Section 365.1(c)(1), the 2019 Renewables Portfolio Standard (RPS) Procurement Plans filed by the following community choice aggregators are accepted and deemed final: Butte Choice Energy Authority, Clean Energy Alliance, the City of Santa Barbara, San Diego

Community Power (new CCAs). The New CCAs must address the deficiencies in their 2019 RPS Procurement Plans identified in this decision in their final 2020 RPS Procurement Plans.

2. The 2019 On-Year Supplement to its 2019 Integrated Resource Plan of PacifiCorp is accepted and deemed final. PacifiCorp must explicitly address the minimum margin of procurement requirement and the price adjustment mechanisms requirement in its 2021 On-Year Supplement to its 2021 Integrated Resource Plan filing and include a redline version in its next Renewables Portfolio Standard Plan filing.

3. PacifiCorp's motion for confidentiality as to the 2019 On-Year Supplement to its 2019 Integrated Resource Plan (2019 On-Year Supplement) is granted.

4. The motion by EnerCal USA, LLC (DBA Yep Energy) for a waiver from filing future Renewables Portfolio Standard (RPS) Procurement Plans is granted, with the condition that the waiver expires immediately if and when EnerCal resumes service. The requirement to file annual RPS Compliance Reports and other RPS required submissions remains unchanged.

5. Rulemaking 18-07-003 remains open.

This order is effective today.

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