

**RESOLUTION NO. 2011-26**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIGGS  
ADOPTING A PROGRAM FOR ENFORCEMENT OF THE RENEWABLE  
PORTFOLIO STANDARDS PROGRAM**

**BE IT RESOLVED BY THE CITY OF BIGGS AS FOLLOWS:**

**WHEREAS**, the State of California has an existing California Renewables Portfolio Standard Program (RPS program), that is intended to increase the amount of electricity generated per year from eligible renewable energy resources,

**WHEREAS**, on April 12, 2011, the Governor of the State of California signed California Senate Bill 2 of the First Extraordinary Session (SBX1-2, Chapter 1, Statutes of 2011, First Extraordinary Session), known as the *California Renewable Energy Resources Act*;

**WHEREAS**, SBX1-2 states the intent of the Legislature that the amount of electricity generated per year from eligible renewable energy resources be increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2013, and 33% by December 31, 2020.

**WHEREAS**, pursuant to the provisions of Public Utilities Code section 399.30(a), the City must adopt and implement a renewable energy resources procurement plan to fulfill unmet long-term generation resource needs, that requires the City to procure a minimum quantity of electricity products from eligible renewable energy resources, including renewable energy credits, as a specified percentage of the total kilowatt-hours sold to the City's retail end-use customers each compliance period, to achieve specified procurement targets (hereinafter referred to as the "RPS Procurement Plan");

**WHEREAS**, the City has adopted and implemented, or will adopt and implement, an RPS Procurement Plan that includes compliance periods (Compliance Periods) pursuant to Public Utilities Code section 399.30(b). Such Compliance Periods shall be January 1, 2011 to December 31, 2013, inclusive (Compliance Period 1), January 1, 2014 to December 31, 2016, inclusive (Compliance Period 2), January 1, 2017 to December 31, 2020, inclusive (Compliance Period 3), and each calendar year annually after 2020;

**WHEREAS**, the City has adopted and implemented, or will adopt and implement, an RPS Procurement Plan that includes specified procurement targets (Procurement Targets) of renewable energy resources for each Compliance Period pursuant to Public Utilities Code section 399.30(c)(1) and (2). Procurement Targets must average twenty percent of retail sales by December 31, 2013, meet twenty-five percent of retail sales by December 31, 2016, thirty-three percent of retail sales by December 31, 2020, and thirty-three percent of retail sales for all years thereafter;

**WHEREAS**, the City has adopted and implemented, or will adopt and implement, an RPS Procurement Plan that includes provisions that address a demonstration of reasonable progress in 2014 and 2015 to ensure the twenty five percent RPS procurement requirement by 2016 and reasonable progress in 2017, 2018, and 2019 to ensure the thirty three percent RPS procurement requirement by 2020, pursuant to Public Utilities Code section 399.30(c)(2);

**WHEREAS**, the City has adopted and implemented, or will adopt and implement an RPS Procurement Plan that includes definitions for three renewable product content categories (Content Categories) pursuant to Public Utilities Code section 399.30(c)(3) and consistent with Public Utilities Code section 399.16;

**WHEREAS**, the City's RPS Procurement Plan shall include Content Category 1; Content Category 1, shall include resources that 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, including 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, but only the fraction of the schedule actually generated by the eligible renewable energy resource shall count toward this portfolio content category, or have an agreement to dynamically transfer electricity to a California balancing authority consistent with Public Utilities Code section § 399.16(b)(1) (A) and (B);

**WHEREAS**, the City's RPS Procurement Plan shall include Content Category 2; Content Category 2 shall include firmed and shaped eligible renewable energy resource electricity products providing incremental electricity and scheduled into a California balancing authority consistent with Public Utilities Code section 399.16(b)(2);

**WHEREAS**, the City's RPS Procurement Plan shall include Content Category 3; Content Category 3 shall include all other resources not included in Content Categories 1 or 2 consistent with Public Utilities Code § 399.16(b)(3);

**WHEREAS**, the City has adopted and implemented, or will adopt and implement, an RPS Procurement Plan that includes the minimum procurement requirements (Procurement Requirements) of eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010 for each Compliance Period consistent with Public Utilities Code section 399.30(c)(3) and section 399.16;

**WHEREAS**, the City's RPS Procurement Plan shall include Content Category 1 Procurement Requirements of not less than fifty percent of the eligible renewable energy resource electricity for Compliance Period 1, not less than sixty-five percent of the eligible renewable energy resource electricity for Compliance Period 2, and not less than seventy-five percent of the eligible renewable energy resource electricity for Compliance Period 3 and every year thereafter.

**WHEREAS**, the City's RPS Procurement Plan shall include Content Category 3 Procurement Requirements of not more than twenty-five percent of the eligible renewable energy resource electricity for Compliance Period 1, not more than fifteen percent of the eligible renewable energy resource electricity for Compliance Period 2, and not more than ten percent of the eligible renewable energy resource electricity for Compliance Period 3.

**WHEREAS**, the City has adopted and implemented, or will adopt and implement, an RPS Procurement Plan that provides a definition for grandfathered resources (Grandfathered Resources) consistent with Public Utilities Code section 399.16(d). Grandfathered Resources shall include contract or ownership agreement originally executed prior to June 1, 2010 for resources that were RPS eligible under the rules in place when the contract was executed, and for which any subsequent contract amendments or modifications after June 1, 2010 do not increase the nameplate capacity for the facility, nor increase expected quantities of annual generation, nor substitute different kind of renewable resource, and for which original agreements were of 15 or more years;

**WHEREAS**, the City has adopted and implemented, or will adopt and implement, an RPS Procurement Plan that includes rules for application of excess procurement (Excess Procurement) of eligible renewable energy resource electricity from one Compliance Period to a subsequent Compliance Period consistent with Public Utilities Code section 399.30(d)(1) and 399.13(a)(4)(B). The application of Excess Procurement provides that beginning January 1, 2011, Excess Procurement from one Compliance Period may be applied to a subsequent Compliance Period. The amount of Excess Procurement shall be calculated by deducting from actual procurement quantities, the total amount of procurement associated with contracts of less than ten years in duration, and shall not include any resources designated as Content Category 3;

**WHEREAS**, the City has adopted and implemented, or will adopt and implement, an RPS Procurement Plan that includes conditions for delaying timely compliance consistent with Public Utilities Code section 399.30(d)(2) and section 399.15(b). The City may approve a waiver of timely compliance (Waiver of Timely Compliance) in the event that there is inadequate transmission capacity (§ 399.15(b)(5)(A)), permitting, interconnection, or other factors that delayed procurement or insufficient supply (§ 399.15(b)(5)(B)), unanticipated curtailment are mandated to address needs of the balancing authority (§ 399.15(b)(5)(C)), or related factors existed;

**WHEREAS**, the City has adopted and implemented, or will adopt and implement, an RPS Procurement Plan that establishes procedures to employ in the event of an approval of a Waiver of Timely Compliance, which provisions require the City to establish additional reporting for intervening years to demonstrate that reasonable actions under the City's control are being taken (§ 399.16(b)(6)) and to demonstrate that all reasonable actions within the City's control have been taken to ensure compliance in the future (§ 399.16(b)(7)); in no event shall the deficit from prior compliance periods be added to subsequent compliance periods in the event of a waiver for timely compliance (§ 399.16(b)(9));

**WHEREAS**, the City has adopted and implemented, or will adopt and implement, an RPS Procurement Plan that establishes procedures that address cost limitations for expenditures on renewable resources (Cost Limitations for Expenditures) consistent with Public Utilities Code section 399.30(d)(3) and section 399.15(c). Cost Limitations for Expenditures shall be applicable to procurement expenditures for all eligible renewable energy resources used to comply with the renewables portfolio standard, and shall be based on factors that include, but are not limited to, the most recent renewable energy procurement plan, procurement expenditures that approximate the expected cost of building, owning, and operating eligible renewable energy resources, and the potential that some planned resource additions may be delayed or canceled, and further, that the Cost Limitation for Expenditures is set at a level that prevents disproportionate rate impacts, that the costs of all procurement credited toward achieving the renewables portfolio standard are counted towards the Cost Limitation for Expenditures, and that procurement expenditures do not include any indirect expenses, including imbalance energy charges, sale of excess energy, decreased generation from existing resources, transmission upgrades, or the costs associated with relicensing any utility-owned hydroelectric facilities;

**WHEREAS**, pursuant to the provisions of Public Utilities Code section 399.30(m), the City shall retain discretion over the mix of eligible renewable energy resources procured by the City and those additional generation resources procured by the City for purposes of ensuring resource adequacy and reliability, and the reasonable costs incurred by the City for eligible renewable energy resources owned by it;

**WHEREAS**, pursuant to the provisions of Public Utilities Code section 399.30(e), the City is required to adopt a program for the enforcement of the RPS program;

**WHEREAS**, pursuant to the provisions of Public Utilities Code section 399.30(e), the City must adopt the enforcement program on or before January 1, 2012;

**WHEREAS**, on September 9, 2011, the California Legislature ended the First Extraordinary Session;

**WHEREAS**, SBX1-2 becomes effective on December 10, 2011, ninety-one days after the end of the First Extraordinary Session; and

**WHEREAS**, the City Council, in compliance with Public Utilities Code section 399.30(e), desires to adopt a program for the enforcement of RPS program.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BIGGS DOES HEREBY RESOLVE AS FOLLOWS:**

1. The City shall have a program for the enforcement of RPS program, which shall include all of the provisions set forth herein and shall be known as the "City's RPS Enforcement Program";
2. The City's RPS Enforcement Program shall be effective January 1, 2012,

3. Not less than 10 days' advance notice shall be given to the public before any meeting is held to make a substantive change to the City's RPS Enforcement Program,
4. Annually, the Director of Biggs Electric Utility shall cause to be reviewed, the City's RPS Procurement Plan to determine compliance the RPS Program,
5. Annual review of the RPS Procurement Plan shall include consideration of each of the following elements:
  - A. By December 31, 2013 (end of Compliance Period 1):
    - Verify that the City has met twenty percent of retail sales with eligible renewable resources from the specified Content Categories
    - If targets are not met, the City must:
      - Ensure than any Waiver of Timely Compliance was compliant with the provisions in the RPS Procurement Plan
      - Review the applicability and appropriateness of excusing performance based on the Cost Limitations on Expenditures provisions of the RPS Procurement Plan
  - B. By December 31, 2014
    - Ensure that the City is making reasonable progress toward meeting the December 31, 2016 compliance obligation, consistent with the RPS Procurement Plan
  - C. By December 31, 2015
    - Ensure that the City is making reasonable progress toward meeting the December 31, 2016 compliance obligation, consistent with the RPS Procurement Plan
  - D. December 31, 2016 (end of Compliance Period 2)
    - Verify that the City has met twenty-five percent of retail sales with eligible renewable resources from the specified Content Categories
    - If targets are not met, the City must:
      - Review the applicability of applying Excess Procurement from Compliance Period 1 consistent with the provisions of the RPS Procurement Plan
      - Ensure than any Waiver of Timely Compliance was compliant with the provisions in the RPS Procurement Plan
      - Review applicability and appropriateness of excusing performance based on the Cost Limitations on Expenditures provisions of the RPS Procurement Plan
  - E. By December 31, 2017
    - Ensure that the City is making reasonable progress toward meeting the December 31, 2020 compliance obligation of thirty-three percent renewable resources electricity, consistent with the RPS Procurement Plan

- F. By December 31, 2018
  - Ensure that the City is making reasonable progress toward meeting the December 31, 2020 compliance obligation of thirty-three percent renewable resources electricity, consistent with the RPS Procurement Plan
  
- G. By December 31, 2019
  - Ensure that the City is making reasonable progress toward meeting the December 31, 2020 compliance obligation of thirty three percent renewable resources electricity, consistent with the RPS Procurement Plan
  
- H. December 31, 2020 (end of Compliance Period 3), and annually thereafter,
  - Verify that that the City met thirty-three percent of retail sales with eligible renewable resources from the specified Content Categories, consistent with the RPS Procurement Plan
  
  - If targets are not met, the City must:
    - Review the applicability of applying Excess Procurement from a previous Compliance Period consistent with the provisions of the RPS Procurement Plan
    - Ensure than any Waiver of Timely Compliance was compliant with the provisions in the RPS Procurement Plan
    - Review applicability and appropriateness of excusing performance based on the Cost Limitations on Expenditures provisions of the RPS Procurement Plan
  
- 6. If it is determined that the City has failed to comply with the provisions of its RPS Procurement Plan, the City Council shall direct that the City immediately take steps to correct any untimely compliance, including:
  - a. review of the City's RPS Procurement Plan to determine what changes, if any, are necessary to ensure compliance in the next Compliance Period,
  - b. report quarterly to the City Council regarding the progress being made toward meeting the compliance obligation for the next Compliance Period.
  
- 7. Effective Date: This Resolution shall be effective on January 1, 2012.

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**I HEREBY CERTIFY** that the foregoing **RESOLUTION** was duly introduced, passed and adopted at a regular meeting of the City Council of the City of Biggs, held on the 19<sup>st</sup> of December 2011, by the following vote:

AYES: COUNCILMEMBER Frith, Thompson, Arnold, Bottorff & Sheppard

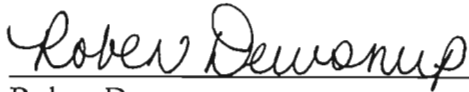
NOES: COUNCILMEMBER \_\_\_\_\_

ABSENT: COUNCILMEMBER \_\_\_\_\_

ABSTAIN: COUNCILMEMBER \_\_\_\_\_

ATTEST:

APPROVED:



Roben Dewsnup  
CITY CLERK



Roger L. Frith  
MAYOR