Agenda Report

June 1, 2015

TO: Honorable Mayor and City Council

THROUGH: Municipal Services Committee (May 26, 2015)

FROM: Water and Power Department

SUBJECT: **ADOPT 2015 RENEWABLE PORTFOLIO STANDARD PROCUREMENT PLAN PURSUANT TO THE ENFORCEMENT PROGRAM FOR THE PASADENA WATER AND POWER DEPARTMENT ("PWP") IN ACCORDANCE WITHTHE CALIFORNIA RENEWABLE ENERGY RESOURCES ACT, SENATE BILL X1-2**

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the adoption of the 2015 Renewable Portfolio Standard ("RPS") Procurement Plan, which is consistent with the Enforcement Program and pursuant to Section 399.30 of the Public Utilities Code ("PUC"), is exempt from the California Environmental Quality Act ("CEQA") per Section 15061(b)(3).

2. Adopt the proposed RPS Procurement Plan for PWP pursuant to Section 399.30(f) of the PUC.

EXECUTIVE SUMMARY:

SBX1-2 was chaptered on April 12, 2011, establishing RPS requirements for all electric utilities in the State, including publicly owned utilities ("municipal utilities") such as PWP. SBX1-2 included the following key provisions:

- Established minimum RPS procurement targets, expressed as a percentage of a utility's retail electricity sales volume;
- Created three Portfolio Content Categories ("Category" or "Categories") to represent different types of resources, with a preference for those in-state;
- Established three Compliance Periods covering the calendar years 2011-2020; and
- Provided authority to the California Energy Commission ("CEC") to develop requirements, guidelines, and monitor compliance by publicly-owned utilities such as PWP.

SBX1-2 requirements specifically applicable to municipal utilities include:

1. Regulatory bodies, such as the Pasadena City Council, are required to adopt and implement a "Procurement Plan", to demonstrate how the regulated utility intends to comply with the goals and requirements of SBX1-2;
2. Regulatory bodies must conduct a public hearing to consider and adopt an "Enforcement Program" by which they would impose and regulate the specific criteria of the Procurement Plan to meet SBX1-2 goals as stated in Public Utilities Code ("PUC") Section 399.30; and
3. The CEC must report non-compliance to the California Air Resources Board ("CARB") to determine penalties (note that CARB has yet to develop penalties).

On July 22, 2013, the City Council adopted a Procurement Plan to comply with the first requirement of SBX1-2 listed above. The Procurement Plan described how PWP would procure appropriate amounts of each renewable resource Category during each Compliance Period to meet the requirements of SBX1-2. It also described how PWP would procure additional resources to meet the voluntary RPS goal established in the 2012 Integrated Resource Plan ("IRP"). Section 3205(a)(2) of the CEC's Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities, dated August 2013, specifies that, "A POU . . . shall adopt a renewable energy resources procurement plan detailing how the POU will achieve its RPS targets annually." In order to meet this annual requirement, a proposed 2015 revision of the PWP RPS Procurement Plan is provided as Attachment 2.

The changes in the revised RPS Procurement Plan include:

- A clarification of the definition of "retail sales," as used in the CEC Enforcement Procedures, upon which the RPS procurement target is based, to exclude: energy consumption by a POU, electricity used by a POU for water pumping, or electricity produced for onsite consumption (self-generation).

- An update on the amount of energy expected to be supplied by *existing* contracts in 2020 (approximately 340 GWh[1], or 32% of projected retail sales).
- An update on the status of new, amended, terminated, and defaulting or potentially defaulting renewable energy project contracts.
- A description of the PWP renewable energy contract procurement process.
- Updated procurement plan tables listing specific contract quantities by portfolio content category and year.
- A revised description of potential RPS compliance penalties.
- An updated load projection.
- A new chart illustrating how PWP's energy resources compare (or "stack" up) to its projected retail sales.
- An updated list of Renewable Energy Certificate purchases.

On July 22, 2013, the City Council also adopted the first revision to Pasadena's RPS Enforcement Program applicable to PWP pursuant to California Public Utilities Code, Section 399.30 (the "Enforcement Program"). Although annual updates of the Enforcement Program are not required, the first revision was necessary to conform to new regulatory guidelines that had recently been adopted by the CEC. A copy of the 2013 revised and adopted Enforcement Program is provided as Attachment 3. The original Enforcement Program was adopted by the City Council on December 12, 2011.

The Enforcement Program specifies that PWP will annually provide progress and assessment of the approved Procurement Plan for City Council consideration. A brief progress assessment was included in the agenda report to the Municipal Services Committee on June 10, 2014 for the procurement of the Puente Hills landfill gas renewable energy contract, and considered by the City Council on June 23, 2014. Copies of the adopted Enforcement Program and Procurement Plan are available to the public on the internet at www.PWPweb.com/RPS.

BACKGROUND:

CEC RPS Guidebook & Enforcement Procedures

Many provisions of SBX1-2 are subject to interpretation and further definition by the CEC. The CEC provides some of its regulatory guidance in the form of two documents: its "Renewables Portfolio Standard Eligibility Guidebook[2]" ("CEC Guidebook"), last adopted April 2013, and "Enforcement Procedures for the Renewables Portfolio

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[1] GWh = gigawatt-hours, or one billion watt-hours.

[2] References herein are to the California Energy Commission Renewables Portfolio Standard Eligibility Seventh Edition Commission Guidebook, dated April 2013, CEC-300-2013-005-ED7-CMF, which may be revised from time to time.

Standard for Local Publicly Owned Electric Utilities[3]" ("CEC Enforcement Procedures"), last adopted August 2013.

Pasadena's RPS Enforcement Program

Pasadena's 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 (the RPS Procurement Plan) to procure renewable resources to comply with RPS targets based on specific criteria stated in the statute and to provide timely notices and reports to the public and the CEC. The Enforcement Program incorporates the CEC Guidebook and CEC Enforcement Procedure provisions described above to reflect the CEC's requirements.

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 yet to develop the compliance penalties,* although any such penalties are expected to be consistent with those adopted by the California Public Utilities Commission ("CPUC").

RPS Compliance Enforcement Penalties

CARB is tasked with determining and assessing penalties for publicly-owned utilities which are "comparable to those adopted by the [California Public Utilities] commission for noncompliance by retail sellers." The penalty for RPS procurement deficits applicable to investor-owned utilities and other retail sellers under the jurisdiction of the CPUC is currently $50 for each renewable energy credit of the deficiency in meeting the procurement quantity requirement, or the shortfall in meeting the portfolio balance requirement. The limit on the total amount of penalties to be paid in one compliance period for any CPUC jurisdictional seller other than the 3 large investor-owned utilities (SCE, PG&E and SDG&E) is the lesser of (i) 50% of the procurement quantity requirement ("PQR") of the retail seller for that compliance period (in renewable energy credits ("REC"), multiplied by the penalty amount of $50/REC (i.e., PQR (in REC) * 0.5 * $50/REC), or (ii) the amount of $75 million for the first compliance period (2011-2013); $75 million for the second compliance period (2014-2016); $100 million for the third compliance period (2017-2020); and $25 million for each annual compliance period beginning in 2021. The cap for the IOUs is (ii) above. It is important to note that this benchmark provides an estimate only. The comparability standard does not necessarily mean that the CARB and CPUC penalties must be identical.

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[3] References herein are to the California Energy Commission Adopted Regulations Approved by the Office of Administrative Law, "Enforcement Procedures for the Renewable Portfolio Standard for Local Publicly Owned Electric Utilities," dated August 2013, CEC-300-2013-002-CMF

Relief Mechanisms to Reduce RPS Targets

The statute provides for reduced RPS targets under certain conditions such as transmission limitations, project development delays, renewable resources procurement costs exceeding limits set by the City Council, or additional energy resources being not needed because PWP already has sufficient energy resources to meet its projected retail sales. Since PWP does not have an "unmet" resource need to fill prior to the expiration of the Intermountain Power Plant contract in 2027, it is technically possible that PWP could be excused from meeting all of the state mandated RPS requirements. In such a situation, PWP could partially satisfy the RPS requirement through the purchase of renewable energy certificates rather than bundled renewable energy. At this time, PWP expects to comply with RPS targets provided in SBX1-2. In the future, if PWP expects to be unable to comply with the RPS targets set by SBX1-2 due to reasons allowed by the statute, PWP will propose a revised Procurement Plan indicating new RPS targets, along with justifications, for consideration by the City Council.

Pasadena's RPS Goal Pursuant To Energy IRP

The City has adopted an RPS goal of 40% of retail energy sales by 2020 that exceeds the RPS targets established by SBX1-2. PWP's detailed description of its compliance strategies for achieving both the SBX1-2 state mandated 33% RPS target and the higher voluntary 40% goal adopted by the City is included in the Procurement Plan.

As a clarification, to the extent Pasadena's own energy IRP goal is in excess of statutory requirements, achieving the higher RPS goal is solely voluntary and not subject to any provisions of the CEC's Enforcement Program or any other legislative or regulatory compliance obligation.

The Procurement Plan

The Procurement Plan maps out PWP's progress to date in procuring renewable energy to meet the complex requirements of SBX1-2. It is written to comply with the current version of the CEC Guidebook and CEC Enforcement Procedures, as well as Pasadena's Enforcement Program. It also meets the more aggressive voluntary RPS goal in PWP's 2012 IRP. It provides a strategic document for procuring the right quantities of the right types (i.e., Categories) of renewables in the right Compliance Periods to ensure full conformity with applicable standards. The Procurement Plan includes the conditions under which PWP may be excused for delay of timely compliance, but no such conditions are anticipated at this time.

The RPS is broken down into three distinct Compliance Periods. Within each Compliance Period are mandatory compliance targets, specified as a percentage of retail electrical sales (load), ranging from 20% in 2011 through 33% in 2020 and beyond.

The compliance targets are further broken down into four Categories. The attributes of each Category are described below:

- Category 0: Applies to resources procured prior to June 1, 2010. Energy from these grandfathered resources will be subtracted from the total RPS requirement without being classified into any of the other three Categories). The RPS requirement, minus the grandfathered Category 0 resources, will result in a "Net Procurement Requirement", against which the other Category percentages apply.

- Category 1: Bundled in state, or out-of-state electricity products from renewable resources that are directly connected into California, or are scheduled into California without substituting electricity from another source.

- Category 2: Bundled electricity products from renewable resources, which products may be delivered at times or locations other than when the energy is actually produced, and which must be matched with incremental electricity from another resource (also known as "firmed and shaped" electricity).

- Category 3: Unbundled Renewable Energy Credits ("RECs") and other electricity products from eligible renewable energy resources that do not meet the definitions for Category 1 or Category 2.

The following table and charts summarize the requirements of SBX1-2, the CEC Guidebook and Enforcement Procedures, and Pasadena's 2012 IRP.

Table 1

Pasadena Water & Power
CEC-Compliant Procurement Plan Requirements by Calendar Year

	Compliance Period 1			Compliance Period 2			Compliance Period 3			
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020+
SBX1-2 RPS Mandatory Procurement Requirement (% of Retail Load) [1]	20%			20%	20%	25%	27%	29%	31%	33%
Category 0:	No constraint									
Category 1 Minimum:	≥50% of Net Procurement Requirement			≥65% of Net Procurement Requirement			≥75% of Net Procurement Requirement			
Category 2: Maximum [2]**:**	≤50% of Net Procurement Requirement			≤35% of Net Procurement Requirement			≤25% of Net Procurement Requirement			
Category 3 Maximum:	≤25% of Net Procurement Requirement			≤15% of Net Procurement Requirement			≤10% of Net Procurement Requirement			

[1] As imposed by the CEC Guidebook and CEC Enforcement Procedures. SBX1-2 does not include specific interim targets in CP3, just an obligation to make "reasonable progress."

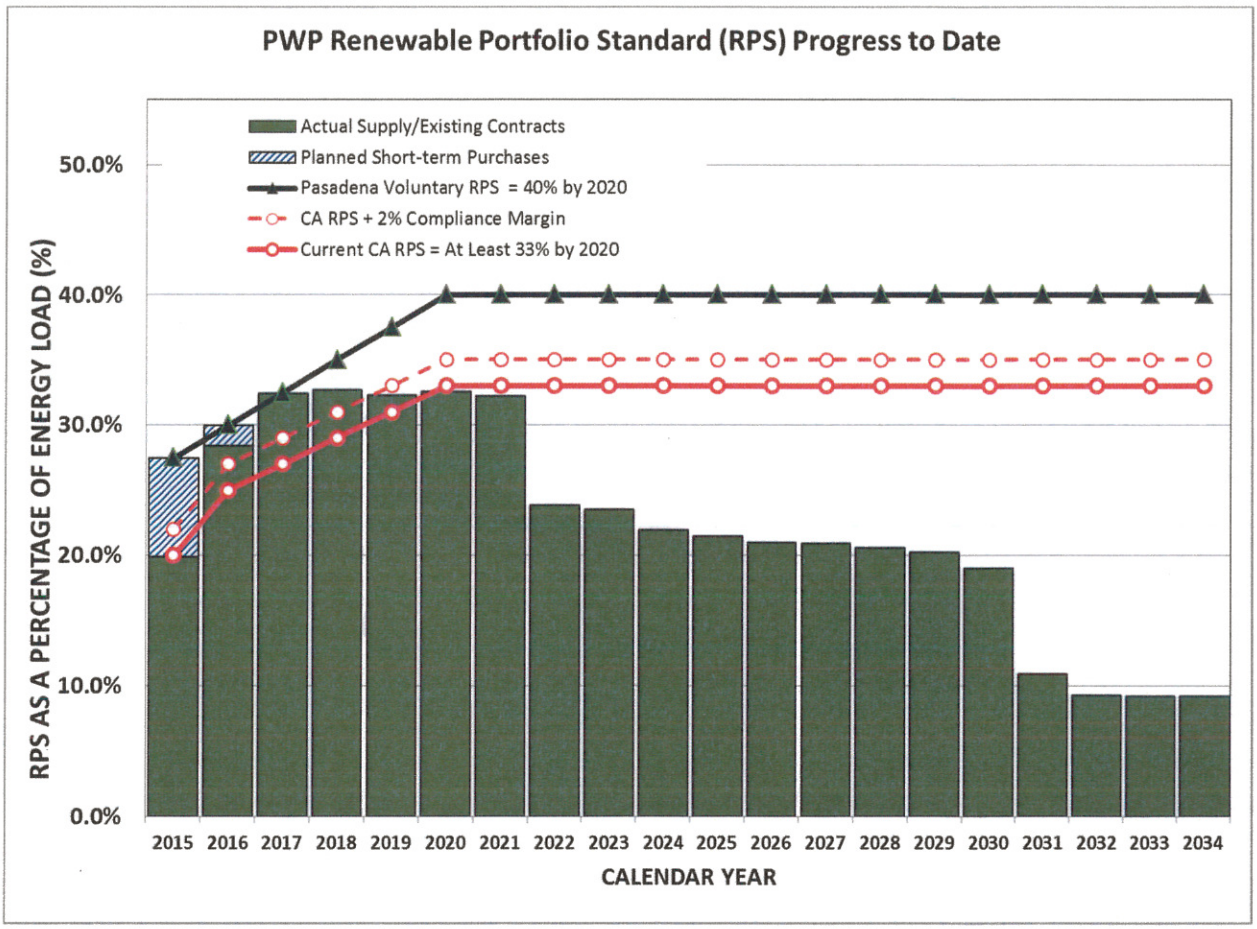
[2] The Category 2 constraint is not specified by law, but is derived logically as the residual given the Category 1 and 3 constraints.

The CEC created a Category 0, and deemed that grandfathered contracts signed before June 10, 2010 will "count in full" towards meeting RPS requirements. The energy produced by grandfathered contracts is deducted from the total RPS Procurement Requirement before the other Category percentages are applied.

PWP has included its biogas contracts executed after June 1, 2010 in Category 1. Should future rulings change this classification, PWP will adjust the Procurement Plan accordingly.

The chart in Figure 1 below, together with the details in Attachment 1, provide a summary of the current status of PWP's RPS procurement activities and the amount of RPS purchases still required under the Procurement Plan. To the extent PWP's voluntary RPS goal exceeds California's RPS procurement requirements, the Procurement Plan calls for meeting this higher goal with the best-fit renewable sources available without regard to Category.

Figure 1



CITY COUNCIL POLICY CONSIDERATION:

The proposed Enforcement Program and Procurement Plan are mandatory under State law (Public Utilities Code Sections 399.30(e) and (f), as enacted under SBX1-2), and are 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, as updated in 2012.

PROCUREMENT PROCESS:

State law does not specify the actual procedure by which local publicly-owned utilities such as PWP must procure renewable energy. The Pasadena City Charter and Pasadena Municipal Code specify that, in general, most goods and services must be procured by competitive bidding or competitive selection. When PWP brings a renewable portfolio standard contract to the City Council for approval, it is usually with a request for a finding that the contract is exempt from competitive bidding/competitive selection requirements because the contract is for professional or unique services, an allowable exemption under City Charter Section 1002(H), or because it is contracted through PWP's joint powers agency, the Southern California Public Power Authority ("SCPPA"), another governmental entity, which is also an allowable exemption under City Charter Section 1002(F). Regardless of these exemptions, PWP's renewable energy procurement follows a competitive selection process, generally through SCPPA's Renewable Energy Request for Proposals ("RFP"), a solicitation that is continuously open to all offers and re-issued each year. Even on the rare occasion when PWP has contracted directly with a renewable energy developer, rather than through SCPPA, the negotiated price has been comparable to prices received in the SCPPA RFP.

ENVIRONMENTAL ANALYSIS:

The proposed action is the adoption of an RPS Procurement Plan which is mandatory under State law. There are no specific projects proposed at this time. The Procurement Plan 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 pursuant to this plan, 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.

This action has been determined to be exempt from the CEQA process pursuant to State CEQA Guidelines Section 15061(b)(3), 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, such as adopting the RPS Procurement Plan, may have a significant effect on the environment, the activity is not subject to CEQA. This action does not have the potential for causing a significant effect on the environment and is therefore exempt from CEQA per Section 15061(b)(3) (General Rule).

FISCAL IMPACT:
There is no fiscal impact as a result of this action and it will not have any indirect or support cost requirements. The impact to other operational programs or capital projects as a result of this action will be none.

Respectfully submitted,

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REFERENCE DOCUMENTS:

In order to comply with CEC regulations, full copies of the following documents are available on the internet at www.PWPweb.com/RPS

Attachment 1: Procurement Plan Details
Attachment 2: 2015 Procurement Plan
Attachment 3: Enforcement Program