

BOARD MTG. DATE: 12/1/11

AGENDA REPORT

TITLE:	Adoption of Renewable Energy Resource Procurement Plan and Adoption of Program for Enforcement of the Renewable Portfolio Standards Program				
AMOUNT:	No Budget Impacts				
PARTIES INVOLVED:					
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #333; color: white;"> <th style="width: 60%;">Corporate Name/Principal</th> <th style="width: 40%;">Location</th> </tr> </thead> <tbody> <tr> <td>Port Electric Customers at the Oakland International Airport, Former Fleet Industrial Supply Center Oakland, and Former Oakland Army Base</td> <td>Oakland, CA</td> </tr> </tbody> </table>	Corporate Name/Principal	Location	Port Electric Customers at the Oakland International Airport, Former Fleet Industrial Supply Center Oakland, and Former Oakland Army Base	Oakland, CA
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Port Electric Customers at the Oakland International Airport, Former Fleet Industrial Supply Center Oakland, and Former Oakland Army Base	Oakland, CA				
TYPE OF ACTION:	Resolution				
SUBMITTED BY:	Chris Chan, Acting Director of Engineering				
APPROVED BY:	Omar Benjamin, Executive Director				

SUMMARY

On April 12, 2011, Governor Jerry Brown signed into law Senate Bill 2 of the First Extraordinary Session (SBX 1-2) to raise the Renewable Portfolio Standard that all utility companies must meet to 33% by the year 2020. Among other things, the law requires municipal utility companies, such as the Port, to develop a renewable procurement plan and also for the local governing board of the local publicly owned electric utility, the Board of Port Commissioners (Board), to adopt an enforcement program. The enforcement program must be approved by January 1, 2012 while there is no specific deadline set for the approval of the procurement plan. Staff developed both a procurement plan and an enforcement program that complies with SBX1-2 and will help the Port remain competitive and sustainable.

FACTUAL BACKGROUND

As a municipal utility, the Port of Oakland (Port) purchases electricity from the wholesale electricity market to supply its own operational needs and for resale to the Port’s tenants at the Oakland International Airport (OIA), former Naval Fleet Industrial Supply Center-Oakland (FISCO), and the former Oakland Army Base (OAB) (See Exhibit 1 for map). As a municipal utility, the Port has to meet certain Renewable Portfolio Standards (RPS). Renewable Portfolio Standards are a regulations that require a utility to increase its procurement of electricity from a renewable energy source such as wind, solar, biomass and geothermal.

In 2004, by Resolution No. 04195, the Board voluntarily adopted a Renewable Portfolio Standards (RPS) goal of procuring 20% of its electricity from a renewable source by Calendar

BOARD MTG. DATE: 12/1/11

Year 2017. At that time, the Port had the flexibility of deciding how it would meet its RPS goal including 1) which type of renewable generation were considered eligible renewable; 2) whether the renewable attribute had to be bundled with the energy; and 3) the location of the where the renewable electricity was coming from.

On April 12, 2011, Governor Jerry Brown signed into law Senate Bill 2 of the First Extraordinary Session (SBX1-2). Under this new law, publicly owned utilities (POUs), such as the Port will be required to develop a procurement plan for the purchase of 20% of its electricity from renewable resources by calendar year 2013, 25% by calendar year 2016 and 33% by calendar year 2020. In addition, the Board must also adopt an RPS Enforcement Program to ensure the Port is in compliance with its adopted procurement plan and to ensure that the Port is making reasonable progress towards achieving the 20%, 25%, and 33% by 2013, 2016, and 2020, respectively.

In consideration of the above, staff recommends the following actions:

1. Adopt the attached Renewable Energy Resources Procurement Plan (Exhibit 2)
2. Adopt the attached Renewable Portfolio Standards Enforcement Program (Exhibit 3)

ANALYSIS

Renewable Energy Resources Procurement Plan

Port staff developed a Renewable Energy Resources Procurement Plan that is consistent with the laws established by SBX1-2. The proposed procurement plan allows the Port to use least cost and renewable energy resources that best matches the Port's load profile to meet the RPS goals under SBX1-2.

The proposed Renewable Energy Resources Procurement Plan includes the following elements:

- Defines the compliance periods and procurement targets for each compliance period.
- Requires annual review of reasonable progress made towards the procurement targets for each compliance period.
- Defines the type of electricity contracts and limits of each type.
- Defines the process for carrying over excess renewable energy procurement from one compliance period to the next
- Defines the terms of timely compliance
- Identifies the conditions under which the Port may be waived from meeting its procurement targets and the procedure for such waivers.
- Defines the cost limitations for expenditures.

BOARD MTG. DATE: 12/1/11

- Reporting requirements including posting requirements on the Port's progress towards meeting its RPS.

Under the current State-mandated RPS program, the Port is no longer able to include large hydroelectric generation as a renewable resource and the Port's current supply of electricity will become only 3% renewable as opposed to 37% renewable prior to the enactment of SBX1-2.

However, Port staff has been and will continue to look for opportunities to purchase renewable sources of electricity. Currently, the Port is evaluating several renewable project opportunities including small hydroelectric generation, landfill gas, and solar. Due to the small size of the Port's electric load relative to other electric utilities, the Port could meet its goal by participating in one or two renewable energy projects and/or procuring power purchase agreements.

Concurrently, as part of the Port's Energy Innovation Initiative, staff is developing a scope of work to investigate clean energy opportunities. Staff will make recommendations on renewable electricity purchases to the Board when terms of the purchases are substantially negotiated. Adoption of the procurement plan and enforcement program will not preclude or slow the Port's efforts as part of the Energy Innovation Initiative.

Renewable Portfolio Standards Enforcement Program

Pursuant to Section 399.30(e) of the California Public Utilities Code, the Board, as the local governing body of the local publicly owned electric utility, shall adopt a "program for enforcement". The proposed Renewable Portfolio Standards Enforcement Program (RPS Enforcement Program) must be adopted whether the Port has an approved procurement plan or not. The highlights of the RPS Enforcement Program include:

1. Commits the Port to cause the Renewable Energy Resources Procurement Plan to be reviewed annually.
2. For each review conducted at the end of a compliance period (Calendar Years 2013, 2016, 2020, 2021, etc.), the Port shall verify that it has met the minimum procurement target applicable to the compliance period.
3. For each review conducted at the end of an intervening year within a compliance period (Calendar Year 2014, 2015, 2017, 2018, and 2019), the Port shall ensure that the utility is making reasonable progress toward meeting the compliance period target.
4. In the event that a target is not/will not be met, the Port will assess the applicability of:
 - a. applying excess procurement, if any, from a prior compliance period to a subsequent compliance period;
 - b. securing a waiver of timely compliance due to the existence of a qualifying mitigating circumstance; and
 - c. excusing performance based on cost limitations on procurement expenditures.

BOARD MTG. DATE: **12/1/11**

5. In the event that it is determined that the Port has failed to comply with the provisions of the Renewable Energy Resources Procurement Plan, the RPS Enforcement Program commits the Board to take steps to correct any untimely compliance, including:
 - a. Reviewing the Renewable Energy Resources Procurement Plan to determine what changes, if any, are necessary to ensure compliance in the next compliance period;
 - b. Requiring quarterly reports from Port staff regarding the progress being made toward meeting the compliance obligation for the next compliance period;
 - c. Requiring Port staff to report on the status of meeting subsequent compliance targets and all steps being taken to ensure that the obligation is timely met.

BOARD MTG. DATE: 12/1/11

STRATEGIC PLAN

The Strategic Plan was adopted by the Board on October 5, 2010. The Strategic Plan is a cornerstone of the overall alignment of the Port. It provides the framework for focusing the work of staff and the Board of Port Commissioners, and serves to guide an organization-wide redesign to better match the skills and talents of Port employees with the overall strategic goals of the organization in the key areas of Sustainable Business and Economic Development, Stewardship and Accountability, Port Workforce and Operations, and Communication and Information.

This project would help the Port achieve the following goal and objective:

STRATEGIC PRIORITY AREAS	GOAL	OBJECTIVE	HOW THIS PROJECT IMPLEMENTS + WHEN
<p>Stewardship and Accountability</p>	<p>Goal G: Sustain Healthy Communities Through Leading Edge Environmental Stewardship</p>	<p>1. Partner to share risk, accountability, benefits and improve environmental and safety compliance.</p>	<p>The State of California Renewable Portfolio Standards set some of the highest goals in the nation. The proposed procurement plan and program for enforcement will align the Port of Oakland with the State of California's high standards.</p> <p>The procurement plan outlines our targets and serves as a strategic plan for meeting the targets. The Port is committed to achieving at least 33% renewable by calendar year 2020.</p> <p>The Board as a partner of the state has the role of enforcing the Port's compliance with the procurement plan. This role begins immediately.</p>

BOARD MTG. DATE: 12/1/11

BUDGET & FINANCIAL IMPACT

There are no immediate budget impacts as a result of adopting the Renewable Energy Resources Procurement Plan or the Renewable Portfolio Standards Enforcement Program. However, the Port's current electricity cost may increase by as much as 50% by 2020 in order to be in compliance with the proposed plan. The additional cost increases for renewable electricity will be recovered through the Port's electric rate tariff. Staff will continue to evaluate renewable energy purchasing opportunities for cost effectiveness and budget the cost appropriately. Staff will make recommendations to the Board on future renewable electricity purchases to comply with the procurement plan.

STAFFING IMPACT

The matters contained in this Agenda Report will not impact current or future staffing.

SUSTAINABILITY

Adopting the Renewable Energy Resources Procurement Plan will demonstrate the Port's continued commitment towards the use of renewable energy. The Port is also increasing the amount of renewable energy used by 2017 from 20% to 25%. By 2020, the Port expects to procure 33% of its electricity from a renewable resource.

ENVIRONMENTAL

The proposals to adopt a Renewable Energy Resources Procurement Plan and a RPS Enforcement Program were reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines. The general rule in Section 15061(b)(3) of the CEQA Guidelines states that CEQA applies only to activities that have a potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that adopting the Renewable Energy Resources Procurement Plan will result in a physical change in the environment, and therefore that action is not subject to CEQA. The procurement plan will increase the Port's use of renewable energy, which will have a beneficial effect on the environment.

Furthermore, the RPS Enforcement Program is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines, which exempts actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for the protection of the environment. Because the Board, acting as the governing board of the local publicly owned electric utility within the Port electric service area, is a regulatory agency, adoption of the enforcement program is exempt from CEQA, since the program is designed to promote the Port's use of renewable energy, which will enhance and protect the environment.

BOARD MTG. DATE: 12/1/11

MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The matters addressed under this action are not within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply to this action.

OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

The Port's Owner Controlled Insurance Program (OCIP) does not apply to this action.

GENERAL PLAN

This action does not change the use of any existing facility or create new facilities, and therefore does not require a General Plan conformity determination pursuant to Section 727 of the City of Oakland Charter.

LIVING WAGE

Living wage requirements, in accordance with the Port's Rules and Regulations for the Implementation and Enforcement of the Port of Oakland Living Wage Requirements (the "Living Wage Regulations"), do not apply because the requested action is not an agreement, contract, lease, or request to provide financial assistance within the meaning of the Living Wage Regulations.

OPTIONS

1. Adopt the Renewable Energy Resources Procurement Plan and the Renewable Portfolio Standards Enforcement Program. This is the recommended option.
2. Adopt the Renewable Portfolio Standards Enforcement Program so the Port will be in compliance with SBX1-2. Adopt the Renewable Energy Resources Procurement Plan at a future public meeting.
3. Take No Action: The Port will be deemed in violation of SBX1-2.

RECOMMENDATION

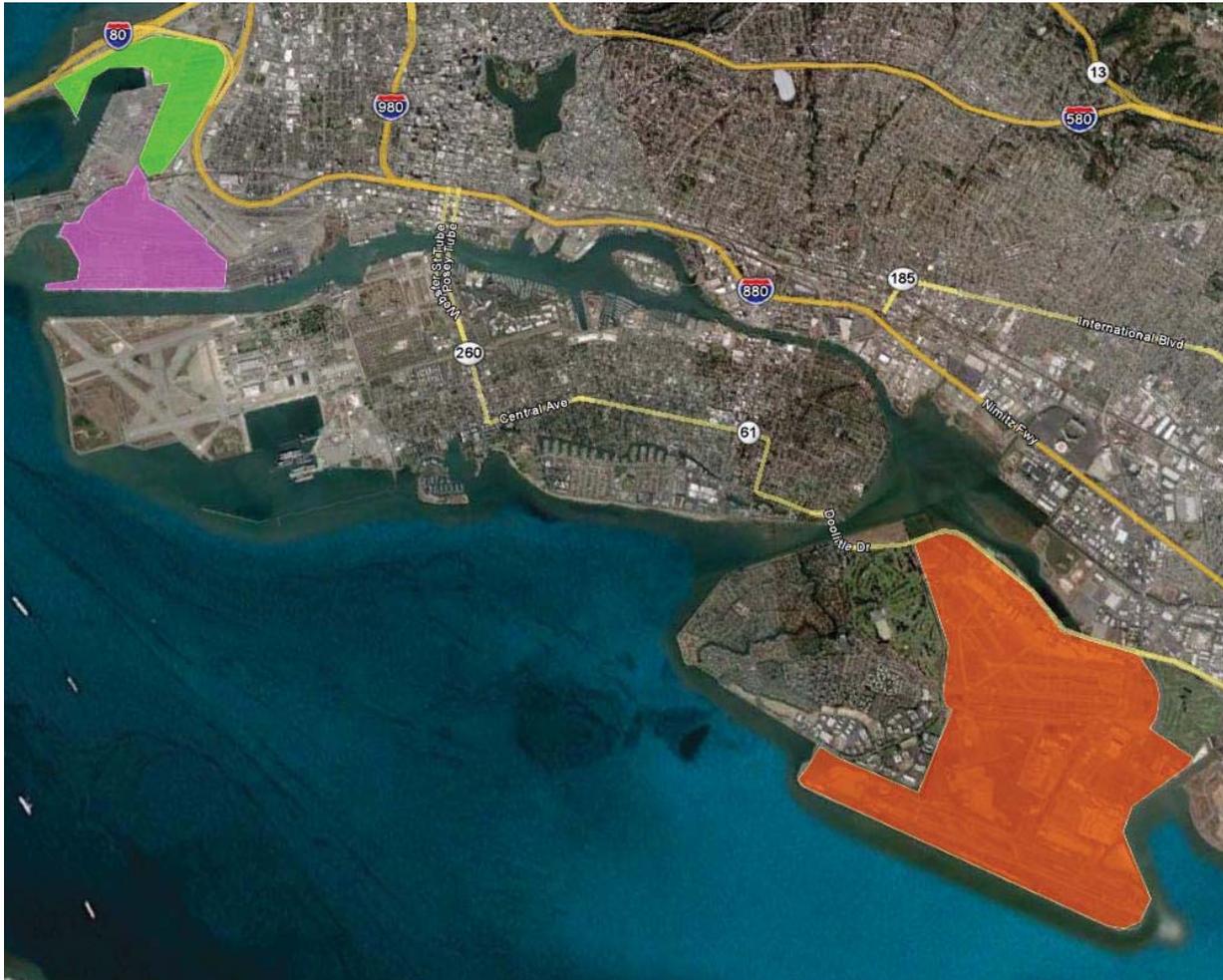
It is recommended that the Board:

- 1) Adopt the Renewable Energy Resources Procurement Plan.
- 2) Adopt the Renewable Portfolio Standards Enforcement Program.

BOARD MTG. DATE: 12/1/11

Exhibit 1

Map of Port Electric Service Area



DRAFT – 11/10/2011 - Port

Exhibit 2

Port of Oakland

RENEWABLE ENERGY RESOURCES PROCUREMENT PLAN

INTRODUCTION

On April 12, 2011, Governor Jerry Brown signed Senate Bill 2 of the First Extraordinary Session (SBX1-2) of the legislature into law. SBX1-2 modifies the state's renewable portfolio standard program (*RPS Program*). Pursuant to Public Utilities Code (PUC) § 399.30(a) the Port of Oakland (*Port*) must adopt and implement a renewable energy resources procurement plan (*RPS Procurement Plan*). In addition to the development of the RPS Procurement Plan, SBX1-2 also requires the Board of Port Commissioners (Board) to adopt and implement a program for the enforcement of the RPS, by January 1, 2012, but does not include a specific date by which the RPS Procurement Plan must be adopted.

The Port's RPS Procurement Plan includes: (1) plan elements that are directly mandated by the legislation; (2) optional measures addressed in PUC Code § 399.30(d); and (3) the RPS reporting provisions.

1. Purpose (PUC § 399.30(a))

In order to fulfill unmet long-term generation resource needs, the Port adopts and implements this RPS Procurement Plan that requires the Port to procure a minimum quantity of electricity products from eligible renewable energy resources, including renewable energy credits, as a specified percentage of the Port's total kilowatt hours sold to its retail end-use customers, each compliance period, to achieve the targets specified in SBX1-2.

2. Compliance Periods (§ 399.30(b))

The Port hereby adopts the following Compliance Periods for RPS Procurement:

- A. Compliance Period 1: January 1, 2011, to December 31, 2013, inclusive.
- B. Compliance Period 2: January 1, 2014, to December 31, 2016, inclusive.
- C. Compliance Period 3: January 1, 2017, to December 31, 2020, inclusive.
- D. Annual Compliance Periods: Annually after 2020.

DRAFT – 11/10/2011 - Port

3. Procurement Targets of Renewable Energy Resources for Each Compliance Period (PUC §§ 399.30(c)(1) and (2))

- A. During Compliance Period 1, January 1, 2011 to December 31, 2013, the Port shall procure renewable energy resources equivalent to an average of at least twenty percent (20%) of retail sales.
- B. By the end of Compliance Period 2, December 31, 2016, the Port shall procure renewable energy resources equivalent to at least twenty-five percent (25%) of retail sales.
- C. By the end of Compliance Period 3, December 31, 2020, the Port shall procure renewable energy resources equivalent to at least thirty-three percent (33%) of retail sales.
- D. Commencing on December 31, 2021, and annually thereafter, the Port shall procure renewable energy resources equivalent to at least thirty-three percent (33%) of retail sales.

4. Reasonable Progress Towards Meeting Compliance Period Targets (PUC §§ 399.30(c)(1) and (2))

- A. By December 31, 2014, the Port shall demonstrate that it is making reasonable progress towards ensuring that it shall meet the twenty-five percent (25%) RPS target by 2016.
- B. By December 31, 2015, the Port shall demonstrate that it is making reasonable progress towards ensuring that it shall meet the twenty-five percent (25%) RPS target by 2016.
- C. By December 31, 2017, the Port shall demonstrate that it is making reasonable progress towards ensuring that it shall meet the thirty-three percent (33%) RPS target by 2020.
- D. By December 31, 2018, the Port shall demonstrate that it is making reasonable progress towards ensuring that it shall meet the thirty-three percent (33%) RPS target by 2020.
- E. By December 31, 2019, the Port shall demonstrate that it is making reasonable progress towards ensuring that it shall meet the thirty-three percent (33%) RPS target by 2020.

5. Procurement Requirements – Definitions for Content Categories (PUC §§ 399.30(c)(3))

The Port shall adopt procurement Content Categories that meet the criteria for the following eligible renewable energy resource electricity products:

DRAFT – 11/10/2011 - Port

- A. Content Category 1 (consistent with § 399.16(b)(1)): Resources in this category shall either:
- (A) 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. 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 shall be permitted, but only the fraction of the schedule actually generated by the eligible renewable energy resource shall count toward this portfolio content category.
- (B) Have an agreement to dynamically transfer electricity to a California balancing authority.
- B. Content Category 2 (consistent with PUC § 399.16(b)(2)): Resources in this category shall include firmed and shaped eligible renewable energy resource electricity products providing incremental electricity and scheduled into a California balancing authority.
- C. Content Category 3 (consistent with PUC § 399.16(b)(3)): Resources in this category shall include eligible renewable energy resource electricity products, or any fraction of the electricity generated, including unbundled renewable energy credits, that do not qualify under the criteria of Content Category 1 or Content Category 2.
- D. Grandfathered Resources (§ 399.16(d)): Any contract or ownership agreement originally executed prior to June 1, 2010, shall count in full towards the procurement requirements without regard to the limitations on the use of each portfolio Content Category as described in Section 6, if all of the following conditions are met:
- (1) The renewable energy resource was eligible under the rules in place as of the date when the contract was executed.
 - (2) Any contract amendments or modifications occurring after June 1, 2010, do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource.
 - (3) The duration of the contract may be extended if the original contract specified a procurement commitment of fifteen (15) or more years.
 - (4) “Eligible renewable energy resource” means an electrical generating facility that meets the definition of a “renewable electrical generation facility” in Section 25741 of the Public Resources Code, subject to the following: . . . (C) A facility approved by the governing board of a local publicly owned electric utility prior to June 1, 2010, for procurement to satisfy renewable energy procurement obligations adopted pursuant to former Section 387, shall be certified as an eligible renewable energy resource by the Energy Commission pursuant to this article, if the facility is a “renewable

DRAFT – 11/10/2011 - Port

electrical generation facility” as defined in Section 25741 of the Public Resources Code. (§ 399.12(e)(1)(C).

6. Procurement Requirements – Quantity for Content Categories (§ 399.30(c)(3), § 399.16(c)(1) and (2))

- A. Compliance Period 1 Procurement Requirements: For Compliance Period 1, the Port shall procure at least fifty percent (50%) of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010 from Content Category 1, and not more than twenty-five percent (25%) from Content Category 3.
- B. Compliance Period 2 Procurement Requirements: For Compliance Period 2, the Port shall procure at least sixty-five percent (65%) of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010 from Content Category 1, and not more than fifteen percent (15%) from Content Category 3.
- C. Compliance Period 3 Procurement Requirements: For Compliance Period 3, the Port shall procure at least seventy-five percent (75%) of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010 from Content Category 1, and not more than ten percent (10%) from Content Category 3.
- D. Annual Procurement Requirements After 2020: Beginning in calendar year 2021 and annually thereafter, the Port shall procure not less than seventy-five percent (75%) of the eligible renewable energy resource electricity products associated with contracts executed after June 1, 2010 from Content Category 1, and not more than ten percent (10%) from Content Category 3.

7. Excess Procurement (PUC § 399.30(d)(1), PUC §399.13(a)(4)(B))

The Port shall be allowed to apply excess procurement (Excess Procurement) from one compliance period to subsequent compliance periods as long as the following conditions are met:

- A. The Port may accumulate, beginning on January 1, 2011, Excess Procurement from one Compliance Period to be applied in any subsequent Compliance Period.
- B. In calculating the quantity of Excess Procurement, the Port shall deduct from actual procurement quantities, the total amount of procurement associated with contracts of less than ten (10) years in duration.
- C. Eligible resources must be from Content Category 1 or Content Category 2 or Grandfathered Resources to be Excess Procurement.
- D. Resources from Content Category 3 shall not be counted as excess procurement.

DRAFT – 11/10/2011 - Port

8. Waiver of Timely Compliance (PUC § 399.30(d)(2), PUC § 399.15(b)(5))

A. Waiver of Timely Compliance: Enforcement of timely compliance shall be waived if the Port demonstrates that any of the following conditions are beyond the control of the Port, and will prevent timely compliance:

1. *Inadequate Transmission* (PUC § 399.15(b)(5)(A)): There is inadequate transmission capacity to allow for sufficient electricity to be delivered from the Port's proposed eligible renewable energy resource projects using the current operational protocols of California Independent Systems Operator Balancing Authority. In making its findings relative to the existence of this condition, the Port's deliberations shall include, but not be limited to the following:

(i) Whether the Port has undertaken, in a timely fashion, reasonable measures under its control and consistent with its obligations under local, state, and federal laws and regulations, to develop and construct new transmission lines or upgrades to existing lines intended to transmit electricity generated by eligible renewable energy resources. In determining the reasonableness of the Port's actions, the Port shall consider its expectations for full-cost recovery for these transmission lines and upgrades, and

(ii) Whether the the Port has taken all reasonable operational measures to maximize cost-effective deliveries of electricity from eligible renewable energy resources in advance of transmission availability.

2. *Permitting, interconnection, or other factors that delayed procurement or insufficient supply* (PUC § 399.15(b)(5)(B)). In making its findings relative to the existence of this condition, the Port's deliberations shall include, but not be limited to the following:

(i) Whether the Port prudently managed portfolio risks, including relying on a sufficient number of viable projects;

(ii) Whether the Port sought to develop one of the following: its own eligible renewable energy resources, transmission to interconnect to eligible renewable energy resources, or energy storage used to integrate eligible renewable energy resources.

(iii) Whether the Port procured an appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewable portfolio standard to compensate for foreseeable delays or insufficient supply;

(iv) Whether the Port has taken reasonable measures, under its control to procure cost-effective distributed generation and allowable unbundled renewable energy credits;

DRAFT – 11/10/2011 - Port

3. Unanticipated curtailment to address needs of the balancing authority (PUC § 399.15(b)(5)(C)).
 4. Unanticipated actions or events beyond the control of the Port that adversely impact timely deliveries of renewable energy resources including, but not limited to, acts of nature, terrorism, war, labor difficulty, civil disturbance, or market manipulation.
- B. Procedures Upon Approving Waiver: In the event of a Waiver of Timely Compliance due to any of the factors set forth above, the Port shall implement the following procedures:
1. Establish additional reporting for intervening years to show demonstration of reasonable actions under the POU's control are being taken (PUC § 399.15(b)(6)).
 2. Require a demonstration that all reasonable actions within the Port's control have been taken to ensure compliance in order to grant the waiver (PUC § 399.15(b)(7)).
- C. Prior Deficits: In no event shall deficit from prior compliance periods be added to future compliance periods (PUC § 399.15(b)(9))

DRAFT – 11/10/2011 - Port

9. **Cost Limitations for Expenditures** (PUC § 399.30(d)(3), PUC § 399.15(c))
- A. **Cost Limitations for Expenditures**: The Port, at its sole discretion, may elect to establish cost limitation for all eligible renewable energy resources used to comply with the renewable portfolio standard. Any such cost limitations will be developed consistent with PUC § 399.15(c). The Port shall review the need for cost limitations as part of the annual review process described in Section 12.
10. **Exclusive Control** (399.30(m)): In all matters regarding compliance with the RPS program, the Port shall retain exclusive control and discretion over the following:
- A. The mix of eligible renewable energy resources procured by the Port and those additional generation resources procured by the Port for purposes of ensuring resource adequacy and reliability.
- B. The reasonable costs incurred by the Port for eligible renewable energy resources owned by it.
11. **Reporting** (§ 399.30(f), § 399.30(g), § 399.30(l))
- A. **Deliberations on Procurement Plan** (399.30(f)):
1. *Public Notice*: Annually, the Port shall post notice of meetings if the Board of Port Commissioners will deliberate in public regarding this RPS Procurement Plan.
 2. *Notice to the California Energy Commission (CEC)*: Contemporaneous with the posting of a notice for such a meeting, the Port shall notify the CEC of the date, time and location of the meeting in order to enable the CEC to post the information on its Internet website.
 3. *Documents and Materials Related to Procurement Status and Plans*: When the Port provides information to its Board related to its renewable energy resources procurement status and future plans, for the Board's consideration at a noticed public meeting, the Port shall make that information available to the public and shall provide the CEC with an electronic copy of the documents for posting on the CEC's Internet website.
- B. **Annual Report to CEC regarding Contract Execution** (399.30(g))
1. Annually, the Port shall submit a report to the CEC regarding procurement contracts executed during the prior year.
 2. The Port's annual report to the CEC regarding contract execution shall include all of the following:

DRAFT – 11/10/2011 - Port

- a. A description of the eligible renewable energy resource, including the duration of the contract or electricity purchase agreement.
 - b. A description and identification of the electrical generating facility providing the eligible renewable energy resource under the contract.
 - c. An estimate of the percentage increase in the Port’s total retail sales of electricity from eligible renewable energy resources that will result from the contract.
- C. Report to CEC and Customers (399.30(1))
- 1. Annually, the Port shall provide a report to the CEC and customers regarding renewable resources.
 - 2. The Port’s annual report to the CEC regarding renewable resources shall include all of the following:
 - a. Expenditures of public goods funds collected pursuant to Section 385 for eligible renewable energy resource development, including a description of programs, expenditures, and expected or actual results.
 - b. The resource mix used to serve its customers by energy source.
 - c. The Port’s status in implementing the renewable portfolio standard pursuant to § 399.30(a) and the Port’s progress toward attaining the standard following implementation of the RPS Procurement Plan.

12. Annual Review

The Port’s RPS Procurement Plan shall be reviewed annually by the Board in accordance with the Port’s “Renewable Portfolio Standard Enforcement Program.”

13. Plan Modifications/Amendments

This RPS Procurement Plan may be amended by an affirmative vote of the Board during a public meeting in accordance with Section 11A.

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Revised 11-10-11**Exhibit 3*****PORT OF OAKLAND******RENEWABLE PORTFOLIO STANDARD ENFORCEMENT PROGRAM***1. **Purpose**

This Enforcement Program sets forth the provisions comprising the Port's program for the enforcement of its Renewable Energy Resources Procurement Plan (RPS Procurement Plan) and shall be known as the Port's "RPS Enforcement Program";

2. **Frequency of Review**

Annually, the Executive Director shall cause to be reviewed, the Port's RPS Procurement Plan to determine compliance the RPS program

3. **Scope of Review**

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 Port has met an average of twenty percent (20%) of retail sales with eligible renewable resources from the specified Content Categories for the period January 1, 2011 to December 31, 2013.
 - If targets are not met, the Port 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 Port is making reasonable progress toward meeting the December 31, 2016 compliance obligation of twenty-five percent (25%) of retail sales with eligible renewable resources, consistent with the RPS Procurement Plan.
- C. By December 31, 2015:
- Ensure that the Port is making reasonable progress toward meeting the December 31, 2016 compliance obligation of twenty-five percent

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DRAFT
Revised 11-10-11

(25%) of retail sales with eligible renewable resources, consistent with the RPS Procurement Plan.

- D. December 31, 2016 (end of Compliance Period 2):
- Verify that the Port has met twenty-five percent (25%) of retail sales with eligible renewable resources from the specified Content Categories for the period ending December 31, 2016;
 - If targets are not met, the Port 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 Port is making reasonable progress toward meeting the December 31, 2020 compliance obligation of thirty-three percent (33%) renewable resources electricity, consistent with the RPS Procurement Plan.
- F. By December 31, 2018:
- Ensure that the Port is making reasonable progress toward meeting the December 31, 2020 compliance obligation of thirty-three percent (33%) renewable resources electricity, consistent with the RPS Procurement Plan.
- G. By December 31, 2019:
- Ensure that the Port is making reasonable progress toward meeting the December 31, 2020 compliance obligation of thirty three percent (33%) 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 Port met thirty-three percent (33%) of retail sales with eligible renewable resources from the specified Content Categories, consistent with the RPS Procurement Plan;
 - If targets are not met, the Port must:
 - Review the applicability of applying Excess Procurement from a previous Compliance Period consistent with the provisions of the RPS Procurement Plan,

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DRAFT
Revised 11-10-11

o 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.

Not less than ten (10) days' advance notice shall be given to the public before any meeting is held to make a substantive change to the RPS Enforcement Program;

4. **Determination of Failure to Comply with Renewable Energy Resources Procurement Plan**

If it is determined that the Port has failed to comply with the provisions of its RPS Procurement Plan, the Board shall take steps to correct any untimely compliance, including:

- a. review the Port'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 Board regarding the progress being made toward meeting the compliance obligation for the next Compliance Period;
- c. report to the Board regarding the status of meeting subsequent compliance targets, and all steps being taken to ensure that the obligation is timely met.

5. **Modifications/Amendments**

This RPS Enforcement Program may be modified or amended by an affirmative vote of the Board during a public meeting.

6. **Public Notice**

Not less than ten (10) days advance notice shall be given to the public before any meeting is held to make a substantive change to the RPS Enforcement Program.

7. **Effective Date**

This Resolution shall be effective on January 1, 2012.

12/01/11 Item No.: 6.3 MCR/arg <i>HCB</i>

MA

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 11-159

**RESOLUTION APPROVING AND ADOPTING A
RENEWABLE ENERGY RESOURCE PROCUREMENT
PLAN AND ADOPTION OF A PROGRAM FOR
ENFORCEMENT OF THE RENEWABLE PORTFOLIO
STANDARDS PROGRAM.**

WHEREAS the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item No. 6.3 ("Agenda Report"), dated December 1, 2011 and related agenda materials, has received the expert testimony of Port staff, and has provided opportunities for and taken public comment; and

RESOLVED, that based upon the information contained in the Agenda Report, the Board hereby approves and adopts a Renewable Energy Resource Procurement Plan as more fully described in the Agenda Report; and

FURTHER RESOLVED that based upon the information contained in the Agenda Report, the Board hereby approves and adopts a program for the Enforcement of the Renewable Portfolio Standards Program; and

FURTHER RESOLVED that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related agenda materials and in testimony received.

At the regular meeting held on December 1, 2011

Passed by the following vote:

Ayes: Commissioners Gonzales, Head, Uno, Yee and
President Calloway - 5

Excused: Commissioners Gordon & Lighty - 2

Noes: 0

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12/01/11 Item No.: 6.3 MCR/lhr

MA

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 11-160

**RESOLUTION ADOPTING A RENEWABLE ENERGY
RESOURCE PROCUREMENT PLAN.**

WHEREAS the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item No. 6.3 ("Agenda Report"), dated December 1, 2011 and related agenda materials, has received the expert testimony of Port staff, and has provided opportunities for and taken public comment; and

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), each utility, including the Port of Oakland, must adopt and implement a renewable energy resources procurement plan (hereinafter referred to as the "RPS Procurement Plan that requires the Port 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 Port's retail end-use customers each compliance period; and

WHEREAS in compliance with SB 1X 2, Port staff developed an RPS Procurement Plan based on a model plan drafted by the Northern California Power Agency; and

WHEREAS the Port has provided not less than thirty (30) days public notice of the proposed adoption of the RPS Procurement Plan; and therefore be it

RESOLVED that the Board of Port Commissioners hereby approves the Port's RPS Procurement Plan; and be it

FURTHER RESOLVED that the Renewable Energy Resources Procurement Plan shall be effective January 1, 2012.

At the regular meeting held on December 1, 2011

Passed by the following vote:

Ayes: Commissioners Gonzales, Head, Uno, Yee and
President Calloway - 5

Excused: Commissioners Gordon & Lighty - 2

Noes: 0

12/01/11 Item No.: 6.3 MCR/lhr 

MA

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 11-161

**RESOLUTION ADOPTING A PROGRAM FOR
ENFORCEMENT OF THE RENEWABLE PORTFOLIO
STANDARDS PROGRAM.**

WHEREAS the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item No. 6.3 ("Agenda Report"), dated December 1, 2011 and related agenda materials, has received the expert testimony of Port staff, and has provided opportunities for and taken public comment; and

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), each utility, including the Port of Oakland, must adopt and implement a renewable energy resources procurement plan (hereinafter referred to as the "RPS Procurement Plan that requires the Port 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 Port's retail end-use customers each compliance period; and

WHEREAS in compliance with SB 1X 2, Port staff developed an RPS Procurement Plan based on a model plan drafted by the Northern California Power Agency; and

WHEREAS in compliance with Public Utilities Code Section 399.30, the Board must adopt a program for the enforcement of the RPS Procurement Plan (Enforcement Plan); and

WHEREAS Port staff has developed an Enforcement Plan as more fully set forth in the Agenda Report, that, among other things, commits the Port to cause the RPS Procurement Plan to be reviewed annually to assess compliance with the minimum procurement targets; and

WHEREAS the Port has provided not less than thirty (30) days public notice of the proposed adoption of the Enforcement Plan; and therefore be it

RESOLVED that the Board of Port Commissioners hereby approves the Enforcement Plan for the Port's RPS Procurement Plan; and be it

RESOLVED that the Enforcement Plan for the RPS Procurement Plan shall be effective January 1, 2012.

At the regular meeting held on December 1, 2011

Passed by the following vote:

Ayes: Commissioners Gonzales, Head, Uno, Yee and
President Calloway - 5

Excused: Commissioners Gordon & Lighty - 2

Noes: 0