



# STAFF REPORT

ENGINEERING SERVICES DEPARTMENT

**Date:** December 21, 2011

**To:** Mayor and Members of the City Council  
John R. Gillison, City Manager

**From:** Mark A. Steuer, Director of Engineering Services/City Engineer

**By:** Fred Lyn, Utilities Division Manager

**Subject:** A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA ESTABLISHING A RENEWABLE ENERGY RESOURCES PROCUREMENT PLAN AND ENFORCEMENT PROGRAM PURSUANT TO CALIFORNIA SENATE BILL X1-2

## RECOMMENDATION

Approval of a Resolution of the City Council of the City of Rancho Cucamonga establishing a Renewable Energy Resources Procurement Plan and Enforcement Program pursuant to California Senate Bill X1-2.

## BACKGROUND / ANALYSIS

Over the past 5 years, the electric utility industry has increasingly been governed by federal and state legislative efforts to reduce environmental impacts such as climate change and air pollution. These new regulations include the amount of renewable energy used to serve retail electric load, commonly called a renewable portfolio standard, or RPS. Non-compliance with these regulations could result in penalties to the City's municipal utility.

### History of the Renewable Portfolio Standard (RPS)

In 2002, Senate Bill (SB) 1078 established the State's first RPS of 20 percent by 2017 for the investor owned utilities (IOUs), while allowing the governing board of a publicly owned utility (POU) (i.e. City Council) to implement and enforce its own RPS and not be tied to a statewide RPS mandated of the IOUs. In 2006, SB 107 accelerated the RPS for IOUs to 20 percent by 2010.

In 2008, former Governor Schwarzenegger signed a 33 percent RPS Executive Order in 2008, but it was not an enforceable law and did not include POUs. In May 2008, the Rancho Cucamonga City Council adopted a RPS goal for Rancho Cucamonga Municipal Utility (RCMU): 20 percent by 2010 and 33 percent by 2020.

### SB X1-2



In April 2011, SB X1-2 was signed and adopted by Governor Jerry Brown, establishing a revised RPS goal and enforcement to be applied to both IOUs and POUs, including RCMU. Under SB X1-2, RCMU must achieve a minimum "average" 20 percent RPS between calendar years 2011 and 2013, and then steadily increase the RPS amount to 33 percent by 2020.

In addition to setting forth overall RPS objectives, SB X1-2 established minimum and maximum allowable resources to meet the RPS requirements. SB X1-2 has made it clear that in-state renewable resources are preferred by imposing limits on the maximum amount of out-of-state energy and/or renewable energy credit (REC) a load serving entity like RCMU can count towards its RPS. The most common eligible renewable energy facilities includes: Solar photovoltaic, wind, small hydroelectricity, geothermal, landfill gas and biomass.

Council Subcommittee Recommendation:

At the December 7, 2011, Public Works Subcommittee meeting, the subcommittee recommended approval of the resolution establishing a Renewable Energy Resource Procurement Plan and Enforcement Program pursuant to Senate Bill X1-2.

**RENEWABLE ENERGY RESOURCES PROCUREMENT PLAN**

SB X1-2 through Public Utilities Code section 399.30 requires the Rancho Cucamonga City Council to revise its existing RPS and adopt a Renewable Energy Resources Procurement Plan with a public hearing by January 1, 2012. The procurement plan would establish a minimum quantity of electricity products from eligible renewable energy resources, including renewable energy credits (REC), establish procurement targets, the quantity of eligible renewable energy resources required over certain compliance periods and eligible procurement content categories. Adoption of the attached resolution would satisfy this requirement.

**I. Procurement Targets**

<b>A. Adopt Compliance Periods</b>	<u>Compliance Period One:</u> January 1, 2011, to December 31, 2013. <u>Compliance Period Two:</u> January 1, 2014, to December 31, 2016. <u>Compliance Period Three:</u> January 1, 2017, to December 31, 2020.
<b>B. Adopt Procurement Targets</b>	<ul style="list-style-type: none"> <li>• An average of 20% during Compliance Period ("CP") one.</li> <li>• 25% by the final year in CP two.</li> <li>• 33% by the final year in CP three.</li> </ul>
<b>C. Consider Adopting Goals for Intervening Years</b>	RPS procurement in intervening years in CPs two and three should reflect "reasonable progress."

**II. Procurement Content Categories**

<b>A. Define Procurement Buckets</b>	<p><u>Bucket One:</u> Eligible renewable energy resource electricity that meet the requirement of "in-state" or "out-of-state" resources scheduling power directly to a California balancing authority in accordance with PUC section 399.16(b)(1)</p> <p><u>Bucket Two:</u> Firmed and shaped eligible renewable energy resource electricity products providing incremental electricity and scheduled into a California balancing authority, in accordance with PUC section 399.16(b)(2)</p> <p><u>Bucket Three:</u> 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 Categories 1 or 2.</p>
<b>B. Adopt Procurement Bucket Targets</b>	<p><u>Bucket One:</u> (1) at least 50% in CP one; (2) at least 65% in CP two; and (3) at least 75% from that point on.</p> <p><u>Bucket Three:</u> (1) 25% or less in CP one; (2) 15% or less in CP 2; and (3) 10% or less in CP 3.</p>

**III. Grandfathered Resources**

<b>A. Adopt Procurement Grandfathering Rules</b>	Contracts executed before June 1, 2010 are exempt from the Procurement Bucket Requirements.
--	---

**RCMU Grandfathered Resources**

Counterparty	Project Name	Type	Capacity (MW)	Contract Date	Delivery Year	Term (Years)	Location (State)
Fortistar	Mid-Valley	Landfill Gas	2.5	July 2008	2008	10	California
Fortistar	Milliken	Landfill Gas	2.5	July 2008	2008	10	California

**IV. Procurement Plan Resources (Compliance Period 1)**

							Est. CP 1 (2011-13) Retail Sales (MWh)	201,733
Procurement Plan Resources	Project Name	Type	Contract Date	Term (Years)	Delivery Year	Location (State)	CP 1 (2011-13) MWh	CP 1 RPS%
<b>Grandfathered Resources</b>								
Fortistar (Bucket 1)	Mid-Valley	Landfill Gas	Jul-08	10	2013	California	13,500	7%
Fortistar (Bucket 1)	Milliken	Landfill Gas	Jul-08	10	2013	California	12,000	6%
<b>Contracted</b>								
RECs (Bucket 3)	N/A	RECs	Oct-11	1	2011	WECC Region	11,000	5%
<b>Pending Projects</b>								
Short Term Unspecified Renewable (Bucket 1 or 2)	Unspecified	Unspecified	2012	1	2012	California	5,000	2%
							<b>Total RPS</b>	<b>20%</b>

**V. Procurement Plan Adoption**

<b>A. Adopt Procurement Plan Schedule</b>	There is limited statutory guidance, but procurement plans can be adopted either on an annual basis or for each compliance period.
<b>B. Notice Requirements</b>	Any discussions and proposed changes made to the procurement plan must be noticed in accordance with the normal Brown Act requirements.  Notice and any documents to be presented at the meeting must also be provided to the CEC.
<b>C. Reporting Requirements</b>	Provide data annually to the Energy Commission and to the City's customers.

### **RENEWABLE ENERGY RESOURCES ENFORCEMENT PROGRAM**

Per SB X1-2, the Rancho Cucamonga City Council must also adopt and implement a renewable energy resources enforcement program, which would establish the preservation of its authority to enforce and oversee compliance regarding RPS requirements, as well as delay or waive RPS requirements under certain circumstances or conditions, if appropriate. Adoption of the attached resolution would satisfy this requirement.

<b>A. Adopt Rules for Reducing Procurement Content Rules</b>	Governing Boards for POUs will most likely be able to alter the procurement bucket requirements based on specified transmission, supply, or reliability conditions.
<b>B. Adopt Deferral Rules</b>	RPS Compliance can be deferred based on specified transmission, supply, or reliability reasons.
<b>C. Adopt Banking Rules</b>	Certain excess procurement can be banked in on CP to be used in the next CP.
<b>D. Adopt Cost Limitations</b>	Governing Boards have wide latitude to adopt cost limitations once rules and regulations have been established by the CEC.

RCMU shall strive to procure adequate and eligible supplies of renewable energy resources to meet the procurement targets and bucket requirements set forth in its Enforcement Program. However, costs for eligible renewable energy resources will be higher than the average energy costs currently purchased from the wholesale energy market.

Once cost limitation rules and regulations are established by the CEC, RCMU intends to implement cost limitations to its Enforcement Program that will address adverse situations beyond RCMU's control that may arise, possibly preventing RCMU from meeting its RPS procurement targets in a timely manner. The cost limitation factor would also address the potential cost impact it may have for RCMU's ratepayers. It is the goal of RCMU and the City Council to comply with all the targets set forth in the Enforcement Program at the least cost possible, without placing any risk to the reliability and fiscal health of the electric utility.

Respectively submitted,



Mark A. Steuer  
 Director of Engineering Services/City Engineer

RESOLUTION *11-183*

## A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA ESTABLISHING A RENEWABLE ENERGY RESOURCES PROCUREMENT PLAN AND ENFORCEMENT PROGRAM PURSUANT TO CALIFORNIA SENATE BILL X1-2

WHEREAS, the City of Rancho Cucamonga is authorized under various provisions of the California Constitution and the general laws of California (including, specifically, Article XI, Section 9(a) of the California Constitution, Public Utilities Code Section 10004, and Government Code section 39732(a)) to establish, purchase, and operate a public utility to furnish its inhabitants with, among other things, electricity; and

WHEREAS, the City of Rancho Cucamonga operates a municipal electric utility ("City"); and

WHEREAS, as a municipal electric utility, the City is generally subject to the legislative and regulatory requirements applicable to local publicly owned electric utilities ("POUs"); and

WHEREAS, the State of California passed Senate Bill 2 (1st Extraordinary Session) ("SBX1-2"), effective as of December 10, 2011, requiring POUs, including the City, to adopt and implement, among other things, a renewable energy resources enforcement program and procurement plan that requires the City to procure a minimum quantity of eligible renewable energy resources over certain periods; and

WHEREAS, SBX1-2 requires the Rancho Cucamonga City Council, as the governing board of the City, to ensure that the amount of eligible renewable energy resources to be procured by the City for the period from January 1, 2011, to December 31, 2013, is equal to an average of 20 percent of retail sales; and that the City makes reasonable progress to ensure that the procurement of eligible renewable energy resources achieves 25 percent of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and in all subsequent years; and

WHEREAS, SBX1-2 authorizes the Rancho Cucamonga City Council, as the governing board of the City, to adopt cost limitations for procurement expenditures of renewable energy resources at levels that avoid disproportionate rate impacts; and

WHEREAS, SBX1-2 establishes conditions that allow for the delay of timely compliance under certain limited circumstances, including lack of availability of eligible renewable energy resources; and

WHEREAS, the Rancho Cucamonga City Council, as the governing board of the City, is required under SBX1-2 to adopt a program for the enforcement of the City's obligations under SBX1-2 on or before January 1, 2012, and hold a publicly noticed meeting offering all interested parties an opportunity to comment; and

WHEREAS, the California Energy Commission ("CEC") is directed to adopt regulations specifying procedures applicable to POUs for the enforcement of the requirements of SBX1-2, and the CEC's finding of a failure of the City to comply with SBX1-2 may result in penalties to be assessed by the California Air Resources Board;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA DOES HEREBY RESOLVE AS FOLLOWS:

**SECTION 1.** A program for the enforcement of the requirements established under SBX1-2 is hereby adopted as set forth in Attachment A, which is attached hereto and incorporated herein ("RPS Enforcement Program").

**SECTION 2.** The City Manager or his/her duly authorized designee has developed and presented for City Council approval a Renewable Energy Resources Procurement Plan, as further described in the RPS Enforcement Program.

**SECTION 3.** The City Manager or his/her duly authorized designee shall develop and present for City Council approval a cost limitation and availability criteria consistent with the requirements of SBX1-2, as further described in the RPS Enforcement Program.

**SECTION 4.** Except for matters specifically reserved under SBX1-2 for action by the City Council, as governing board of the City, the City Manager or his/her duly authorized designee is authorized and directed to do and perform all acts required in the RPS Enforcement Program to fulfill obligations pertaining to the City under SBX1-2.

**SECTION 5.** This resolution shall take effect immediately upon its adoption.

## ATTACHMENT A

### RENEWABLE ENERGY RESOURCES ENFORCEMENT PROGRAM

This Renewable Energy Resources Enforcement Program (RPS Enforcement Program) shall apply to the City of Rancho Cucamonga, operating through its municipal electric utility (City).

#### Section 1: Definitions

The definitions set forth in Public Resources Code (PRC) § 25741 and Public Utilities Code (PUC) § 399.12 are incorporated herein.

The following definitions shall also apply to this RPS Enforcement Program:

**Renewable Energy Resources Procurement Plan:** The plan adopted by the City Council pursuant to PUC § 399.30, as further described in Section 10.

**Energy Commission:** The State Energy Resources Conservation and Development Commission.

**CPUC:** The California Public Utilities Commission.

#### Section 2: Compliance Periods

The City Council adopts the following compliance periods as required by PUC § 399.30(b):

Compliance Period One: January 1, 2011, through December 31, 2013

Compliance Period Two: January 1, 2014, through December 31, 2016

Compliance Period Three: January 1, 2017, through December 31, 2020

#### Section 3: Procurement Targets

The City Council adopts the following RPS-eligible (electricity products from eligible renewable energy resources, including renewable energy credits (RECs)) procurement goals as a minimum percentage of retail sales, pursuant to PUC § 399.30(c)(1)-(2):

##### Compliance Period One:

- An average of 20% RPS-eligible resource procurement for the period starting with the later of January 1, 2011, or the effective date of PUC § 399.30, through December 31, 2013.

##### Compliance Period Two:

- By December 31, 2016: 25% RPS-eligible resource procurement.
- January 1, 2014, through December 31, 2016, sufficient procurement to reflect reasonable progress to ensure the above goal is achieved.

### Compliance Period Three:

- By December 31, 2020: 33% RPS-eligible resource procurement.
- January 1, 2017, through December 31, 2020, sufficient procurement to reflect reasonable progress to ensure the above goal is achieved.

### **Section 4: Procurement Content Categories**

The City Manager or his/her duly authorized designee shall assign all RPS-eligible resources procured by the City to their appropriate procurement content category in accordance with the provisions of PUC § 399.30(c)(3), consistent with PUC § 399.16.

### **Section 5: Grandfathering of Procurement Content Category Requirements**

The City Manager or his/her duly authorized designee shall count all resources meeting the requirements of PUC § 399.16(d) in full towards the procurement requirements set forth in this RPS Enforcement Program, if all of the following conditions are met: (a) the renewable energy resource was eligible under the rules in place as of the date when the contract was executed; and (b) 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; provided that the duration of the contract may be extended if the original contract specified a procurement commitment of 15 or more years.

This provision permits, but does not require, resources meeting the requirements of PUC § 399.16(d) to be exempted from the procurement content requirements.

### **Section 6: Deviation From Procurement Content Category Requirements**

The City Council may waive or reduce a procurement content requirement set forth in this RPS Enforcement Program to the extent the City demonstrates that it cannot comply with such requirements because of: (a) conditions beyond the control of the City due to any one of the conditions set forth in PUC § 399.15(b)(5); or (b) other conditions adopted by the City Council based on facts reasonably found by the City Council to be consistent with the intent of PUC § 399.15(b)(5) or PUC § 399.18 and the unique circumstances facing the City as a small municipal electric utility.

### **Section 7: Delay of Timely Compliance**

The City Council may adopt measures permitting the City to delay timely compliance with this RPS Enforcement Program pursuant to PUC § 399.30(c)(2), consistent with the requirements of PUC § 399.15(b)(5) or other conditions adopted by the City Council based on facts reasonably found by the City Council to be consistent with the intent of PUC § 399.15(b)(5).

### **Section 8: Banking Rules**

The City Council may adopt measures permitting the City to accumulate, beginning January 1, 2011, excess procurement in one compliance period to be applied to any subsequent compliance period provided that the quantity of excess procurement is determined in the same manner as allowed for retail sellers pursuant to PUC § 399.13(a)(4)(B).

**Section 9: Cost Limitations**

The City Council may establish a limitation on the procurement expenditures for all RPS-eligible resources used to comply with this RPS Enforcement Program. In establishing such limit, the City Council shall rely on elements consistent with PUC § 399.15(c)(1)-(3) and with pertinent policies and rules established by the City Council, including but not necessarily limited to rate regulations and existing bond covenants. The cost limitation value shall be included in the Renewable Energy Resources Procurement Plan, as described in Section 10.

**Section 10: Renewable Energy Resources Procurement Plan**

The City Council directs the City Manager or his/her duly authorized designee to develop and present a Renewable Energy Resources Procurement Plan to the City Council. At a minimum, the Renewable Energy Resources Procurement Plan shall include: (a) the specified resources that the City plans to use to meet the procurement targets adopted in Section 3, above; and (b) the flexible compliance mechanisms to be utilized by the City pursuant to Sections 5, 6, 7, 8, and 9, above. The City shall post a public notice whenever the City Council will deliberate in public on the Renewable Energy Resources Procurement Plan. The City shall also provide data annually to the Energy Commission and to report annually to the City's customers and the Energy Commission in accordance with PUC § 399.30.

**Section 11: Enforcement**

The City Council directs the City Manager or his/her duly authorized designee to inform the City Council at a public meeting in the event that the City will not meet the procurement requirements set out in Sections 3 and 4 above, subject to the flexible compliance mechanisms of Sections 5, 6, 7, 8, and 9, above. As soon as reasonably practicable following his/her informing the City Council the City Manager or his/her duly authorized designee shall develop and present a plan to bring the City into compliance.