

RESOLUTION NO. 11-051

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VICTORVILLE, CALIFORNIA, ESTABLISHING A RENEWABLE ENERGY RESOURCES ENFORCEMENT PROGRAM PURSUANT TO CALIFORNIA SENATE BILL 2 (1X)

WHEREAS, the City of Victorville 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 Victorville 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) (“SB 2 (1X)”), 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 a procurement plan that requires the City to procure a minimum quantity of eligible renewable energy resources over certain periods; and

WHEREAS, SB 2 (1X) requires the Victorville City Council (“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, SB 2 (1X) authorizes the 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, SB 2 (1X) 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 City Council, as the governing board of the City, is required under SB 2 (1X) to adopt a program for the enforcement of the City’s obligations under SB 2 (1X) on or before January 1, 2012 and hold a publicly noticed meeting offering all interested parties an opportunity to comment; and

WHEREAS, the City Council held a public hearing noticed in accordance with the provisions of SB 2 (1X) on December 6, 2011, providing interested parties the opportunity to comment on the proposed enforcement program; and

WHEREAS, the California Energy Commission (“CEC”) is directed to adopt regulations specifying procedures applicable to POU’s for the enforcement of the requirements of SB 2 (1X), and the CEC’s finding of a failure of the City to comply with SB 2 (1X) may result in penalties to be assessed by the California Air Resources Board.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VICTORVILLE DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. A program for the enforcement of the requirements established under SB 2 (1X) is hereby adopted as set forth in Attachment A, which is attached hereto and incorporated as part of this Resolution (“RPS Enforcement Program”).

Section 2. The City Manager or his/her duly authorized designee shall develop and present 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 SB 2 (1X), as further described in the RPS Enforcement Program.

Section 4. Except for matters specifically reserved under SB 2 (1X) 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 SB 2 (1X).

Section 5. The City Clerk shall certify to the adoption of this Resolution.

Section 6. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2011.

Resolution No. 11-051

PASSED, APPROVED AND ADOPTED this 6th day of DECEMBER 2011.


MAYOR OF THE CITY OF VICTORVILLE

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

I, CAROLEE BATES, City Clerk of the City of Victorville and ex-officio Clerk to the City Council of said City, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 11-051 which was adopted at a meeting held on the 6th day of December 2011, by the following roll call vote, to wit:

AYES: Councilmembers Cabriales, Kennedy, McEachron, Rothschild and Valles

NOES: None

ABSENT: None

ABSTAIN: None


CITY CLERK

ATTACHMENT A

RENEWABLE ENERGY RESOURCES ENFORCEMENT PROGRAM

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

Section 1: Definitions

All references to Public Resources Code (PRC) and Public Utilities Code (PUC) sections are to those sections as amended by the provisions of SB 2 (IX), signed by the Governor on April 12, 2011 and made effective as of December 10, 2011 by operation of law.

The definitions set forth in PRC § 25741 and 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 procurement goals as a 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 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.