

Memorandum

To: Chair Robert B. Weisenmiller
Commissioner Karen Douglas
Commissioner David Hochschild
Commissioner Andrew McAllister
Commissioner Janea A. Scott

Date: February 13, 2018

From: Drew Bohan
Executive Director

Subject: **Approval of a Sacramento Municipal Utility District Emission Performance Standard Compliance Filing**

On February 2, 2018, the Sacramento Municipal Utility District (SMUD) submitted the attached compliance filing requesting the Energy Commission find SMUD's covered procurement for power from the ARP-Loyalton Cogen LLC biomass facility compliant with the Energy Commission's Greenhouse Gases Emission Performance Standard (EPS), pursuant to Title 20 of the California Code of Regulations, Section 2900, et seq. This compliance filing will be an agenda item on the upcoming March 21 Business Meeting.

Under SB 1368 (Perata, Chapter 598, Statutes of 2006), the EPS limits long-term investments in baseload generation by the state's utilities to power plants that meet an EPS jointly established by the Energy Commission and the California Public Utilities Commission. The emission rate limit is 1,100 pounds of carbon dioxide per megawatt-hour. The EPS regulations established a public process for determining the compliance of proposed utility investments. Utilities are required to submit a compliance filing upon committing to an investment that is required to meet the EPS.

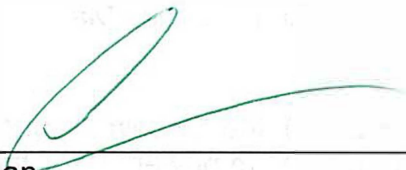
On January 23, 2018, the SMUD Board of Directors approved a power purchase agreement (PPA) with ARP-Loyalton Cogen LLC for a term of five years, starting in April 2018. The PPA has a total capacity of 18 megawatts (MW) and SMUD's share is 4.221 MW (23.45 percent). The ARP-Loyalton biomass facility has been closed since August 20, 2010, but has since been refurbished to original equipment manufacturer condition and is expected to return to full commercial operation in April 2018. The Loyalton facility is considered to be a renewable biomass power plant as it utilizes wood waste from the forest. The facility is currently listed as pending RPS certification with an RPS identification number of 60570.

SMUD is one of four buyers under the PPA. The other buyers are the Modesto Irrigation District, the Southern California Public Power Authority, and the Turlock Irrigation District. The four buyers are procuring the power for local publicly owned electric utility compliance with SB 859 (Committee on Budget and Fiscal Review, Chapter 368, Statutes of 2016). SB 859 requires local publicly owned electric utilities serving more than 100,000 customers to procure their proportionate shares of 125 MW of cumulative rated capacity from bioenergy projects for terms of at least five years.

Chair Robert B. Weisenmiller
Commissioner Karen Douglas
Commissioner David Hochschild
Commissioner Andrew McAllister
Commissioner Janea A. Scott
February 13, 2018
Page 2

Staff has evaluated SMUD's compliance filing and concludes that the PPA is compliant with the EPS pursuant to Section 2903(b)(2); specifically, that the biomass facility listed in the PPA utilizes only biomass fuels that would otherwise be disposed of utilizing open burning, forest accumulation, spreading, composting, uncontrolled landfill, or landfill utilizing gas collection with flare or engine. Biomass includes but is not limited to agriculture waste, wood waste, and landfill gas. Staff recommends the Energy Commission find that the covered procurement described in SMUD's filing complies with the Energy Commission's EPS, Title 20, Section 2900 et seq., of the California Code of Regulations.

Attachment



Drew Bohan
Executive Director

2 / 13 / 18
Date



LEG 2018-0056
February 2, 2018

*Via Email: EPS@energy.ca.gov
marc.pryor@energy.ca.gov
michael.nyberg@energy.ca.gov
and via U.S. Mail*

California Energy Commission
EPS Compliance
1516 Ninth Street
Sacramento, CA 95814-512
Attn: Compliance Filing

Re: Compliance Filing of the Sacramento Municipal Utility District

Gentlemen:

Pursuant to Title 20, Chapter 11, Section 2909 of the California Code of Regulations¹ adopted by the California Energy Commission (CEC) to implement Senate Bill SB 1368, the Sacramento Municipal Utility District (SMUD) hereby submits the attached compliance filing. Through this compliance filing, SMUD requests that the CEC find that SMUD's five year agreement (PPA) with ARP-Loyalton Cogen LLC for the purchase of 4.221 MW of biomass energy complies with the CEC's emission performance standard (EPS). This PPA is for compliance with Senate Bill 859 (2016).

As way of background, in accordance with Section 2908, on January 8, 2018, SMUD sent to the CEC via email the agenda and supporting documentation for SMUD's January 10, 2018 Board of Directors' Energy Resources & Customer Services Committee and January 18, 2018 Board of Directors' meetings. The documentation contained information about the proposed procurement and a draft compliance filing. On January 18, 2018, SMUD's Board of Directors approved the attached compliance filing, and authorized the CEO & General Manager, or his delegate, to execute the compliance filing attestation and the PPA.

On January 23, 2018, the CEO & General Manager's delegate executed the PPA. Section 2909 requires that the compliance filing be submitted to

¹ All further references are to Title 20, Chapter 11 of the California Code of Regulations, unless otherwise specified.



the CEC within ten business days of execution of the PPA. In light of the foregoing, SMUD has complied with the notice and timing requirements of the CEC's regulations.

Section 2903(b) provides that powerplants that meet the criteria of a renewable electricity generation facility, as defined by the California Renewables Portfolio Standard (RPS) legislation and guidelines adopted thereunder, are "determined to be compliant" with the EPS. In addition, and separately, power plants using only biomass fuels that would otherwise be disposed of utilizing open burning or forest accumulation are "determined to be compliant" with the EPS. The ARP-Loyalton Cogen LLC biomass plant meets the EPS criteria – it is a "renewable electricity generation facility" for the purposes of the California RPS and is an eligible biomass power plant using forest wood waste. Accordingly, it is determined to be compliant under the CEC regulations.

We look forward to your determination that the PPA complies with the EPS. Please do not hesitate to contact me, if you have any questions about the foregoing.

Sincerely,



Andrew Meditz
Senior Attorney
Sacramento Municipal Utility District

Enclosure

cc: Steve Lins
Chad Adair
Sue Musselman
Corporate Files

**CALIFORNIA ENERGY COMMISSION
EMISSION PERFORMANCE STANDARD COMPLIANCE FILING**

California Energy Commission
EPS Compliance
1516 Ninth Street
Sacramento, CA 95814-512
Attention: Compliance Filing

EPS@energy.state.ca.us

This is to inform you that the Sacramento Municipal Utility District (SMUD) entered into a long-term contract for renewable energy on January 23, 2018 (hereinafter referred to as "Power Purchase Agreement"). The Power Purchase Agreement information is as follows:

Name of Counterparty: ARP-Loyalton Cogen, LLC

Name of Facility: Loyalton Biomass Plant

Location of Facility: 100 South Railroad Ave, Loyalton, CA

Technology/Fuel: Biomass

Nameplate Capacity of Facility: 19.9 MW

Product Description: As-available energy not to exceed contract capacity at any time.

Substitute energy allowed: No

Delivery Start Date-Delivery End Date: Delivery begins upon achievement of commercial operation as defined in the Power Purchase Agreement and will continue for five (5) years. Expected commencement of commercial operation is April 2018.

Further description of technology, if necessary:

None

Further description of facility output profile, if necessary:

None

Description of contract terms related to the provision of substitute energy, if necessary:

None

**CALIFORNIA ENERGY COMMISSION
EMISSION PERFORMANCE STANDARD COMPLIANCE FILING**

Description of other relevant contract terms:

SMUD is one of four Buyers under the Power Purchase Agreement. The Buyers are procuring the power for local publicly owned electric utility compliance with SB-859. Although the nameplate capacity of the facility is 19.9 MW, the Buyers have contracted for 18 MW total. SMUD's contracted share of this total is 4.221 MW.

We are asking that the Commission find that this Power Purchase Agreement is compliant with the greenhouse gases emission performance standard set forth in Chapter 11 of Title 20 of the California Code of Regulations (EPS Regulations). Specifically, SMUD asserts herein that the Facility under contract is compliant pursuant to Section §2903(b) of the EPS Regulations.

**CALIFORNIA ENERGY COMMISSION
EMISSION PERFORMANCE STANDARD COMPLIANCE FILING**

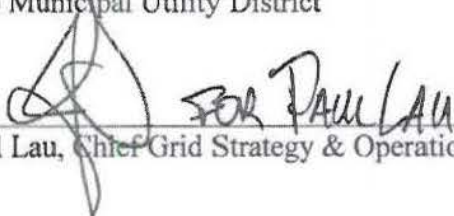
COMPLIANCE FILING ATTESTATION

I, the official named below, certify under penalty of perjury, the following:

1. I am an agent of the Sacramento Municipal Utility District (SMUD) authorized by its governing board to sign this attestation on its behalf;
2. The SMUD Board of Directors has reviewed and approved in a public meeting both the covered procurement and the compliance filing described above;
3. Based on the SMUD Board of Director's knowledge, information, and belief, the compliance filing does not contain a material misstatement or omission of fact;
4. Based on the SMUD Board of Director's knowledge, information, and belief, the covered procurement complies with Title 20, Division 2, Chapter 11, Article 1 of the California Code of Regulations; and
5. The covered procurement contains contractual terms or conditions specifying that the contract or commitment is void and all energy deliveries shall be terminated no later than the effective date of any Commission decision pursuant to Title 20, California Code of Regulations, section 2910, that the covered procurement fails to comply with Title 20, Division 2, Chapter 11, Article 1, of the California Code of Regulations.

Sacramento Municipal Utility District

By:


Paul Lau, Chief Grid Strategy & Operations Officer

Date: January 23, 2018

STATE OF CALIFORNIA

**STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

IN THE MATTER OF:

Docket. 18-EPS-01

**SACRAMENTO MUNICIPAL UTILITY DISTRICT
EMISSION PERFORMANCE STANDARD
COMPLIANCE FILING**

**ORDER APPROVING SMUD
POWER PURCHASE
AGREEMENT**

I. INTRODUCTION

Pursuant to Public Utilities Code section 8341(e)(1), the Energy Commission established a greenhouse gases emission performance standard (EPS) of 1,100 pounds carbon dioxide per megawatt hour, as codified in Title 20 of the California Code of Regulations, sections 2900 et seq. The Energy Commission is responsible for reviewing all long-term financial commitments entered into by local publicly owned electric utilities for compliance with the EPS.

II. FINDINGS

a. On February 2, 2018, the Sacramento Municipal Utility District (SMUD) submitted a compliance filing requesting that the Energy Commission find that SMUD's Power Purchase Agreement (PPA) with ARP-Loyalton Cogen LLC for electricity from the Loyalton Biomass Plant be determined to be compliant with the EPS;

b. Energy Commission staff reviewed SMUD's filing and found it complete. Based on its review, staff recommended that the procurement be found to be in compliance with the EPS; specifically, staff concluded that the facility listed in the PPA is determined to be compliant with the EPS under section 2903(b)(2) of the Public Resources Code; and

c. The Energy Commission concurs with staff's recommendation that SMUD's compliance filing is complete and that the contract with ARP-Loyalton Cogen LLC, as described in the compliance filing, complies with the EPS.

III. CONCLUSION AND ORDER

The California Energy Commission hereby adopts staff's recommendation and orders that the long-term financial commitment described in SMUD's compliance filing complies with the Energy Commission's Greenhouse Gases Emission Performance Standard, as codified in Title 20 of the California Code of Regulations, section 2900 *et seq.*

CERTIFICATION

The undersigned Secretariat to the Energy Commission does hereby certify that the foregoing is a full, true, and correct copy of an Order duly and regularly adopted at a meeting of the California Energy Commission held on March 21, 2018.

AYE:

NAY:

ABSENT:

ABSTAIN:

Cody Goldthrite
Secretariat