



# City of Palo Alto

## City Council Staff Report

(ID # 11650)

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**Report Type: Consent Calendar**

**Meeting Date: 12/7/2020**

**Council Priority: Climate/Sustainability and Climate Action Plan**

**Summary Title: RPS Procurement Plan and Enforcement Program Updates**

**Title: Adoption of a Resolution Approving the Updated Renewable Portfolio Standard Procurement Plan and Enforcement Program**

**From: City Manager**

**Lead Department: Utilities**

### **Recommendation**

Staff recommends that the City Council adopt a Resolution approving the City's updated Renewables Portfolio Standard (RPS) Procurement Plan and RPS Enforcement Program.

### **Background**

#### *California's RPS Policy History*

The State of California has an RPS program that is intended to increase the amount of electricity generated each year from eligible renewable energy resources. In 2002, Senate Bill (SB) 1078 established California's first RPS, which required investor owned utilities (IOUs) to generate at least 20% of their electric retail sales per year with eligible renewable energy resources by 2017. This objective was accelerated in 2006 under SB 107, which required IOUs to achieve the 20% target by 2010. While both of these laws applied specifically to IOUs, SB 1078 (2002) directed local publicly owned utilities (POUs)—such as Palo Alto—to implement and enforce an RPS that “recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.” POU governing boards, including Palo Alto's City Council, were granted discretion over the mix and costs of resources procured for their own RPS programs, and could also adopt more stringent standards.

In April 2011 California's Governor Brown signed SB X1-2, known as the California Renewable Energy Resources Act, into law, which extended California's RPS mandate to 33% by 2020. In addition, this new RPS law applied to all electricity retailers (or load serving entities, LSEs) in the state—including POUs such as Palo Alto. SB X1-2 directed the California Energy Commission (CEC) to adopt regulations specifying procedures for enforcement of a Renewables Portfolio Standards for POUs. After some delay, the CEC adopted its final RPS regulations, which became

effective October 1, 2013.<sup>1</sup>

One of the key differences between SBX1-2 and the two previous state RPS laws is that SBX1-2 explicitly gave state regulators the authority to enforce the RPS mandate on POUs. Under SB 1078 and SB 107 the CEC was responsible only for certifying renewable facilities as eligible for the RPS and for developing a tracking and verification system to prevent the double-counting of renewable energy output. In contrast, SBX1-2 permitted the California Air Resources Board (CARB) to impose financial penalties upon POUs for failure to comply with state RPS regulations.

In September 2015, Governor Brown signed SB 350, known as the Clean Energy and Pollution Reduction Act, which established clean energy, clean air, and greenhouse gas (GHG) reduction goals, including reducing GHG to 40 percent below 1990 levels by 2030 and to 80 percent below 1990 levels by 2050. In terms of renewable energy, SB 350 also increased California's RPS mandate level to 50% by 2030.

In September 2018, Governor Brown signed SB 100, known as the 100 Percent Clean Energy Act. This law increased the RPS mandate yet again (this time to 50% by 2026 and 60% by 2030), and also established a policy that 100% of the state's retail electricity supply should come from zero-carbon resources by 2045.

#### *Palo Alto's RPS Policy History*

Palo Alto adopted its first RPS policy in 2002—nine years before it was required to adopt an RPS by SB X1-2—setting a goal of obtaining 20% of its electricity from renewables by 2010 as part of the Long-term Electric Acquisition Plan (LEAP). In December 2011, after the state adopted the same RPS mandate as the City had established in 2002, Palo Alto increased its RPS target level to 33% by 2015.

In March 2013, Palo Alto adopted the Carbon Neutral Plan ([Resolution 9322](#), [Staff Report 3550](#)), committing to matching the number of megawatt-hours of electrical energy that Palo Alto uses with an equal number of megawatt-hours of energy purchased from City of Palo Alto Utilities's (CPAU's) contracted renewable and hydroelectric generating sources. Palo Alto has achieved this carbon neutral objective every year starting in calendar year (CY) 2013, effectively meeting the state's "100% clean energy" target 32 years ahead of the schedule set by SB 100.

In 2018, following the passage of SB 350 and SB 100, Palo Alto adopted its first Integrated Resource Plan (IRP) ([Resolution 9802](#), [Staff Report 9761](#)), which was required of larger POUs

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<sup>1</sup> The current [CEC RPS regulations](#) were adopted in 2016, with an effective date of April 12, 2016. However, the CEC is scheduled to adopt an updated set of RPS regulations at its December 9, 2020 [business meeting](#) that will bring the RPS regulations into alignment with SB 100 (2018). However, because some of the provisions in SB 100 (namely the long-term procurement requirement) become effective on January 1, 2021, it is necessary for Palo Alto to adopt these updated versions of its RPS Procurement Plan and RPS Enforcement Program even though the CEC RPS regulations implementing SB 100 have yet to be formally adopted.

under SB 350. The IRP replaced LEAP as Palo Alto's long-term electric supply portfolio planning framework, and formally merged the City's RPS policy with the State RPS mandate as set forth in the CEC's RPS regulations.

## **Discussion**

### *RPS Procurement Plan*

While the IRP is now aligned with the State RPS mandate, and the City's renewable procurement complies with the RPS mandate, there is still a compliance filing, the City's RPS Procurement Plan, that the City is required to adopt and file with the CEC. This compliance filing is aligned with previously adopted Council policies and will not result in any change to the City's electric supply or costs. Note that this compliance filing is *less* stringent than the City's Carbon Neutral Plan and is aligned with the minimum State RPS requirements. The compliance filing is formulated this way to maximize the City's ability to make decisions locally. If the community wishes to make changes to the Carbon Neutral Plan, it can simply make those changes locally rather than having to file an updated compliance filing with the CEC. Staff always manages the City's electric supply portfolio to the more stringent set of Council-adopted policies.

[Exhibit A](#) to [Attachment A](#) presents the proposed amended RPS Procurement Plan, which includes changes designed to bring the City's RPS Procurement Plan into alignment with current state RPS law (SB 100). The RPS Procurement Plan requires CPAU to procure a minimum quantity of electricity products from eligible renewable energy resources as a specified percentage of CPAU's total kilowatt-hours sold to its retail end-use customers. This quantity is measured during each three- or four-year compliance period, to achieve the targets specified in SB 100 and the CEC's RPS regulations. In addition to establishing minimum procurement targets in the defined compliance periods, the City's RPS Procurement Plan includes the following elements:

1. Adopts the CEC's definitions of the Procurement Content Categories (PCC0, PCC1, PCC2, and PCC3) for the different types of renewable energy as a function of when contracts were executed, where the generation supply is located, and how the renewable attributes are bundled with the energy generation;
2. Adopts the CEC's limits on portfolio balance requirements in terms of the percentage of PCC1, PCC2, and PCC3 that can be contained in CPAU's RPS portfolio.
3. Adopts the CEC's requirement that a minimum of 65% of CPAU's RPS generation be procured under long-term contracts (at least 10 years in duration) or ownership arrangements;
4. Describes the process, calculation and criteria for using historic carryover, whereby historic carryover recognizes early investments in renewable energy by allowing pre-December 31, 2010 generation to count towards future compliance requirements under certain conditions;
5. Outlines procedures for applying excess renewable energy from one compliance period to a subsequent period;

6. Describes procedures allowing for a delay of timely compliance due to mitigating circumstances beyond CPAU's control;
7. Allows for the adoption of cost limitations for procurement expenditures;
8. Allows for the reduction or relaxation of the portfolio balance requirements under certain conditions;
9. Allows for the reduction of CPAU's procurement requirements during years in which CPAU receives generation from its large hydroelectric resources that exceeds certain amounts;
10. Summarizes external reporting requirements; and
11. Provides for an annual review of the RPS Procurement Plan.

#### *RPS Enforcement Program*

[Exhibit B](#) to [Attachment A](#) presents the proposed amended RPS Enforcement Program, which contains pro forma enforcement language, and which has also been updated to bring the City's RPS Enforcement Program into alignment with current state RPS law (SB 100). In implementing this program, the City Manager or their designee, the Director of Utilities, shall annually determine the City's compliance with California's RPS Program. If the City is not in compliance with California's RPS program, then the Council shall require the City Manager or their designee, the Director of Utilities, to:

1. Review and ascertain what changes are necessary to ensure compliance in the subsequent compliance periods;
2. Report quarterly to the Council on the progress made regarding ensuring compliance in subsequent compliance periods; and
3. Report to the Council on the status of meeting subsequent compliance targets and all steps taken and to be taken to ensure that compliance obligations will be timely met.

#### **Resource Impact**

Adoption of the attached resolution will not result in a financial impact to the City because the City's current renewables portfolio already exceeds the minimum procurement requirements established under California's RPS Program. (For 2019, the City achieved an RPS level of 37%—even after selling a significant amount of renewable generation—which exceeded the state's RPS target of 31% for that year.)

#### **Policy Implications**

Adoption of the attached resolution will enable the City to comply with the CEC regulations implementing California's RPS Program (California Code of Regulations, Title 20, Division 2, Sections 1240 and 3200-3208).

#### **Stakeholder Engagement**

The proposed changes to the City's RPS Procurement Plan and RPS Enforcement Program are relatively minor and highly administrative in nature, and therefore would not normally involve

much, if any, public engagement. However, in the process of updating the City's Carbon Neutral Plan recently, staff discussed the proposed changes to these documents with the Utilities Advisory Commission (UAC) at their July 1, 2020 meeting ([Staff Report 11393](#)).

**Environmental Review**

Adoption of the attached resolution approving the updated RPS Procurement Plan and RPS Enforcement Program is not a project subject to California Environmental Quality Act (CEQA) review, as an administrative government activity that will not result in any direct or indirect physical change to the environment as a result (CEQA Guidelines Section 15378(b)(5)).

**Attachments:**

- Attachment A: Resolution

\* NOT YET APPROVED \*

Resolution No. \_\_\_\_\_

Resolution of the Council of the City of Palo Alto Approving the 2020  
Renewables Portfolio Standard Procurement Plan and 2020  
Renewables Portfolio Standard Enforcement Program

R E C I T A L S

A. In September 2018, Governor Brown signed into law Senate Bill 100, the 100 Percent Clean Energy Act, which raised the amounts of renewable energy that electric utilities are required to procure under the California Renewables Portfolio Standard (RPS) Program to 60% by 2030, and established a policy that 100% of the state’s electricity supply should come from zero-carbon resources by 2045.

B. Under the California RPS Program, the City must adopt a RPS Procurement Plan to conform to state law, and must provide notice to the public and California Energy Commission (CEC) regarding any proposed modifications to its RPS Procurement Plan.

C. To carry out the California RPS Program, the CEC adopted regulations specifying procedures for enforcement of the Renewables Portfolio Standards for publicly owned utilities such as the City of Palo Alto Utilities department (CPAU), entitled "Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities" (CEC RPS Regulations, effective April 12, 2016).

D. The City of Palo Alto first adopted a RPS Procurement Plan on December 12, 2011 (Resolution 9215) and subsequently updated it on November 12, 2013 (Resolution 9381) and December 3, 2018 (Resolution 9802) to align with updates to the California RPS Program law set forth in Senate Bill 350 (2015).

E. The City of Palo Alto first adopted a RPS Enforcement Program on December 12, 2011 (Resolution 9214) and subsequently updated it on December 3, 2018 (Resolution 9802) to align with Senate Bill 350.

The Council of the City of Palo Alto does hereby RESOLVE as follows:

SECTION 1. The Council hereby approves the 2020 Renewables Portfolio Standard Procurement Plan (Exhibit A), to align with Senate Bill 100.

SECTION 2. The Council hereby approves the 2020 Renewables Portfolio Standard Enforcement Program (Exhibit B), to align with Senate Bill 100.

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\* NOT YET APPROVED \*

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SECTION 3. The Council finds that the adoption of this resolution approving the 2020 RPS Procurement Plan and 2020 RPS Enforcement Program is not a project subject to California Environmental Quality Act (CEQA) review because adoption of this resolution is an administrative government activity that will not result in any direct or indirect physical change to the environment as a result (CEQA Guidelines section 15378(b)(5)).

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

APPROVED:

\_\_\_\_\_  
Deputy City Attorney

\_\_\_\_\_  
City Manager

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Director of Utilities

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Director of Administrative Services