

AGENDA REPORT

Resolution: Adoption of Renewable Energy Resource Procurement Plan and Adoption of Program for Enforcement of the Renewable Portfolio Standards Program.

(Executive Office)

MEETING DATE: 12/17/2020

AMOUNT: \$7.4M FY 2021–2030

PARTIES INVOLVED: Port and Port Electric Customers at the Oakland International Airport, and Maritime Area.

SUBMITTED BY: Kristi McKenney, Chief Operating Officer

APPROVED BY: Danny Wan, Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY

On January 1, 2003 California Senate Bill 1078 (SB1078) became law, and among other things, added Section 387 to the Public Utilities Code. Section 387 provides that the governing body of a local publicly owned electric utility, such as the Board of Port Commissioners, is responsible for implementing and enforcing a “renewable portfolio standard” (RPS). The RPS should recognize 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. SB1078 set a target of 20% for renewable energy procurement by 2017. Since the original adoption of SB1078, there have been three more laws, SBX 1-2 in 2011, SB 350 in 2015, and most recently SB 100 in 2018. Each of these updated the requirement of utilities to procure energy from renewable sources to each of the following targets respectively, 33% in 2020, 50% in 2026, and 60% in 2030, with a goal of being 100% carbon free by 2045. In addition to the RPS, an enforcement program must also be adopted. Port Utilities is requesting adoption of an updated RPS to reflect the current target, and an accompanying Enforcement Plan as required by SB 100.

BACKGROUND

As a publicly owned utility (POU), the Port of Oakland (Port) purchases electricity from the wholesale electricity market to supply its own operational needs and for resale at a retail rate to the Port’s tenants at the Oakland International Airport, and the Maritime area. The Port Board of Commissioners is the primary regulatory authority for the Port’s publicly owned utility (POU) and sets the Renewable Portfolio Standard (RPS) targets complying with SBX1-2, SB 350, and SB 100. Those bills require POU’s to adopt and prepare a renewable energy resources

procurement plan, and enforcement program. State law directs the California Energy Commission (CEC) to adopt regulations specifying procedures to enforce the RPS on all load serving entities, including investor owned utilities (IOU) like PG&E, and POU's. While the law does contain mandatory provisions which the Port public utilities department must implement, in some cases, the law gives discretion as to how to implement the requirements.

In 2004, the Board passed Resolution 04195 adopting an RPS that guides the Port's adoption of clean energy. The primary goal then was for the Port to provide 20% of its energy from "renewable electric resources" annually starting in 2010, and 40% by 2017. At that time, large hydroelectric facilities (>30 megawatts) were considered renewable sources but have since been converted to a different category. Table 1 shows Port's power mixture for retail sales of energy to its tenants averaged 26% renewable with large hydroelectric included between 2010 through 2016. The original goal of 40% renewable energy in 2017 was surpassed at 51% with the inclusion of large hydroelectric, without the inclusion of hydroelectric the Port only achieved 28% renewable energy in 2017. However, the Port's goals set in 2004 were amended by Resolution 11-160 in 2011, which updated the RPS ensuring 33% of energy would be provided by renewable sources by 2020 and was accompanied by the adoption of an enforcement plan pursuant to Resolution 11-161. As shown in Table 1, calendar year 2019 resulted in the Port procuring 39% renewable energy for retail sales. Calendar year 2019 also included 20% energy procured from large hydroelectric resources, resulting in a total of 59% carbon-free energy provided to Port tenants without an increase in electric utility rates. Due to the 2020 end date of the current Port RPS, Port Utilities is returning to the Board to adopt and update the RPS and enforcement plan with set goals through 2030, and a general plan to supply 100% carbon free energy by 2045. Table 2 summarizes the RPS goals set forth by the California Energy Commission (CEC) to give a simplified, minimum goal Port Utilities will achieve. One addition to the RPS is that 65% of RPS must be met with renewable contracts that are longer than 10 years in duration, as included in Exhibit 1. Port Utilities will return for Board approval for proposed long-term renewable energy contracts to meet this goal, as applicable.

Table 1: Historic Energy Supply

Energy Resources	Power Mix									
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Eligible Renewable	11%	14%	11%	19%	20%	22%	22%	28%	23%	39%
<i>Biomass & biowaste</i>							20%	26%	21%	17%
<i>Geothermal</i>							0%	0%	0%	0%
<i>Eligible hydroelectric</i>							1%	1%	1%	0%
<i>Solar</i>							1%	1%	1%	1%
<i>Wind</i>							0%	0%	0%	20%
Large Hydroelectric	11%	13%	11%	8%	6%	5%	11%	23%	17%	20%
Coal							0%	0%	0%	0%
Natural Gas							0%	0%	0%	0%
Nuclear							0%	0%	0%	0%
Other							0%	0%	0%	0%
Total "Green Power"	22%	27%	22%	27%	26%	27%	33%	51%	40%	59%
Unspecified sources of power*	78%	73%	78%	73%	74%	73%	67%	49%	60%	41%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

*"Unspecified sources of power" means electricity generated from transactions that are not traceable to specific generation sources.

Table 2: State of California Goals

CA Renewable Portfolio Standard Goals			
	Applicable Years	%	Power Mix
Period 1	2010 - 2013	20%	Renewable
Period 2	2014 - 2016	25%	
Period 3	2017 - 2020	33%	
Period 4	2021 - 2024	44%	
Period 5	2025 - 2027	52%	
Period 6	2028 - 2030	60%	
Future	2045	100%	Carbon Free

In consideration of the above, Port Utilities recommends the following action:

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

ANALYSIS

Renewable Energy Resources Procurement Plan

Port Utilities developed a Renewable Energy Resources Procurement Plan (“Procurement Plan”) that is consistent with the laws established by SB 100. 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 SB 100.

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

Port Utilities 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, tidal, geothermal, wind, and local solar.

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 Procurement Plan to be reviewed annually.
2. For each review conducted at the end of a compliance period, 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 2024, 2027, 2030, and 2045), 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.
5. In the event that it is determined that the Port has failed to comply with the provisions of the Procurement Plan, the RPS Enforcement Program commits the Board to take steps to correct any untimely compliance, including:
- a. Reviewing the 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.

BUDGET & STAFFING

The proposed action does not have significant staffing impacts but, does require a currently unfilled position to be filled by FY22 to ensure timely compliance to the California Energy Commission.

Approximately 95% of Port Utility expenses come from the sale of energy to Port tenants and recovered through utility rates and charges in the selling of electricity. Therefore, the overall increase in Port Utilities expenses from 2021 through 2030 is a total of approximately \$7.4M. Of which approximately \$370k, or an average of \$37k/year is applied to Port use of electricity.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The matters included in this Agenda Report do not fall within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply.

STRATEGIC PLAN

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Business Plan (2018-2022).

<https://www.portofoakland.com/wp-content/uploads/Port-of-Oakland-Strategic-Plan.pdf>

- Goal Care for Our Environment

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, do not apply to this agreement.

SUSTAINABILITY

Port Staff have reviewed the Port's Sustainability Policy and did not complete the Sustainability Opportunities Assessment Form. There are no sustainability opportunities related to this proposed action because it does not involve a development project, purchasing of equipment, or operations that presents sustainable opportunities. However, adoption and compliance of the program itself supports investments in sustainable power generation.

ENVIRONMENTAL

The proposals to adopt a Procurement Plan and an RPS Enforcement Program were reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA). The CEQA Guidelines, Section 15061(b)(3) ("common sense exemption") states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Adopting an updated Port RPS and an Enforcement Plan as required by SB 100 will not have a significant effect on the environment and therefore is not a project under CEQA. No further environmental review is required.

GENERAL PLAN

This action does not change the use of any existing facility, make alterations to an existing facility, or create a new facility; therefore, a General Plan conformity determination pursuant to Section 727 of the City of Oakland Charter is not required.

OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)

The Owner Controlled Insurance Program (OCIP) does not apply to the matters addressed by this Agenda Report as they are not capital improvement construction projects.

OPTIONS

1. Adopt the Renewable Energy Resources Procurement Plan and the RPS Enforcement Program. This is the recommended option.
2. Return to the Board in early 2021 with a new Procurement Plan and Enforcement Program. This is not recommended as it would delay implementation of the compliance plan.

RECOMMENDATION

It is recommended that the Board:

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

Exhibit 1

Port of Oakland Renewable Energy Resources Procurement Plan

Introduction

This document presents the Revised Renewable Energy Resources Procurement Plan of the Port of Oakland, as required for compliance with the California Renewables Portfolio Standard Program, Public Utilities Code Sections 399.11 - 399.33. Since first enacted, the state's renewable portfolio standard (RPS) program has been amended to attain a target of generating 20 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2013, 33 percent by December 31, 2020, 50 percent by December 31, 2026, and 60 percent by December 31, 2030. Pursuant to Public Utilities Code PUC section 399.30(a), each POU must adopt and implement a renewable energy resources procurement plan (referred to herein as the "RPS Procurement Plan") and a separate program for the enforcement of the RPS Procurement Plan.¹ Port's enforcement program is not addressed in this document, but rather, in a separate report.

Port's RPS Procurement Plan, as reflected in Paragraphs 1-17 below consists of: (1) plan elements that are directly mandated by the legislation; (2) measures that address each of the optional provisions set forth in Public Utilities Code (PUC) sections 399.30(d) and 399.30(c)(3) and section 3206 of the POU RPS Enforcement Regulation; and (3) RPS reporting provisions. Where appropriate, this RPS Procurement Plan includes section citations to the Public Utilities Code sections 399.11, et seq. References to PUC section 399.30 reflect the most recent amendments, effective January 1, 2020 (Amended by Stats. 2019, Ch. 401, Sec. 3. (SB 155) Effective January 1, 2020).

1. **Purpose** (PUC section 399.30(a))
In order to fulfill unmet long-term generation resource needs, Port adopts and implements this RPS Procurement Plan that requires the utility to procure a minimum quantity of electricity products from eligible renewable energy resources, including renewable energy credits, as a specified percentage of Ports total kilowatt hours sold to its retail end-use customers, each compliance period, to achieve the targets specified in PUC section 399.30(c).
2. **Compliance Periods** (PUC section 399.30(b) and (c))
 - a. Compliance Period 1: January 1, 2011, to December 31, 2013, inclusive.
 - b. Compliance Period 2: January 1, 2014, to December 31, 2016, inclusive.

¹ Pursuant to PUC section 399.30(e), POUs must adopt a "program for enforcement" of the RPS Procurement Plan on or before January 1, 2012, at a publicly noticed meeting with not less than 30 days prior notice given to the public.

- c. Compliance Period 3: January 1, 2017, to December 31, 2020, inclusive.
- d. Compliance Period 4: January 1, 2021, to December 31, 2024, inclusive.
- e. Compliance Period 5: January 1, 2025, to December 31, 2027, inclusive.
- f. Compliance Period 6: January 1, 2028, to December 31, 2030, inclusive.
- g. Compliance Period After 2030: Every Three Years.

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

- A. During Compliance Period 1, January 1, 2011 to December 31, 2013, Port shall procure renewable energy resources equivalent to an average of at least twenty percent (20%) of retail sales.

$$EP_{2011} + EP_{2012} + EP_{2013} > .20 (RS_{2011} + RS_{2012} + RS_{2013})$$

RS_x = total retail sales made by Port for the specified year x

EP_x = electricity products retired for the specified year X; this may include excess procurement and historic carryover that Port has chosen to apply to the compliance period containing year X

- B. By the end of Compliance Period 2, December 31, 2016, Port shall procure renewable energy resources equivalent to at least twenty-five percent (25%) of retail sales.

$$EP_{2014} + EP_{2015} + EP_{2016} > 0.20(RS_{2014}) + 0.20 (RS_{2015}) + 0.25 (RS_{2016})$$

- B. By the end of Compliance Period 3, December 31, 2020, Port shall procure renewable energy resources equivalent to at least thirty-three percent (33%) of retail sales. During the intervening years of Compliance Period 3, Port shall increase procurement annually to reflect an imputed 2020 compliance obligation expressed as:

$$(EP_{2017} + EP_{2018} + EP_{2019} + EP_{2020})$$

$$> 0.27 (RS_{2017}) + 0.29 (RS_{2018}) + 0.31 (RS_{2019}) + 0.33 (RS_{2020})$$

- EP_x = Electricity products applied to the specified year X toward the RPS procurement target for the compliance period containing year X. This may include electricity products retired for and applied to year X, subject to the Portfolio Content Category 3 limit calculated in paragraph 6 (Portfolio Balancing Requirements), and excess procurement pursuant to paragraph 8 (Excess Procurement) and historic carryover pursuant to paragraph 12 (Historic Carryover) that Port has applied to year X.
- RS_x = Total retail sales made by the POU for the specified year X

- D. By the end of Compliance Period 4, December 31, 2024, Port shall procure renewable energy resources equivalent to at least forty-four percent (44%) of retail sales. During the intervening years of Compliance Period 4, Port shall increase procurement annually to reflect a compliance obligation expressed as:

$$\frac{(EP_{2021} + EP_{2022} + EP_{2023} + EP_{2024})}{4} \geq 0.3575 (RS_{2021}) + 0.3850 (RS_{2022}) + 0.4125 (RS_{2023}) + 0.4400 (RS_{2024})$$

- E. By the end of Compliance Period 5, December 31, 2027, Port shall procure renewable energy resources equivalent to at least fifty-two percent (52%) of retail sales. During the intervening years of Compliance Period 5, Port shall increase procurement annually to reflect a compliance obligation expressed as:

$$EP_{2025} + EP_{2026} + EP_{2027} \geq 0.4600(RS_{2025}) + 0.5000(RS_{2026}) + 0.5200(RS_{2027})$$

- F. By the end of Compliance Period 6, December 31, 2030, Port shall procure renewable energy resources equivalent to at least sixty percent (60%) of retail sales. During the intervening years of Compliance Period 6, Port shall increase procurement annually to reflect a compliance obligation expressed as:

$$EP_{2028} + EP_{2029} + EP_{2030} \geq 0.5467(RS_{2028}) + 0.5733(RS_{2029}) + 0.6000(RS_{2030})$$

- G. For all compliance periods commencing after January 1, 2030, Port shall procure electricity products sufficient to meet or exceed an average of 60% of Port's retail sales over the three calendar years of the compliance period, expressed as.

$$EP_{x1} + EP_{x2} + EP_{x3} \geq 0.6000 (RS_{x1}) + 0.6000 (RS_{x2}) + 0.6000 (RS_{x3})$$

The method used to determine the actual renewable energy resource percentage achieved for a given calendar year shall be to: (i) sum the total metered generation from each of Port's eligible renewable resources and qualifying purchases in Megawatt hours (MWh) during the preceding calendar year, (ii) subtract sales, if any, of eligible renewable resources during the same time period, and (iii) divide the result by the total energy sold to Port's retail end-use customers (in MWh) in the same time period.

4. **Reasonable Progress Towards Meeting Compliance Period Targets During Intervening Years** (PUC section 399.30(c)(2))

Port shall demonstrate reasonable progress towards meeting compliance period targets during intervening years are met ensuring that renewable energy contracts are in place or under solicitation to meet the projected increase in RPS procurement for each compliance period. This demonstration shall be set forth in Port's annual report.

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

In order to achieve a balanced portfolio, Port's RPS Procurement Plan shall consist of Portfolio Content Categories that meet the criteria for the following eligible renewable energy resource electricity products, as defined in PUC section 399.16(b):

- A. Content Category 1 (consistent with PUC section 399.16(b)(1)):
Resources in this category shall either:
 - B.
 - 1. 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 sub hourly 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.
 - 2. Have an agreement to dynamically transfer electricity to a California balancing authority.
- B. Content Category 2 (consistent with PUC section 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 section 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.
- C. Grandfathered Resources (PUC section 399.16(d)):
 - 1. Any contract or ownership agreement originally executed prior to June 1, 2010, shall count in full towards the procurement requirements, 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.
 - 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.

- c) The duration of the contract may be extended if the original contract specified a procurement commitment of fifteen (15) or more years.
2. “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 electrical generation facility” as defined in Section 25741 of the Public Resources Code. (PUC section 399.12(e)(1)(C)).

Resources procured prior to June 1, 2010 shall be counted for RPS compliance without regard to the limitations on the use of each portfolio Content Category as described in Section 6.

6. Portfolio Balancing Requirements – Quantity for Content Categories (PUC section 399.30(c)(3), 399.16(c)(1) and (2))

The following portfolio balancing requirements shall apply to Port’s RPS procurement:

- A. For Compliance Period 1, Port shall procure not less than 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. For Compliance Period 2, Port shall procure not less than 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. For Compliance Period 3, and each compliance period thereafter, 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. Long-term contract requirement (PUC sections 399.13(b) and 399.30(d)):

Beginning January 1, 2021, with Compliance Period 4, at least sixty-five percent (65%) of Port’s renewables portfolio standard procurement for each compliance

period shall be from contracts of 10 years or more in duration or ownership or ownership agreements for eligible renewable energy resources.

8. Excess Procurement (PUC section 399.30(d)(1), PUC section 399.13(a)(4)(B))

Port shall be allowed to apply excess procurement (Excess Procurement) from one compliance period to subsequent compliance periods.

- A. For Compliance Periods 1-3, the following conditions must be met:
 - i. Port may accumulate, beginning on January 1, 2011, Excess Procurement from one Compliance Period to be applied in any subsequent Compliance Period.
 - ii. In calculating the quantity of Excess Procurement, Port shall deduct from actual procurement quantities, the total amount of procurement associated with contracts of less than ten (10) years in duration.
 - iii. Eligible resources must be from Content Category 1 or Content Category 2 or Grandfathered Resources to be Excess Procurement.
 - iv. Resources from Content Category 3 shall not be counted as excess procurement.
- B. Beginning with Compliance Periods 4 and for all subsequent Compliance Periods, the following conditions apply:
 - i. For electricity products from Portfolio Content Category 1, contracts of any duration may count as excess procurement.
 - ii. Electricity products from Portfolio Content Category 2 and 3 shall not be counted as excess procurement.
 - iii. Contracts of any duration for electricity products meeting the Portfolio Content Categories 2 or 3 that are credited towards a compliance period shall not be deducted from POU's procurement for purposes of calculating excess procurement, except for electricity products that exceed the maximum limit for Portfolio Content Category 3.
- C. If sixty-five percent (65%) of Port's procurement for Compliance Period 3, ending December 31, 2020, is from contracts of 10 years or more in duration or from its ownership or ownership agreements for eligible renewable energy resources, Port may apply the excess procurement provisions of subsection B of this Paragraph 8 (Excess Procurement) for that Compliance Period.

9. **Timely Compliance** (PUC section 399.30(d)(2), PUC section 399.15(b)(5))

A. Waiver of Timely Compliance: Enforcement of timely compliance with minimum procurement quantities per PUC section 399.15 and paragraph 5 (Procurement Requirements – Definitions for Content Categories) shall be waived if Port demonstrates that any of the following conditions are beyond Port's control, and will prevent timely compliance:

1. *Inadequate Transmission* (PUC section 399.15(b)(5)(A)): There is inadequate transmission capacity to allow for sufficient electricity to be delivered from Port's proposed eligible renewable energy resource projects using the current operational protocols of Port's Balancing Authority, the California Independent System Operator (CAISO). In making its findings relative to the existence of this condition, Port's deliberations shall include, but not be limited to the following:
 - i. Whether 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 Port's actions, Port shall consider its expectations for full-cost recovery for these transmission lines and upgrades, and
 - ii. Whether 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 projects, or procurement, or there is insufficient supply of eligible renewable energy resources available to Port (399.15(b)(5)(B))*. In making its findings relative to the existence of this condition, Port's deliberations shall include, but not be limited to the following:
 - i. Whether Port prudently managed portfolio risks, including relying on a sufficient number of viable projects;
 - ii. Whether 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 Port procured an appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewables portfolio standard to compensate for foreseeable delays or insufficient supply;

- iv. Whether Port took reasonable measures, under its control to procure cost-effective distributed generation and allowable unbundled renewable energy credits;
- v. Whether actions or events beyond the control of Port have adversely impacted timely deliveries of renewable energy resources including, but not limited to, acts of nature, terrorism, war, labor difficulty, civil disturbance, or market manipulation.
- vi. Unanticipated curtailment of eligible renewable energy resources if the waiver would not result in an increase in greenhouse gas emissions. (PUC section 399.15(b)(5)(C)).
- vii. Unanticipated increase in retail sales due to transportation electrification. In making a finding that this condition prevents timely compliance, the Board shall consider both of the following:
 - 1) Whether transportation electrification significantly exceeded forecasts in Port's service territory based on the best and most recently available information filed with the State Air Resources Board, the Energy Commission, or another state agency.
 - 2) Whether Port took reasonable measures to procure sufficient resources to account for unanticipated increases in retail sales due to transportation electrification.

B. Portfolio Balance Requirement Reduction (Section 3206(a)(4)) (PUC sections 399.16(e), 399.30(c)(3))

- 1. Board may determine that a reduction of the portfolio balancing requirement is warranted for any compliance period to the extent that Port demonstrates that it cannot comply with the balancing requirement because of conditions beyond Port's control as provided in PUC section 399.15(b)(5).
- 2. Port shall not, under any circumstances, reduce the obligation to procure Content Category 1 resources below 65% for any compliance period obligation after December 31, 2016.

C. Procedures Upon Approving Waiver: In the event of a Waiver of Timely Compliance due to any of the factors set forth above, Port shall implement the following procedures:

- 1. Establish additional reporting for intervening years to demonstrate that reasonable actions under the Port's control are being taken (PUC section 399.15(b)(6)).

2. Require a demonstration that all reasonable actions within Port's control have been taken to ensure compliance in order to grant the waiver (PUC section 399.15(b)(7)).
- D. Prior Deficits: In no event shall deficits from prior compliance periods be added to future compliance periods (PUC section 399.15(b)(9)).

10. **Greater than 40% Large Hydroelectric** (PUC section 399.30(k))

- A. If, during any Compliance Period, Port receives more than 40 percent of its retail sales from large hydroelectric generation under an ownership agreement or contract in effect as of January 1, 2018, Port is not required to procure eligible renewable energy resources that exceed the lesser of subpart (i) or (ii) for that year, and Port's compliance obligation during that compliance period shall be adjusted such that the total quantities of eligible renewable energy resources to be procured shall reflect such reductions:
 - i. The portion of Port's utility's retail sales unsatisfied by Port's large hydroelectric generation.
 - ii. The soft target adopted by the Energy Commission for the intervening years of the relevant compliance period, or for those years where soft targets are not adopted, a showing of progress as defined in section 4 herein.
- B. An extension or renewal of a procurement agreement shall not be eligible to count towards the determination that the local publicly owned electric utility receives more than 40 percent of its retail sales from large hydroelectric generation in any year, except for any agreement in effect on January 1, 2015, between a local publicly owned electric utility and the Western Area Power Administration or federal government as part of the federal Central Valley Project.
- C. This adjustment does not modify Port's compliance obligation to satisfy the Portfolio Balancing Requirements above.

11. **Cost Limitations for Expenditures** (PUC section 399.30(d)(3), PUC section 399.15(c))

- A. Port, at its sole discretion, may elect to establish cost limitations for all eligible renewable energy resources used to comply with the renewables portfolio standard that is set at a level that prevents disproportionate rate impacts. In ensuring that customers do not face a disproportionate burden, the Board has the authority to implement a cost limitation which may result in a temporary suspension of RPS compliance activities.

- B. Port shall review the need for cost limitations as part of the review process described in paragraph 15 (Program Review).

12. Historic Carryover

- A. Port, at its sole discretion, may elect to adopt rules that allow for procurement generated before January 1, 2011 that meets the criteria of Section 3202 (a)(2), of the POU RPS Procurement Regulation that is in excess of the sum of the 2004-2010 annual procurement targets defined in Section 3206(a)(5)(D) of the POU RPS Procurement Regulation and that was not applied to the RPS of another state or to a voluntary claim, to be applied to the Port's RPS procurement target for the compliance period ending December 31, 2013, or for any subsequent compliance period.
- B. Both the historic carryover and the procurement applied to the Port's annual procurement target must be from eligible renewable resources that were RPS-eligible under the rules in place at the time of execution of ownership agreement.
 - a. Historic carryover must be procured pursuant to a contract or ownership agreement executed before June 1, 2010.
- C. Historic carryover will be calculated based on the following:
 - a. A baseline of an amount equal to 2001 procurement divided by 2001 retail sales, multiplied by 2003 total retail sales, plus one percent of 2001 retail sales.
 - b. Annual procurement targets for 2004-2010 that are equal to the lesser of 20 percent of the previous year's retail sales or 1 percent of the previous year's retail sales greater than the annual procurement target for the previous year.
- D. All applicable historic procurement claims for January 1, 2004 – December 31, 2010, baseline calculations, annual procurement target calculations, and any other pertinent data must be submitted to the California Energy Commission by January 1, 2014.

13. Exclusive Control (PUC section 399.30(m))

In all matters regarding compliance with the RPS Procurement Plan, Port shall retain exclusive control and discretion over the following:

- A. The mix of eligible renewable energy resources procured by Port and those additional generation resources procured by Port for purposes of ensuring resource adequacy and reliability.
- B. The reasonable costs incurred by Port for eligible renewable energy resources owned by it.

14. Reporting (PUC section 399.30(f) and 9605)

- A. Deliberations on Procurement Plan (PUC section 399.30(f)):

1. *Public Notice:* Annually, Port shall post notice of meetings if the Council will deliberate in public regarding this RPS Procurement Plan.
2. *Documents and Materials Related to Procurement Status and Plans:* When Port provides information to the Council related to its renewable energy resources procurement status and future plans, for the Board's consideration at a noticed public meeting, Port shall make that information available to the public.

B. Compliance Reporting:

Port shall submit annual and compliance period reports to the California Energy Commission in accordance with Section 3207 of the POU RPS Enforcement Regulation.

15. Program Review

Port's RPS Procurement Plan shall be reviewed by the Board in accordance with Port's "Renewable Portfolio Standard Enforcement Program."

16. Plan Modifications/Amendments

This RPS Procurement Plan may be modified or amended by an affirmative vote of the Board during a public meeting. Any Board action to modify or amend the plan must be publicly noticed in accordance with paragraph 14 (Reporting).

17. Voluntary Green Pricing and Shared Renewable Programs (PU code section 399.39(c)(4))

Port may initiate "Voluntary Green Pricing or Shared Renewable Generation Programs."

The purpose of these programs is to provide customers options for alternative renewable energy products that are not part of Port's portfolio used to serve its retail load. The following provisions will apply to any such programs:

- The kilowatt-hours generated by an eligible renewable energy resource that meets the criteria of PCC 1 that is credited to a participating customer pursuant to such programs shall be excluded from Port's retail sales for purposes of determining its RPS procurement requirements.
- Any renewable energy credits associated with electricity credited to a participating customer shall not be used for compliance with procurement requirements under this article, shall be retired on behalf of the participating customer, and shall not be further sold, transferred, or otherwise monetized for any purpose.
- To the extent possible for generation that is excluded from retail sales under this subdivision, Port shall seek to procure those eligible renewable energy resources that are located in reasonable proximity to program participants; provided, however, that Port is not prohibited from seeking resources in alternate locales if warranted.

Exhibit 2
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

1. 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):

- 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.
- 2) If targets are not met, the Port must:
 - Ensure that 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:

- 1) 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:

- 1) 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.
- 2) 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 I consistent with the provisions of the RPS Procurement Plan,
 - Ensure that 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.
- 3) 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.
- 4) 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.
- 5) 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.
- 6) 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,
 - Ensure that any Waiver of Timely Compliance was compliant with the provisions in the RPS Procurement Plan,
- 7) December 31, 2024 (end of Compliance Period 4), and annually thereafter,
- Verify that that the Port met forty-four percent (44%) 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,
 - Ensure that any Waiver of Timely Compliance was compliant with the provisions in the RPS Procurement Plan,

- 8) December 31, 2027 (end of Compliance Period 5), and annually thereafter,
 - Verify that that the Port met fifty-two percent (52%) 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,
 - Ensure that any Waiver of Timely Compliance was compliant with the provisions in the RPS Procurement Plan,
- 9) December 31, 2030 (end of Compliance Period 6), and annually thereafter,
 - Verify that that the Port met sixty percent (60%) 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,
 - Ensure that 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;

2. 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.

3. Modifications/Amendments

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

4. 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.

5. Effective Date

This Resolution shall be effective on January 1, 2021.