

August 5, 2020

California Energy Commission Docket Office
Docket No. 16-RPS-03
1516 Ninth Street
Sacramento, CA 95814

Re: Docket 16-RPS-03: Powerex Corp.’s Comments on the 15-Day Language Modification of Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities

Powerex appreciates the opportunity to comment on the “15-Day Language” modifications to regulations specifying enforcement procedures for the renewable portfolio standard (“RPS”) for local publicly owned electric utilities (“POUs”).

The California Energy Commission (“CEC”) initiated this rulemaking to consider amendments to the regulations to implement changes in law under Senate Bill (“SB”) 350, which establishes additional RPS procurement requirements, including a long-term procurement requirement, and modifies the RPS for POUs. On May 7, 2020, the CEC published the Express Terms for the proposed amendments and made them available for a 45-day comment period. On July 21, 2020, the CEC published proposed modifications to the Express Terms, referred to as “15-Day Language” modifications.

Powerex greatly appreciates CEC Staff for the time, attention and effort they have put into considering parties’ comments and addressing them in these 15-Day Language modifications.

In addition, Powerex recommends two additional clarifications:

1. The CEC should clarify its substitution rules for long-term contracts; and,
2. The CEC should clarify that the duration of long-term contracts is not product-specific.

I. INTRODUCTION

Powerex Corp. (“Powerex”) is the wholly owned energy marketing subsidiary of the British Columbia Hydro and Power Authority (“BC Hydro”), a provincial Crown Corporation owned by the Government of British Columbia. Powerex sells wholesale power in the United States pursuant to market-based rate authority granted by the Federal Energy Regulatory Commission.

Powerex has a long history of delivering low-carbon, zero-carbon and renewable energy to California. Powerex sells power from a portfolio of resources in the United States and Canada, including Canadian Entitlement resources made available under the Columbia River Treaty, BC Hydro system capability, and various other power resources acquired from other sellers within the United States and Canada.

II. THE CEC SHOULD CLARIFY THE SUBSTITUTION RULES

Powerex requests that the CEC clarify its substitution rules for long-term contracts. The proposed amended language at Section 3204(d)(2)(j) states in part:

Amendments or modifications that substitute a different renewable energy resource or fuel shall be treated as new agreements for procurement of generation associated with the substitute resource or fuel unless the following conditions are satisfied:

- i. The original long-term contract or ownership agreement specifies the ability to add or substitute resources.
- ii. Any resources added to or substituted in the long-term contract or ownership agreement are owned by the seller or are subject to a long-term contract in its original term or an extension that has a duration of at least 10 continuous years.

Thus, under the currently proposed wording, it is not clear whether (1) the added/substituted resource must have originally been the subject to a long-term contract or extension of at least 10 continuous years regardless of the number of years left on that original contract or extension when the resource is added or substituted, or (2) the added/substituted resources must have at least 10 years *remaining* on its original contract or extension when added. The CEC should clarify this rule.

III. THE CEC SHOULD CLARIFY THAT CONTRACT DURATION IS NOT PRODUCT-SPECIFIC

Under the proposed rules, “long-term” contracts include, *inter alia*: “A POU’s contract to procure electricity products from an RPS-certified facility for a duration of at least 10 continuous years.” Section 3204(d)(2)(A). With regards to compliance reporting, the proposed rules state: “For each portfolio content category, the POU shall report the amount that is classified as long-term or short-term.” Section 3207.

It is unclear whether the CEC will determine that the contract length for purposes of meeting the long-term contracting requirement will be based on the duration of the contract as a whole, or based on the duration of the portion of the contract associated with each product that meets a certain Product Content Category (PCC). Powerex recommends that the CEC clarify that a retail seller that enters into a single long-term contract with a generating resource for multiple PCC products is considered a “long-term” contract, regardless of whether the contract is for a single product content category (PCC) for the entirety of the contract term or if the contract procures one PCC product for one portion of the term and another PCC product for the other portion of the term.

The CEC should clarify that the duration of a contract should be determined holistically rather than on a product-basis. Allowing long-term contracts to contain variable product categories offers additional flexibility for both buyers and sellers, which in turn reduces costs for California ratepayers, while maintaining financial security for project developers. Importantly, the CEC and California Public Utilities Commission (“CPUC”) should treat contract length consistently so that all California load-serving entities are on a level playing field. The CPUC only requires that its jurisdictional LSEs report compliance with the



long-term contracting requirement by reporting the contract length for the whole contract, not the specific terms of the specific PCC products sold within the contract.¹

Powerex thanks the CEC Staff for the opportunity to provide comments on the 15-Day Language. Powerex appreciates the time, attention and effort that CEC Staff has put into considering and responding to parties' comments and concerns and looks forward to working with the CEC on its development of the regulations governing the CEC's enforcement of the RPS Program.

Kind regards,

/s/

Mike Benn
Senior Market Policy Analyst
Powerex Corp.

¹ See CPUC Portfolio Content Category Classification Review Process Handbook, Section A RPS Compliance Report, Contract Details Tab.