

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Continue  
Implementation and Administration of  
California Renewables Portfolio Standard  
Program.

Rulemaking 11-05-005  
(Filed May 5, 2011)

**PUBLIC VERSION**

**2014 RENEWABLES PORTFOLIO STANDARD  
PROCUREMENT PLAN OF  
DIRECT ENERGY BUSINESS, LLC**

Dana P. Palmer  
McGuireWoods LLP  
1800 Century Park East, 8<sup>th</sup> Floor  
Los Angeles, CA 90067  
Telephone: (310) 956-3445  
Facsimile: (310) 956-3121  
Email: [dpalmer@mcguirewoods.com](mailto:dpalmer@mcguirewoods.com)

Ryan Harwell  
Compliance Operations  
Direct Energy Business, LLC  
12 Greenway Plaza  
Houston, Texas 77046  
Telephone: (713) 877-5701  
Facsimile: (713) 636-1695  
Email: [ryan.harwell@directenergy.com](mailto:ryan.harwell@directenergy.com)

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*Attorneys for Direct Energy Business, LLC*

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In accordance with the March 26, 2014 *Assigned Commissioner's Ruling Identifying Issues and Schedule of Review for 2014 Renewables Portfolio Standard Procurement Plans* ("Assigned Commissioner's Ruling") and the April 16, 2014 email ruling from Administrative Law Judge DeAngelis extending the time to file 2014 Renewable Portfolio Standard ("RPS") Procurement Plans, Direct Energy Business, LLC ("Direct Energy") hereby submits this 2014 RPS Procurement Plan.

Direct Energy is an electric service provider ("ESP") registered with the California Public Utilities Commission ("Commission" or "CPUC") to serve retail customers in California participating in the direct access program. Direct Energy is in full compliance with its procurement obligations under the RPS and resource adequacy ("RA") programs, and all other terms and conditions required of a registered ESP. Unlike the investor owned utilities ("IOUs"), Direct Energy's load is fully contestable such that at the end of a customer's contract term, the customer could renew with Direct Energy, switch to another ESP or return to utility service. Therefore, all forecast load data is subject to change in light of customer migration, and forecast procurement data is subject to change based on decisions by Direct Energy to revise the wholesale contracts used to serve such loads, with increased uncertainty associated with

forecasts beyond the next 3-5 year period where there are much fewer customer commitments. Pursuant to these qualifications, Direct Energy undertakes its procurement activities to meet regulatory and commercial obligations while managing market and regulatory risks.

**I. Assessment of RPS Portfolio Supplies and Demand - § 399.13(a)(5)(A)**

Section 6.1 of the Assigned Commissioner’s Ruling requests:

“Provide a written description assessing annual and multi-year portfolio supplies and demand in relation to RPS requirements, the RPS program, and the RPS program’s overall goals to determine the retail seller’s optimal mix of eligible renewable energy resources.

The assessment should consider, at a minimum, a 20-year time frame with a detailed 10-year planning horizon that takes into account both portfolio supplies and demand. This written description must include the retail seller’s need for RPS resources with specific deliverability characteristics, such as, peaking, dispatchable, baseload, firm, and as-available capacity as well as any additional factors, such as ability and/or willingness to be curtailed, operational flexibility, etc.

This written description must also explain how the proposed renewable energy portfolio will align with expected load curves and durations, as well as how it optimizes cost, value and risk for the ratepayer. Where applicable, assessment should also identify and incorporate impacts of overall energy portfolio requirements (not just RPS portfolio requirements), recent legislation, other Commission proceedings (e.g., R.13-12-010, the long-term procurement plans proceeding), other agencies requirements, and other policies or issues that would impact RPS demand and procurement.

Additionally, the assessment should describe and incorporate RPS lessons learned over the past year, including RPS trends and potential future trends. Lastly, it must also explain how the quantitative analysis provided in response to section 6.5 supports the assessment.”

Because retail suppliers typically do not have retail customer contract commitments that exceed 36-months, 10-year and 20-year forecasts are difficult to make and subject to change. Due to this forecasting uncertainty, Direct Energy procures RPS supply from the competitive regional markets, and structures its purchases to hedge its retail commitments with corresponding supply commitments. Based on its best estimate of customer demand, Direct

Energy undertakes RPS procurement consistent with the regulatory obligation compliance horizon, and its ability to manage the market risks associated with longer term purchases. Consistent with its risk management practices, Direct Energy builds its portfolio consistent with regulatory obligations, and corresponding customer commitments.

Specifically, Direct Energy procures RPS supply based on the term of its retail customer contracts, with the majority of contracted load being within a rolling 24-month time horizon. For the 2014 to 2016 compliance period Direct Energy is approximately 80% hedged against a forecast compliance period RPS obligation (weighted average of all three content categories). Direct Energy has not completed a long-term (10-year) contract to meet the minimum long-term contract requirement for the 2014 to 2016 compliance period. Direct Energy does not hedge fixed price energy exposure through RPS contracts so the energy price in all contracts is at index.

## **II. Project Development Status Update - § 399.13(a)(5)(D)**

Section 6.2 of the Assigned Commissioner's Ruling requests:

“Provide a written status update on the development schedule of all eligible renewable energy resources currently under contract but not yet delivering generation. This written status update may rely upon the most recently filed Project Development Status Reports [footnote omitted] but it must elaborate upon these reports and should differentiate status updates based on whether projects are pre-construction, in construction, or post-construction. Providing a copy of the Project Development Status Report will not be a sufficient response. The status updates provided in the written description must be reflected in the quantitative analysis provided in response to section 6.5, below. Given this analysis, discuss how the status updates will impact the retail seller's net short and its procurement decisions for a 10-year planning horizon.”

This Section 6.2 is inapplicable to Direct Energy since all of its RPS supply resources have achieved full commercial operations.

## **III. Potential Compliance Delays - § 399.13(a)(5)(B)**

Section 6.3 of the Assigned Commissioner's Ruling requests:

“Describe in writing any potential issues that could delay RPS compliance, including, but not limited to inadequate transmission capacity, delayed substation construction, financing, permitting, and the relationship, if any, to deliveries and project development delays. Describe the steps taken to account for and minimize these potential compliance delays. The potential compliance delays included in the written description must be reflected in the quantitative analysis provided in response to section 6.5. Given this analysis, discuss how the potential compliance delays will impact the retail seller’s RPS net short and its procurement decisions.”

Direct Energy contracts for resources from the regional markets to supply its load and meet regulatory requirements. As noted above, Direct Energy only contracts with RPS supply resources that have already achieved full commercial operations. Direct Energy is not aware of any operational issues with any of its RPS qualifying energy suppliers.

RPS compliance could be delayed to the extent there is scarcity of eligible generation resources in the regional market, or limitations on the resources’ ability to contemporaneously import or directly connect to a California Balancing Authority Area. Import limitations could also result in Product 1 procurement being converted to Product 2 or Product 3. While such issues may hinder RPS compliance, Direct Energy expects to fully comply with both the total RPS volume requirement as well as the content category mix requirement.

#### **IV. Risk Assessment - § 399.13(a)(5)(F)**

Section 6.4 of the Assigned Commissioner’s Ruling requests:

“Provide a written assessment of the risk in the RPS portfolio in relation to RPS compliance requirements. Risk assessment should describe risk factors such as those described above regarding compliance delays, as well as, but not limited to, the following: lower than expected generation, variable generation, regulatory risk, resource availability (e.g., biofuel supply, water, etc.) and impacts to eligible renewable energy resource projects currently under contract. The risk assessment provided in the written description must be reflected in the quantitative analysis provided in response to section 6.5. Given this analysis, discuss how the risk assessment will impact the retail seller’s net short and its procurement decisions. The written assessment must explain how quantitative analysis provided in response to section 6.5 supports this response.”

Aside from the potential delay issues discussed above, the risks described in Section 6.4 are not applicable to Direct Energy since all of its RPS supply resources have achieved full commercial operations. In the event of lower than expected generation, Direct Energy's continued monitoring of counterparty performance, market conditions and active participation in the renewable energy markets will permit Direct Energy to address procurement risks in relation to its retail load over time.

**V. "Minimum Margin" of Procurement - § 399.13(a)(4)(D)**

Section 6.6 of the Assigned Commissioner's Ruling requests:

"Section 399.13(a)(4)(D) provides, in part, that the Commission shall adopt, by rulemaking, "[a]n appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewable portfolio standard to mitigate the risk that renewable projects planned or under contract are delayed or canceled."

This ruling directs PG&E, SCE, and SDG&E to identify in their proposed 2014 RPS Procurement Plans the assumed minimum margin of procurement above the minimum procurement level necessary to comply with the RPS program to mitigate the risk that renewable projects under contract are delayed or terminated.

Each proposed 2014 RPS Procurement Plan shall include a methodology and inputs regarding the utility's proposed minimum margin of over-procurement metric. The methodology should be representative of and consistent with the utility's inputs and assumptions in section 6.5. Also, the metric should be used to calculate the utility's procurement needs pursuant to section 6.5. Additionally, use of any sensitivities or scenarios should be described. If the utility's assumed minimum margin of over-procurement is not used to calculate a utility's net short provided in response to section 6.5, then the utility should clearly describe the reasons and any assumptions or other additional methodologies used to calculate the utility's proposed over-procurement. Reasons and assumptions should be supported with quantitative information to the extent possible."

Section 6.6 is inapplicable to Direct Energy since all of its RPS supply resources have achieved full commercial operations.

## **VI. Important Change to Plans Noted**

Section 6.12 of the Assigned Commissioner's Ruling requests:

“A statement identifying and summarizing the important changes between the 2013 and 2014 RPS Procurement Plans must be included. This summary could be in a table or bullet point format, but it should not be a reprint of the two plans with strike-out and underlined inserts. In addition to identifying and summarizing the important changes, the plan should also include an explanation and justification of reasonableness for each important change from 2013 to 2014.”

Section 6.12 is inapplicable to Direct Energy since all of its RPS supply resources have achieved full commercial operations. There are no important changes between Direct Energy's 2013 RPS Procurement Plan and this 2014 RPS Procurement Plan.

## **VII. Safety Considerations - D.13-11-024**

Section 6.14 of the Assigned Commissioner's Ruling requests:

“As stated in D.13-11-024, all entities filing RPS Procurement Plans must incorporate a section on safety considerations.”

Direct Energy purchases all of its RPS supply from third parties and does not control any RPS qualifying generation directly. The company does have a “Safety First” culture and has well-established safety programs in place. At Direct Energy, safety is our first priority. We must work together to prevent work-related injuries and occupational illnesses. We maintain effective health, safety and wellness programs and strive to continually improve our safety performance. We comply with all related legislation, laws, regulations and industry leading practices including Federal (i.e. – U.S. Occupational Safety and Health Standard 29 C.F.R. 1910.119), provincial and state regulations.

## **VIII. RPS Compliance Risk - Appendix D of May 21, 2014 Net Short ALJ Ruling**

- a. How do current and historical performance of online resources in your RPS portfolio impact future projections of RPS deliveries and your subsequent RNS?*

The majority of Direct Energy's RPS supply purchases are for a fixed quantity of supply. For the 2014-2015 year period, Direct Energy has a one unit contingent supply contract. If the RPS supply generated from the resources under this contract produce less energy than expected, Direct Energy will procure additional RPS supply prior to the end of compliance period 2 to make up for any shortfall.

*b. Do you anticipate any future changes to the current bundled retail sales forecast? If so, describe how the anticipated changes impact the RNS.*

Direct Energy is only able to serve customers that are part of the direct access market and therefore has a limited ability to contract with new customers in the State of California. Direct Energy expects to add additional customers to its current base, but also expect to lose some existing customers to competitors. Depending on the new load migration Direct Energy will have to procure more or less than currently projected on the RNS table.

*c. Do you expect curtailment of RPS projects to impact your projected RPS deliveries and subsequent RNS?*

Direct Energy's existing contracts are all with generators whose facilities that have achieved commercial operation. Therefore, Direct Energy does not expect any impact on projected RPS deliveries and subsequent RNS from RPS project curtailment.

*d. Are there any significant changes to the success rate of individual RPS projects that impact the RNS?*

Direct Energy's existing contracts are all with generators whose facilities that have achieved commercial operation. Therefore, there are no significant changes to the success rate of individual RPS projects that would impact Direct Energy's RNS.

*e. As projects in development move towards their COD, are there any changes to the expected RPS deliveries? If so, how do these changes impact the RNS?*

Direct Energy's existing contracts are all with generators whose facilities have already achieved commercial operation. Therefore, this question is inapplicable to Direct

Energy's current RNS.

**IX. RECs Above the PQR - Appendix D of May 21, 2014 Net Short ALJ Ruling**

- a. What is the appropriate RECs above the PQR to maintain? Please provide a quantitative justification and elaborate on the need for maintaining banked RECs above the PQR.*

Direct Energy must balance the avoidance of a penalty for under-procurement of RPS supply with the avoidance of over-procurement of RPS supply that is unnecessary to meet the PQR. Banking is restricted to the point of being unusable for ESPs. Current regulations effectively make banking possible only where 100% of a retail seller's RPS supply comes from contracts of 10-years or longer in duration. If any amount of shorter term RPS supply is procured then it will be counted last and will not be bankable. The majority of direct access customers only sign contracts of 2 to 3 years in length, leaving the ESPs without contracted customers to cover long-term RPS supply contracts. RPS banking regulations are biased toward the utility business model. Direct Energy would maintain a margin of over-procurement if it were able to bank the supply into a subsequent compliance period. Alternatively, the regulations could be changed to allow PCC1 and PCC2 qualified RECs to be traded post-generation so that ESPs could efficiently balance their RPS positions.

- b. What are your strategies for short-term management (10 years forward) and long-term management (10-20 years forward) of RECs above the PQR? Please discuss any plans to use RECs above the PQR for future RPS compliance and/or to sell RECs above the PQR.*

Direct Energy does not have any RECs above the PQR for any future compliance periods.

**X. VMOP - Appendix D of May 21, 2014 Net Short ALJ Ruling**

- a. Provide VMOP on both short-term (10-years forward) and long-term (10-20 years forward) basis. This should include a discussion of all risk factors and quantitative justification for the amount of VMOP.*

Direct Energy does not intend to maintain a VMOP until the banking regulations are modified to permit the banking of RPS supply obtained under short-term contracts.

- b. Please address the cost-effectiveness of different methods for meeting any projected VMOP procurement need, including application of forecast RECs above the PQR.*

This question is not applicable to Direct Energy due to the fact that it does not intend to maintain a VMOP and has no RECs above the PQR for any future compliance period.

#### **XI. Cost-Effectiveness - Appendix D of May 21, 2014 Net Short ALJ Ruling**

- a. Are there cost-effective opportunities to use banked RECs above the PQR for future RPS compliance in lieu of additional RPS procurement to meet the RNS?*

Direct Energy procures its RPS supply through short-term contracts such that the banking regulations effectively prevent banking of any excess supply. This question is inapplicable to Direct Energy's current operation and RPS procurement.

- b. How does your current RNS fit within the regulatory limitations for PCCs? Are there opportunities to optimize your portfolio by procuring RECs across different PCCs?*

Direct Energy works to meet RPS supply procurement compliance at the lowest possible cost. This may include the procurement of PCC2 and PCC3 RECs within the portfolio balance limitations.

#### **XII. Conclusion**

Direct Energy provides this submission in compliance with the March 26, 2014 Assigned Commissioner's Ruling. As described herein, Direct Energy takes its RPS energy procurement compliance obligations seriously and is actively engaged with the Commission's processes in developing the RPS implementation requirements.

Respectfully submitted,

/s/ Dana P. Palmer

Dana P. Palmer  
McGuireWoods LLP  
1800 Century Park East, 8<sup>th</sup> Floor  
Los Angeles, CA 90067  
Telephone: (310) 956-3445  
Facsimile: (310) 956-3121  
Email: [dpalmer@mcguirewoods.com](mailto:dpalmer@mcguirewoods.com)

/s/ Ryan Harwell

Ryan Harwell  
Compliance Operations  
Direct Energy Business, LLC  
12 Greenway Plaza  
Houston, Texas 77046  
Telephone: (713) 877-5701  
Facsimile: (713) 636-1695  
Email: [ryan.harwell@directenergy.com](mailto:ryan.harwell@directenergy.com)

Dated: June 10, 2014

***Attorneys for Direct Energy Business, LLC***

**APPENDIX A**

**Renewable Net Short Data  
(see attached)**

[Appendix A]

Variable	Calculation	Item	Deficit from RPS prior to Reporting Year	2011 Actuals	2012 Actuals	2013 Actuals	2011-2013	2014 Forecast	2015 Forecast	2016 Forecast	2014-2016	2017 Forecast	2018 Forecast	2019 Forecast	2020 Forecast	2017-2020	2021 Forecast	2022 Forecast	2023 Forecast	2024 Forecast	2025 Forecast	2026 Forecast	2027 Forecast	2028 Forecast	2029 Forecast	2030 Forecast	2031 Forecast	2032 Forecast	2033 Forecast	
		Forecast Year		-	-	-	CP1	1	2	3	CP2	4	5	6	7	CP3	8	9	10	11	12	13	14	15	16	17	18	19	20	
<b>Annual RPS Requirement</b>																														
A		Bundled Retail Sales Forecast (LTPP)																												
B		RPS Procurement Quantity Requirement (%)																												
C	A*B	Gross RPS Procurement Quantity Requirement (GWh)																												
D		Voluntary Margin of Over-procurement																												
E	C+D	Net RPS Procurement Need (GWh)																												
<b>RPS-Eligible Procurement</b>																														
Fa		Risk-Adjusted RECs from Online Generation																												
Faa		Forecast Failure Rate for Online Generation (%)																												
Fb		Risk-Adjusted RECs from RPS Facilities in Development																												
Fbb		Forecast Failure Rate for RPS Facilities in Development (%)																												
Fc		Pre-Approved Generic RECs																												
Fd		Escorted REC Sales																												
F	Fa + Fb + Fc - Fd	Total RPS Eligible Procurement (GWh)																												
F0		Category 0 RECs																												
F1		Category 1 RECs																												
F2		Category 2 RECs																												
F3		Category 3 RECs																												
<b>Gross RPS Position (Physical Net Short)</b>																														
Ga	F-E	Annual Gross RPS Position (GWh)																												
Gb	F/A	Annual Gross RPS Position (%)																												
<b>Application of Bank</b>																														
Ha	H - Hc (from previous year)	Existing Banked RECs above the PQR																												
Hb		RECs above the PQR added to Bank																												
Hc		Non-bankable RECs above the PQR																												
H	Ha+Hb	Gross Balance of RECs above the PQR																												
Ia		Planned Application of RECs above the PQR towards RPS Compliance																												
Ib		Planned Sales of RECs above the PQR																												
I	H-Ia-Ib	Net Balance of RECs above the PQR																												
J0		Category 0 RECs																												
J1		Category 1 RECs																												
J2		Category 2 RECs																												
<b>Expiring Contracts</b>																														
K		RECs from Expiring RPS Contracts																												
<b>Net RPS Position (Optimized Net Short)</b>																														
La	Ga + Ia - Ib - Hc	Annual Net RPS Position after Bank Optimization (GWh)																												
Lb	(F + Ia - Ib - Hc) / A	Annual Net RPS Position after Bank Optimization (%)																												

Facility Name	Technology	Contract Expiration Date	MW	Expected Annual Generation (GWh)	Location	PCC Classification
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## VERIFICATION

I, Dana P. Palmer, counsel for Direct Energy Business, LLC, am authorized to make this Verification on its behalf. I declare under penalty of perjury that the statements in the foregoing 2014 Renewables Portfolio Standard Procurement Plan filed in Rulemaking 11-05-005 are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

Executed on June 10, 2014, at Los Angeles, California.

/s/ Dana P. Palmer

Dana P. Palmer  
McGuireWoods LLP  
1800 Century Park East, 8<sup>th</sup> Floor  
Los Angeles, CA 90067  
Telephone: (310) 956-3445  
Facsimile: (310) 956-3121  
Email: [dpalmer@mcguirewoods.com](mailto:dpalmer@mcguirewoods.com)

*Attorneys for Direct Energy Business, LLC*