

Date of Hearing: June 20, 2018

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Chris Holden, Chair

SB 1110 (Bradford) – As Amended April 25, 2018

SENATE VOTE: 36-0

SUBJECT: Energy: California Renewables Portfolio Standard Program

SUMMARY: Authorizes local publicly owned electric utilities (POUs) to reduce procurement requirements under the Renewables Portfolio Standard (RPS) if compliance will adversely impact the ability of the POU to utilize natural-gas fired power plants (gas plants) that are financed with long-term bonds. Specifically, **this bill:**

- 1) States the intent of the Legislature that a POU that built a gas plant both in response to the energy crisis of 2000-01 and to improve electrical reliability in the community it serves, should not impose the burden of any outstanding public indebtedness associated with the gas plant on local taxpayers if the gas plant meets specific conditions.
- 2) Requires the POU to notify the California Energy Commission (CEC) as part of its annual reporting obligation to the CEC of specified findings relative to the continued operation of a gas plant including that RPS compliance may lead the gas plant to operate at, or below, a 20 percent capacity factor on an annual average during the upcoming year.

EXISTING LAW:

- 1) Establishes the RPS which requires retail sellers of electricity – investor-owned utilities (IOUs), community choice aggregators (CCAs), and energy service providers (ESPs) – and POUs to increase purchases of renewable energy such that total kilowatt hours of those products sold to their retail end-used customers achieve a specified and escalating percentage of renewable energy resources, specifically: 25 percent of retail sales by December 31, 2016; 33 percent by December 31, 2020; 40 percent by December 31, 2024; 45 percent by December 31, 2027; and 50 percent by December 31, 2030. (Public Utilities Code § 399.11 et seq.)
- 2) Authorizes POUs to delay compliance with the RPS due to circumstances beyond the control of the POU including lack of transmission or lack of available RPS eligible resources. (Public Utilities Code § 399.30)
- 3) Authorizes the CEC to reduce a POU's RPS procurement targets if the POU can show that RPS compliance would result in any cancellation or divestment of the commitment for electricity from a coal-fired powerplant, located outside the state, originally entered into by a POU before June 1, 2010, and the cancellation or divestment would result in significant economic harm to its retail customers that cannot be substantially mitigated through resale, transfer to another entity, early closure of the facility, or other feasible

measures. (Public Utilities Code § 399.30[m])

- 4) Requires the POU's to annually report to the CEC on its progress towards meeting the RPS. (Public Utilities Code § 9508)

FISCAL EFFECT: According to the Senate Appropriations Committee, under Senate Rule 28.8 the bill was found to cause no significant reduction in revenues or additional state costs are not significant and do not require the appropriation of additional state funds.

BACKGROUND:

Renewables Portfolio Standard – Current law sets forth numerous goals of the RPS program including meeting the state's climate change goals by reducing emissions of GHGs associated with electrical generation, meeting the state's need for a diversified and balanced energy generation portfolio, displacing fossil fuel consumption within the state, and reducing air pollution, particularly criteria pollutant emissions and toxic air contaminants.

The RPS requires retail sellers of electricity – IOUs, CCAs, and ESPs – and POU's to increase purchases of renewable energy such that total kilowatt hours of those products sold to their retail end-used customers achieve a specified and escalating percentage of renewable energy resources, specifically:

- 25 percent of retail sales by December 31, 2016;
- 33 percent by December 31, 2020;
- 40 percent by December 31, 2024;
- 45 percent by December 31, 2027; and
- 50 percent by December 31, 2030.

Locally Owned Public Utilities – must achieve the renewable energy procurement targets stated above. POU's are required to report to the CEC on their progress in meeting the procurement requirements. The CEC is required to refer to the California Air Resources Board (ARB) any POU who does not satisfy the procurement requirements across a three-year compliance period. The ARB may then impose penalties on the POU for non-compliance. Existing statute provides POU's with some flexibility to comply with the RPS. For example utilities in a city or county that receives more than 67 percent of its electricity from hydroelectric generation that it owns and is located within the state only need to meet the procurement requirements based on the amount of its generation that does not come from hydroelectric. Further, utilities with a distribution system demand of less than 150 megawatts, and that receive more than 50 percent of its electricity from hydroelectric generation, and that meet other criteria specified in Public Utilities Code § 399.30, are not required to procure additional renewable energy resources under the RPS.

COMMENTS:

- 1) Author's Statement. According to the author, the State has already committed to certain cost limitations as our Renewables Portfolio Standard grows stronger. But for plants proactively built in response to the energy crisis, their outstanding bond debt may not be

included. SB 1110 protects individual customers of a public utility from extraordinary cost-shifts by allowing that utility — under narrow circumstances — to operate a power plant at a minimal level (20 percent capacity) in order to resolve that plant's bond debt when it otherwise could close. This may only occur until the bond liability has been satisfied, and is subject to strict supervision by the California Energy Commission. SB 1110 will keep that debt from competing with essential city services, including in education, housing, and public safety. Because it only applies to public plants that serve base load for their communities, this bill will also prevent energy rates from rising inappropriately.

- 2) RPS Off-Ramp. This bill would allow POU's additional flexibility in complying with the RPS in an effort to mitigate against the loss of public revenues from procuring additional electric generation in cases where the POU financed a natural gas powerplant in response to the electricity crisis and for which they still have bonded indebtedness. This bill would exempt powerplants located in disadvantaged communities, as defined, and require that the power plant is in compliance with the state's GHG emissions performance standard.

The sponsor of this bill, Northern California Power Agency (NCPA), represent that three powerplants would meet the criteria included in this bill: Roseville Energy Park (owned by Roseville Electric); Redding Natural Gas Plant, Units 5 & 6 (owned by Redding Electric); and Donald Von Raesfeld Plant (owned by Silicon Valley Power in Santa Clara) – all built in response to capacity needs after the energy crisis and are financed with public bonds held by the respective local government and still have outstanding debt totaling over \$300 million.

- 3) Stranded Assets. Regardless of capacity needs after deregulation and the energy crisis, many utilities have invested in gas plants in the past 20 years. As the state continues to green its grid and eliminate the use of fossil fuels, gas plants will be stranded. This has already occurred for independent gas plants under contract (or previously under contract) with IOUs.
- 4) Speculating. Supporters of this bill reference circumstances that have not yet occurred in support of this bill – namely moving beyond 50% RPS. This is likely to occur but until that time, it is not clear that the remedy of this bill is needed.
- 5) Coal Plant Off-Ramp. There is precedent for the RPS adjustment suggested in this bill. In 2015, SB 350 included a provision which permits a POU that obligated itself to a coal plant outside the state before 2010.

The RPS compliance flexibility provided for in this bill is vague appearing to permit a compliance adjustment for the RPS at any time and merely by the utility representing that RPS compliance “would lead to decreased generation from a powerplant with outstanding public indebtedness.” In discussions with the sponsor, they note the particular concern of the ability to cover debt if the state continues to increase procurement requirements under the RPS.

The coal plant accommodation in current law requires a specific showing of harm to the

utility and that the utility has attempted to mitigate that harm such as through the sale of the plant or the power. *The committee may wish to consider amending this bill to follow the coal plant standard, and permit this off-ramp based on factors currently in the bill but also on the conditions of the adoption of an increase in the RPS to beyond 50% and that the utility has attempted to mitigate that harm such as through the sale of the plant or the power.*

6) Related Legislation.

AB 64 (Wieckowski) Addresses air emissions associated with startups, shutdowns and cycling of fossil-fueled electrical generating units ("facilities") by (1) requiring collection and reporting of emissions data, (2) requiring air districts to impose operating limits on such facilities, and (3) requiring a study with recommendations on how to reduce electrical generation from, and prioritize the retirement of, such facilities. Status: Set for hearing in Assembly Natural Resources Committee, June 18th.

AB 2693 (Quirk) Requires the CPUC to determine, as part of an ongoing proceeding and in consultation CARB, which natural gas plants can be retired and which plants are needed to ensure local and system grid reliability while minimizing emissions of greenhouse gases, criteria air pollutants, and toxic air contaminants. Also requires the CPUC to consider revising the rates paid for fuel by natural gas-fired power plants so that the rates are primarily based on capacity charges with the remaining cost based on the volume of gas used by the plant. Status: Senate Energy, Utilities & Communications Committee.

SB 100 (deLeon) Establishes the 100 Percent Clean Energy Act of 2017 which increases the Renewables Portfolio Standard (RPS) requirement from 50% by 2030 to 60%, and creates the policy of planning to meet all of the state's retail electricity supply with a mix of RPS-eligible and zero-carbon resources by December 31, 2045, for a total of 100% clean energy. Status: Set for hearing in the Assembly Utilities & Energy Committee July 3rd.

7) Prior Legislation.

SB 350 (deLeon) Among other provisions, permits a POU to demonstrate in its renewable energy resources procurement plan that any cancellation or divestment of the commitment entered into for a coal-fired plant before 2010 would result in significant economic harm to its retail customers that cannot be substantially mitigated through resale, transfer to another entity, early closure of the facility, or other feasible measures. Status: Chapter 547, Statutes of 2015.

REGISTERED SUPPORT / OPPOSITION:

Support

Northern California Power Agency (Sponsor)

California Municipal Utilities Association
California State Association of Electrical Workers
City of Roseville
City of Santa Clara
Coalition of California Utility Employees
Redding Electric Utility

Opposition

California Environmental Justice Alliance
Sierra Club California

Analysis Prepared by: Kellie Smith / U. & E. /