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STAFF REPORT

LIGHT AND POWER DEPARTMENT

A handwritten signature in black ink, possibly reading "M. Cas".

DATE: October 15, 2013

TO: Honorable Mayor and City Council

FROM: Carlos Fandino Jr., Director of Light and Power

RE: Request for Approval of "City of Vernon Renewable Resources Procurement Plan and Enforcement Program (SBx1 2 Compliance Plan) Cost Limitation Policy"

CF 10-8-13

Recommendation

It is recommended that the City Council conduct a Public Hearing and:

1. Find that the approval of the proposed "City of Vernon Renewable Resources Procurement Plan and Enforcement Program (SBx1 2 Compliance Plan) Cost Limitation Policy Renewable Portfolio Standard Cost Limitation Policy" (the "Cost Limitation Policy") is exempt from the California Environmental Quality Act (CEQA) because merely changing a procurement policy is an "administrative action that will not result in direct or indirect physical changes in the environment" and is therefore not a "project." It is further recommended that the Council find that even if adoption of the policy were to constitute a "project" under CEQA, it would be exempt from CEQA in accordance with Section 15061(b)(3), the general rule that CEQA only applies to projects that may have an effect on the environment, because (a) this policy does not prevent the City Council from revising the policy in the future, and therefore does not irrevocably commit the City Council to specified actions; and (b) declaring the City's intent to not purchase certain commodities in the future if certain hypothetical events occur at some future date, and replacing them with unknown other commodities is far too speculative of an event to have any quantifiable effect or other effect on the environment that is subject to CEQA.
2. Approve the RPS Cost Limitation Policy to mitigate the impact of the RPS requirements of SBx1 2. Consistent with Public Utilities Code § 399.15(c), the proposed policy would cap the city's procurement of RPS expenses at 19% of its Total net Power Supply Costs, and serve the purpose of preventing disproportionate rate impacts.

Background

The California Renewable Energy Resources Act, Senate Bill 2 of the First Extraordinary Session (“SBx1 2”), expanded California’s Renewable Portfolio Standards (“RPS”) to require that by December 31, 2020, at least 33% of the retail sales of electricity products sold by publicly owned utilities be from renewable sources. SBx1 2 includes several flexible compliance mechanisms to limit the impact of the new RPS requirements on ratepayers. One of the key flexible compliance mechanisms allows publicly owned utilities, such as Vernon, to adopt limits on procurement expenditures for renewable energy resources.¹

On January 3, 2012, the Vernon City Council approved the “City of Vernon Renewable Resources Procurement Plan and Enforcement Program” (the “RPS Plan”), via Resolution 2012-02. The RPS plan estimates that the cost of RPS compliance will increase the cost to customers by at least 10% above the cost of non-renewable energy.

The City’s costs in providing electricity are based upon numerous factors, including the City’s fixed costs (e.g. long term financial contracts, employee salaries, maintenance costs) and variable costs (e.g. energy acquisition costs, transmission costs). Energy acquisition costs comprise a large percentage of the City’s overall costs in providing electricity.

The Light & Power Department has concluded that the added cost to ratepayers due to RPS compliance will be between 10.5% and 13.5% by year 2020. If Total Cost of Procurement of RPS comprised 19% of the Total Net Power Supply Costs, that would translate to an estimated 13.5% rate increase. The Department reached these conclusions based upon the following assumptions:

1. Vernon’s renewable energy mix (RPS) procurement obligations will increase from 20% of its total retail kilowatt-hour sales in 2011 to 33% in 2020.
2. Vernon’s annual retail kilowatt-hour sales are expected to increase by 1% each year.
3. Consistent with historical trends, Vernon’s power supply costs and other operating costs will increase between 3% and 5% annually.
4. The City will be able to procure biomethane or other renewable resource purchases at the same cost per unit as under Vernon’s existing biomethane procurement contracts.

By procuring biomethane contracts, Vernon has made great strides in meeting both the letter and purpose of California’s RPS standards. However, Vernon must also ensure that in its effort to meet those standards, Vernon does not cause its ratepayers to incur a disproportionate rate increase.

By way of background, the City acquired RPS compliant biomethane gas at a fixed price. If all of the city’s RPS requirements through 2020 are acquired at this same rate, no more than 19% of the City’s Total Cost of Procurement would be due to RPS Costs. Therefore, existing free

¹ See Public Utilities Code §§ 399.15(c), 399.30(d). Public Utilities Code § 399.30(d) expressly authorizes the City to adopt “cost limitations for procurement expenditures consistent with subdivision (c) of Section 399.15.”

market conditions confirm that unless there is a significant change in market prices, it is to be expected that City ratepayers will not be required to incur rate increases in excess of 13.5%, even without a cap, and therefore, it is appropriate to establish 13.5% as the threshold of what constitutes a disproportionate rate impact.

Stated differently, staff recommends that the council adopt the policy to thereby find that a rate increase of 13.5% or more would constitute a disproportionate rate impact, and therefore establishing a cap at the 19% threshold is necessary and appropriate to prevent disproportionate rate impacts

Proposal

The proposed cost limitation policy is intended to address any disproportionate rate impacts to ratepayers, reflect current market conditions, and reflect added costs of tying up public funds with additional projects, as some are delayed or permanently removed from the construction queue.

The proposed policy would establish the following ratio as the City’s limit on its expenditures for eligible RPS resources used to comply with the RPS Plan:

<u>Total Cost of Procurement for RPS</u>	≥	19%
Total Net Power Supply Costs		

That is, if the quotient of “Total Cost of Procurement for RPS” divided by “Total Net Power Supply Costs” is greater than or equal to 0.19, then the City Council would take appropriate action to limit the City’s procurement expenditures to thereby cause the ratio to be less than 0.19 (i.e. 19%). Such action would include directing staff to cease its activities related to RPS compliance until the Total Cost of Procurement for RPS falls below the 19% cap.

The policy would also require the Department to keep the City Council apprised of important developments relating to RPS procurement and related costs. For example, staff would notify the City Council if the 19% limitation is triggered or likely to be triggered, or if renewable resources are prevented from being delivered to Vernon.

When the Department reports to the City Council, the Department will recommend a course of action for City Council consideration that is consistent with California Public Utilities Code §399.15(f). Depending upon the cause for the report, the Department may recommend that the City Council direct the Department to cease its RPS compliance activities until the RPS expenditures fall below the 19% threshold.

Fiscal Impact

The cost limitation policy will protect ratepayers from disproportionate rate impacts due to RPS compliance activities.

Attachments

CITY OF VERNON
RENEWABLE RESOURCES
PROCUREMENT PLAN AND ENFORCEMENT PROGRAM
(SBx1 2 COMPLIANCE PLAN)
COST LIMITATION POLICY

I. BACKGROUND

A. Legal Framework

The California Renewable Energy Resources Act, Senate Bill 2 of the First Extraordinary Session (“SBx1 2”), expanded California’s Renewable Portfolio Standards (“RPS”) to require that by December 31, 2020, at least 33% of the retail sales of electricity products sold by publicly owned utilities be from renewable sources. SBx1 2 includes several flexible compliance mechanisms to limit the impact of the new RPS requirements on ratepayers. One of the key flexible compliance mechanisms allows publicly owned utilities, such as Vernon, to adopt limits on procurement expenditures for renewable energy resources consistent with Public Utilities Code § 399.15(c).¹

B. Vernon Specific Background

On January 3, 2012, the Vernon City Council approved the “City of Vernon Renewable Resources Procurement Plan and Enforcement Program” (the “RPS Plan”), via Resolution 2012-02. The RPS plan estimates that the cost of RPS compliance will increase the cost to customers by at least 10% above the cost of non-renewable energy.

At the October 1, 2013 City Council Meeting, the Light & Power Department presented a report which stated that if Vernon complies with the RPS Plan, the added cost to ratepayers will increase by between 10.5% and 13.5% by year 2020. If Total Cost of Procurement of RPS comprised 19% of the Total Net Power Supply Costs, that would translate to an estimated 13.5% rate increase.

¹ See California Public Utilities Code §§ 399.30(d)(3), which requires compliance with the standards in § 399.15(c).

II. IMPLEMENTATION

A. City Council Findings

The City Council finds:

- The governing board of a local publicly owned electric utility may adopt measures that delay compliance with state-mandated procurement of eligible renewable resources and cost limitations consistent with sections 399.15(b) & (c) of the Public Utilities Code.² In developing the limitations, all of the following must be insured:
 - (1) The limitation is set at a level that prevents disproportionate rate impacts.
 - (2) The costs of all procurement credited toward achieving the renewables portfolio standard count toward the limitation.
 - (3) Procurement expenditures do not include any indirect expenses, without limitation, including imbalance energy charges, sale of excess energy, decreased generation from existing resources, transmission upgrades, or the costs associated with relicensing any utility-owned hydroelectric facilities.³
- Pursuant to Public Utilities Code § 399.30(d)(3) the City Council may lawfully establish a cap on the expenditures that it must make to comply with the RPS Plan.
- The City should closely monitor rate increases to prevent disproportionate rate impacts.
- State law does not provide a quantitative definition of a disproportionate rate impact.
- In establishing this policy the City has relied upon:
 - The most recent renewables energy resources procurement plan.
 - Procurement expenditures that approximate the expected cost of building, owning, and operating eligible renewable energy resources.
 - The potential that some planned resource additions may be delayed or cancelled.
- If the Total Cost of Procurement of RPS were to comprise 19% of the Total Net Power Supply Costs, that would increase rates by approximately 13.5%.
- The Light and Power Department properly determined its October 15, 2013 staff report to the City Council that (i) the added cost to rate payers due to RPS compliance is expected to be between 10% and 13.5% by the year 2020; and (ii) if Total Cost of Procurement of RPS

² Public Utilities Code § 399.30 (d)(2),(3).

³ Public Utilities Code § 399.15(d)(1).

comprised 19% of the Total Net Power Supply Costs, that should translate to an estimated 13.5% rate increase;

- The City acquired RPS compliant biomethane gas at a fixed price, and if all of the city’s RPS requirements through 2020 are acquired at this same rate, no more than 19% of the City’s Total Cost of Procurement would be due to RPS Costs;
- Existing free market conditions confirm that unless there is a significant and unexpected change in market prices, it is to be expected that City ratepayers will not be required to incur rate increases in excess of 13.5%, even without a cap, and therefore, it is appropriate to establish 13.5% as the threshold of what constitutes a disproportionate rate impact;
- A cap at 19% on the percentage of the City’s Total Cost of Procurement due to RPS is necessary to prevent a disproportionate rate impact to ratepayers;
- Per Public Utilities Code § 399.15(c)(3), cost limitations can include “the potential that some planned resource additions may be delayed or canceled.”
- Vernon must consider the costs due to delay or cancellation of any project when determining detrimental rate impacts and when calculating an increase to power supply costs.
- In order to responsibly spend ratepayer money, Vernon must be selective when entering into contracts for renewable procurement.
- A procurement cap will prevent unduly burdensome rate increases should RPS regulations later be modified in a manner that prevents Vernon’s existing contracted resources from fully counting towards the City’s RPS requirements.
- A procurement cap will ensure that force majeure events that adversely impact the delivery of renewable resources will not increase RPS compliance costs to a level that will unduly burden the City and ratepayers.

B. Establishment of 19% as the Cost Limitation

The City Council hereby establishes the following ratio as its limitation on the procurement expenditures for eligible RPS resources used to comply with the RPS Plan:

$\frac{\text{Total Cost of Procurement for RPS}}{\text{Total Net Power Supply Costs}} \geq 19\%$
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That is, if the quotient of “Total Cost of Procurement for RPS” divided by “Total Net Power Supply Costs” is greater than or equal to 0.19, then the City Council shall take appropriate action to limit the City’s procurement expenditures to thereby cause the ratio to be less than 0.19 (i.e. 19%).

Consistent with § 399.15(c) and (d), the City Council reached this determination in consideration of the above findings and the following:

- The most recent renewable energy procurement plan (i.e. the RPS plan).
- Procurement expenditures that approximate the expected cost of building, owning, operating, or integrating eligible renewable resources,
- The potential that some planned resource additions may be delayed or cancelled.
- The cost of all procurement credited toward achieving the renewable portfolio standard; and
- Disproportionate rate impacts.

C. Definitions

“**Total Cost of Procurement for RPS**” means the total annual fiscal year cost to procure renewable resources to meet RPS compliance, including the expected cost of building, owning or operating eligible renewable resources.

“**Total Net Power Supply Costs**” means the summation of resource, transmission and CAISO costs required to meet retail demand and include renewable energy costs and greenhouse gas costs to meet the City’s RPS goals and AB32 requirement. These costs are calculated annually on a fiscal year basis.

D. City Council Intent

If the 19% threshold is reached or exceeded, the City Council intends to take appropriate actions, including directing staff to cease its activities related to RPS compliance until the Total Cost of Procurement for RPS falls below the 19% cap.

E. Planned Actions/Direction to Staff

Department staff is directed to:

- Immediately notify the City Council via memo or staff report, with a recommended course of action, in compliance an consideration of Public Utilities Code § 399.15(c)⁴ if staff determines of any of the following has occurred:
 - The 19% limitation is triggered.
 - Project(s) are delayed or cancelled and replacing the projects would either:
 - (i) significantly impact the City's Total Net Power Supply Costs on a fiscal year basis, or
 - (ii) cause RPS costs to exceed 19% of Total Net Power Supply Costs for any fiscal year.
 - Renewable resources are prevented from being delivered to Vernon.
 - Any event occurs that can detrimentally impact ratepayers, including force majeure events such as acts of God, flood, drought, earthquake, storm, fire, pestilence, lightning, epidemic, war, riot, civil disturbance or disobedience, terrorism, sabotage, strikes or labor disputes.
- When staff notifies the City Council of one of the above events, staff shall indicate whether it recommends that the City Council direct staff to temporarily stop procuring RPS compliant power resources.
- Continuously monitor its expenditure levels and annually inform the City Council of the Department's RPS expenditures.

⁴ See also Public Utilities Code § 399.15(f).