

**EASTSIDE POWER AUTHORITY**

**RESOLUTION NO. 2011-**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EASTSIDE  
POWER AUTHORITY ESTABLISHING A RENEWABLE ENERGY  
RESOURCES ENFORCEMENT PROGRAM PURSUANT TO CALIFORNIA  
SENATE BILL 1X-2**

WHEREAS, the Eastside Power Authority (“ESPA”) operates as local publicly owned electric utility (“POU”) (as defined in Public Utilities Code section 224.3), and is generally subject to the legislative and regulatory requirements applicable to POU’s; and

WHEREAS, the State of California passed Senate Bill 2 (1st Extraordinary Session) (“SB 2(1X)”), effective as of December 10, 2011, requiring POU’s, including ESPA, to adopt and implement, among other things, a renewable energy resources enforcement program procurement plan that requires ESPA to procure a minimum quantity of eligible renewable energy resources over certain periods; and

WHEREAS, SB 2 (1X) requires the ESPA Board of Directors, as the governing board of ESPA, to ensure that the amount of eligible renewable energy resources to be procured by ESPA for the period from January 1, 2011 to December 31, 2013 is equal to or greater than an average of 20 percent of retail sales; and requires ESPA to make reasonable progress to ensure that the procurement of eligible renewable energy resources achieves 25 percent of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020 and in all subsequent years; and

WHEREAS, SB 2 (1X) authorizes the ESPA Board of Directors, as the governing board of ESPA, to adopt cost limitations for procurement expenditures of renewable energy resources at levels that avoid disproportionate rate impacts; and

WHEREAS, SB 2 (1X) establishes conditions that allow for the delay of timely compliance under certain limited circumstances, including lack of availability of eligible renewable energy resources; and

WHEREAS, the ESPA Board of Directors, as the governing board of ESPA, is required under SB 2 (1X) to adopt a program for the enforcement of ESPA’s obligations under SB 2 (1X) on or before January 1, 2012 and hold a publicly noticed meeting offering all interested parties an opportunity to comment; and

WHEREAS, the California Energy Commission (“CEC”) is directed to adopt regulations specifying procedures applicable to POU’s for the enforcement of the requirements of SB 2 (1X), and the CEC’s finding of a failure of ESPA to comply with SB 2 (1X) may result in penalties to be assessed by the California Air Resources Board;

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE EASTSIDE POWER  
AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:**

**SECTION 1.** A program for the enforcement of the requirements established under SB 2 (1X) is hereby adopted as set forth in Attachment A, which is attached hereto and incorporated herein (“RPS Enforcement Program”).

**SECTION 2.** The ESPA General Manager or his duly authorized designee shall develop and present for Board of Director approval a Renewable Energy Resources Procurement Plan, as further described in the RPS Enforcement Program.

**SECTION 3.** The ESPA General Manager or his duly authorized designee shall develop and present for Board of Director approval a cost limitation and availability criteria consistent with the requirements of SB 2 (1X), as further described in the RPS Enforcement Program.

**SECTION 4.** Except for matters specifically reserved under SB 2 (1X) for action by the Board of Directors, as the governing board of ESPA, the ESPA General Manager or his duly authorized designee is authorized and directed to do and perform all acts required in the RPS Enforcement Program to fulfill obligations pertaining to ESPA under SB 2 (1X).

**SECTION 5.** This resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

## ATTACHMENT A

### RENEWABLE ENERGY RESOURCES ENFORCEMENT PROGRAM

This Renewable Energy Resources Enforcement Program (RPS Enforcement Program) shall apply to the Eastside Power Authority (ESPA) operating under the requirements applicable to local publicly owned electric utilities (POUs).

#### Section 1: Definitions

The definitions set forth in Public Resources Code (PRC) § 25741 and Public Utilities Code (PUC) § 399.12 are incorporated herein.

The following definitions shall also apply to this RPS Enforcement Program:

Renewable Energy Resources Procurement Plan: The plan adopted by the ESPA Board of Directors pursuant to PUC § 399.30, as further described in Section 10.

Energy Commission: The State Energy Resources Conservation and Development Commission.

CPUC: The California Public Utilities Commission.

#### Section 2: Compliance Periods

The ESPA Board of Directors adopts the following compliance periods as required by PUC § 399.30(b):

Compliance Period One: January 1, 2011 through December 31, 2013

Compliance Period Two: January 1, 2014 through December 31, 2016

Compliance Period Three: January 1, 2017 through December 31, 2020

#### Section 3: Procurement Targets

The ESPA Board of Directors adopts the following RPS-eligible procurement goals as a percentage of retail sales, pursuant to PUC § 399.30(c)(1)-(2):

##### Compliance Period One:

- An average of 20% RPS-eligible resource procurement for the period starting with the later of January 1, 2011, or the effective date of PUC § 399.30, through December 31, 2013.

##### Compliance Period Two:

- By December 31, 2016: 25% RPS-eligible resource procurement.
- January 1, 2014 through December 31, 2016, sufficient procurement to reflect reasonable progress to ensure the above goal is achieved.

### Compliance Period Three:

- By December 31, 2020: 33% RPS-eligible resource procurement.
- January 1, 2017 through December 31, 2020, sufficient procurement to reflect reasonable progress to ensure the above goal is achieved.

### **Section 4: Procurement Content Categories**

The ESPA General Manager or his duly authorized designee shall assign all RPS-eligible resources procured by ESPA to their appropriate procurement content category in accordance with the provisions of PUC § 399.30(c)(3), consistent with PUC § 399.16.

### **Section 5: Grandfathering of Procurement Content Category Requirements**

The ESPA General Manager or his duly authorized designee shall count all resources meeting the requirements of PUC § 399.16(d) in full towards the procurement requirements set forth in this RPS Enforcement Program, 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; and (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; provided that the duration of the contract may be extended if the original contract specified a procurement commitment of 15 or more years.

This provision permits, but does not require, resources meeting the requirements of PUC § 399.16(d) to be exempted from the procurement content requirements.

### **Section 6: Deviation From Procurement Content Category Requirements**

The ESPA Board of Directors may waive or reduce a procurement content requirement set forth in this RPS Enforcement Program to the extent ESPA demonstrates that it cannot comply with such requirements because of: (a) conditions beyond the control of ESPA due to any one of the conditions set forth in PUC § 399.15(b)(5); or (b) other conditions adopted by the ESPA Board of Directors based on facts reasonably found by the ESPA Board of Directors to be consistent with the intent of PUC § 399.15(b)(5) or PUC § 399.18 and the unique circumstances facing ESPA as a small POU.

### **Section 7: Delay of Timely Compliance**

The ESPA Board of Directors may adopt measures permitting ESPA to delay timely compliance with this RPS Enforcement Program pursuant to PUC § 399.30(c)(2), consistent with the requirements of PUC § 399.15(b)(5) or other conditions adopted by the ESPA Board of Directors based on facts reasonably found by the ESPA Board of Directors to be consistent with the intent of PUC § 399.15(b)(5).

/

## **Section 8: Banking Rules**

The ESPA Board of Directors may adopt measures permitting ESPA to accumulate, beginning January 1, 2011, excess procurement in one compliance period to be applied to any subsequent compliance period provided that the quantity of excess procurement is determined in the same manner as allowed for retail sellers pursuant to PUC § 399.13(a)(4)(B).

## **Section 9: Cost Limitations**

The ESPA Board of Directors may establish a limitation on the procurement expenditures for all RPS-eligible resources used to comply with this RPS Enforcement Program. In establishing such limit, the ESPA Board of Directors shall rely on elements consistent with PUC § 399.15(c)(1)-(3) and with pertinent policies and rules established by the ESPA Board of Directors, including but not necessarily limited to rate regulations and existing bond covenants. The cost limitation value shall be included in the Renewable Energy Resources Procurement Plan, as described in Section 10.

## **Section 10: Renewable Energy Resources Procurement Plan**

The ESPA Board of Directors directs the ESPA General Manager or his duly authorized designee to develop and present a Renewable Energy Resources Procurement Plan to the ESPA Board of Directors. At a minimum, the Renewable Energy Resources Procurement Plan shall include: (a) the specified resources that ESPA plans to use to meet the procurement targets adopted in Section 3, above; and (b) the flexible compliance mechanisms to be utilized by ESPA pursuant to Sections 5, 6, 7, 8, and 9, above. ESPA shall post a public notice whenever the ESPA Board of Directors will deliberate in public on the Renewable Energy Resources Procurement Plan. ESPA shall also provide data annually to the Energy Commission and to report annually to ESPA's customers and the Energy Commission in accordance with PUC § 399.30.

## **Section 11: Enforcement**

The ESPA Board of Directors directs the ESPA General Manager or his duly authorized designee to inform the ESPA Board of Directors at a public meeting in the event that ESPA will not meet the procurement requirements set out in Sections 3 and 4 above, subject to the flexible compliance mechanisms of Sections 5, 6, 7, 8, and 9, above. As soon as reasonably practicable following his informing the ESPA Board of Directors, the ESPA General Manager or his duly authorized designee shall develop and present a plan to bring ESPA into compliance.