

# California's Proposition 7:

An Analysis

October 2008



**BerkeleyLaw**

UNIVERSITY OF CALIFORNIA

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California Center for  
Environmental Law & Policy



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October 2008

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## Background and Summary

California has one of the most ambitious renewable energy electric generation programs in the country. By 2010, regulated utilities, and competitive electricity providers must obtain at least 20 percent of the energy they deliver to their customers from renewable energy sources other than large hydroelectric facilities to provide. This requirement is referred to as a Renewable Portfolio Standard (RPS). Municipal utilities also must develop a renewable energy portfolio, but can set their own schedules and targets.

California Governor Arnold Schwarzenegger has directed various state agencies to pursue an even more ambitious standard for the regulated utilities and their competitors of 33 percent renewable energy by 2020. In addition, as the California Air Resources Board develops its strategy for reducing the emission of greenhouse gases as required under AB 32, it is assuming that the state will establish and the utilities will achieve the Governor's 33 percent goal. Consultants to the California Public Utilities Commission produced a study which concluded that the 33 percent standard is achievable.

In the meantime, current state law blocks regulators from imposing a standard higher than 20 percent, and energy providers are struggling to meet that goal. In 2008, the Legislature considered, but did not pass, legislation that would have adopted the 33 percent standard.

The proponents of Proposition 7, on California's November 2008 general election ballot, seek to apply the 20 percent obligation to *all* electricity providers, including municipal utilities, and to further require that all providers deliver at least 40 percent renewable power by 2020, and 50% renewable power by 2025. Proposition 7 would also make a series of other adjustments to California's laws affecting renewable energy, including shifts in jurisdictional responsibilities between the California Public Utilities Commission (which primarily provides economic regulation and certifies certain proposed new construction projects of investor-owned utilities), and the California Energy Commission (which primarily provides forecasts, oversees research and development, and certifies large proposed power plants that use heat to generate electricity).

Proposition 7 is supported by several prominent individuals, including former State Senate President Pro Tem John Burton, United Farmworkers Union leader Dolores Huerta, former CEO of the Los Angeles Department of Water and Power David Freeman, former State Senators Martha Escutia, Liz Figueroa and John Vasconcellos, Assemblyman Joe Coto, and several leading environmentalists. The state's largest investor-owned utilities, many representatives of the renewable energy industry, several prominent environmental groups, and the California Public Utilities Commission oppose the proposition. The utilities have funded an ambitious television and print campaign that has

brought greater prominence to the debate about Proposition 7.

As is often the case with state ballot measures, Proposition 7 contains many controversial provisions, and reflects a level of complexity that defies a simple yes or no decision. But, of course, that is the call that voters must make. This report is not intended to be and should not be considered an advocacy document. It does not argue in favor of or against Proposition 7. Rather, this report is intended to serve as an independent and objective analysis of the legal issues relating to Prop 7. It is hoped that this analysis will help inform the public debate over Proposition 7, and be of use to California voters, commentators and interested observers.

The results of the coming election, and the way that these issues are resolved, will likely have a significant impact on the magnitude and nature of renewable

electric generation in California in the coming years. Several conclusions about Proposition 7 are particularly important:

1. A court probably would *not* interpret Proposition 7 as limiting the RPS to large renewable generators.
2. Some municipal utilities might face major and perhaps insurmountable challenges in meeting the 2010 deadlines imposed by the proposition.
3. The requirements of Proposition 7 would be difficult to modify if problems or ambiguities arise, since under the express terms of the measure the California Legislature can make changes only by a 2/3 vote in each chamber. This is the same “supermajority” vote required under state law to approve a tax increase or a state budget, both of which have been difficult in recent years.

## Key Features of Proposition 7

The stated intent of Proposition 7 is to reduce California’s greenhouse gas emissions by increasing the percentage of electric service derived from renewable fuels, accelerating the schedule for approving renewable energy projects, and improving the ability to enforce renewable energy requirements. The key provisions of the proposition are discussed below.

- **Revising the Renewable Portfolio Standard**

**Current Law:** The current Renewable Portfolio Standard was established by the California Legislature in 2002 and applies most directly to the regulated investor-owned utilities, competing energy service providers, and community choice aggregators.<sup>1</sup> California’s RPS calls for these entities to ensure that by 2010, 20% of the electric energy delivered to their customers is derived from renewable energy sources. Current law requires that

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<sup>1</sup> See California Public Utilities Section 399.12(h) and Section 399.15.

municipal utilities establish their own renewable energy targets and plan to meet them.<sup>2</sup> Municipal utilities are not currently required to adopt the 20% standard.

Some definitions are in order:

- Renewable energy is defined in the RPS to include biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current.
- The major regulated utilities in California are Pacific Gas & Electric Company, San Diego Gas & Electric Company, and Southern California Edison.
- Energy Service Providers are those entities registered with the California Public Utilities Commission that are allowed to offer competitive retail electric service within the regulated utilities' otherwise exclusive service territories.
- Community choice aggregators are cities and counties, acting alone or in combination, that choose to purchase power to sell to their citizens who otherwise would be served by the regulated utilities.<sup>3</sup> While many cities and counties are exploring this option, none are currently providing this service.
- Municipal utilities are also functions of local government, but usually provide services beyond the purchase of power, including distribution, metering and billing, and sometimes transmission. About one-fourth of the electric service in California is provided by municipal utilities.

**Proposition 7:** Under the proposition, municipal utilities would also be required to meet the 20% goal by 2010 and the California Energy Commission would have the authority to enforce municipal utility RPS obligations. In addition, all electricity providers would be required to deliver 40% renewables by 2020, and 50% renewables by 2025.<sup>4</sup>

- **Enhancing the Enforcement of the Renewable Portfolio Standard**

**Current Law:** Currently, the California Public Utilities Commission and California Energy Commission can define standards for compliance with the RPS, but their ability to enforce those standards under existing law is mixed. The Public Utilities Commission retains its traditional regulatory enforcement powers related to investor-

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<sup>2</sup> California Public Utilities Code Section 387.

<sup>3</sup> California Public Utilities Code Section 331.1.

<sup>4</sup> Proposition 7, Section 399.15.

owned utilities and can impose fines on those utilities when they violate orders or rules. The Public Utilities Commission and the Energy Commission lack direct authority over community choice aggregators and municipal utilities.

**Proposition 7:** In addition to current authority related to investor-owned utilities, Proposition 7 would empower the Public Utilities Commission to review and approve RPS plans submitted by energy service providers and community choice aggregators, and to enforce compliance with the RPS standards by imposing fines. The Energy Commission would be able to exercise similar authority over the municipal utilities related to RPS compliance. The proposition would set the penalty at one cent per kilowatt hour of required renewable power that the retail seller failed to deliver. Contrary to current regulatory practice, there would be no limit on the total amount of the penalty. California regulators would retain the discretion to waive the penalty when the failure to comply resulted from circumstances beyond the control of the retail provider, or if the only available power would be too expensive.

- **Using Collected Penalties to Promoted the Development of New Transmission and Renewable Energy Facilities**

**Current Law:** California law does not specify what should happen with funds collected through the imposition of penalties, and the Public Utilities Commission has yet to impose any such penalties. Typically, penalties are either refunded to customers or returned to the state's General Fund.

**Proposition 7:** The proposition directs that all penalties would be dedicated to a fund administered by the Energy Commission for programs designed to foster the development of new in-state transmission renewable energy generation facilities.<sup>5</sup>

- **Redefining How Much Retail Providers Would Be Required to Pay In Order to Comply**

**Current Law:** To provide a context for considering renewable energy costs, the Public Utilities Commission determines the market price for power. If the only available renewable power costs more than the market price, there are limits on an investor-owned utility's obligation to buy it. Currently, a portion of the funds collected by the utilities for public goods purposes such as energy efficiency programs and research and development is set aside to subsidize the purchase of expensive renewables. In the absence of such funds, the utility is not required to make the purchase.

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<sup>5</sup> Proposition 7, Section 399.14(i).

**Proposition 7:** The proposition would shift the authority for setting the market price of power from the Public Utilities Commission to the Energy Commission. Proposition 7 would also add criteria reflecting the societal value of shifting to renewable power and other factors that are likely to make the market price higher than it would be under the existing approach. As long as retail sellers have yet to meet their RPS requirements, they would be obligated to buy any renewable power offered at or below the market price. In addition, retailer sellers would be required to spend as much as 10% more than the market price if necessary to meet RPS requirements. The investor-owned utilities would be assured rate recovery for renewable energy costs up to 10% above the market price. Other retail sellers would be given a similar assurance, but its significance is unclear, since the rates for those other sellers are set in competitive markets, and are not subject to regulation.

- **Requiring Retail Sellers of Electricity to Offer Longer Contracts**

**Current Law:** Currently, the investor-owned utilities are required to offer 10-year contracts to renewable energy providers. The law does not specify requirements for other retail sellers.

**Proposition 7:** The proposition would require all retail sellers to offer 20-year contracts to renewable energy providers. <sup>6</sup>

- **Changing the Way Some Renewable Energy Facilities Are Licensed**

**Current Law:** Under existing law, land-based renewable energy facilities receive permits from the authority that normally manages land use in that location. That is generally a local government, except when the land is under the jurisdiction of a state or federal agency, such as park or forest service land. In California, much of the land with high potential for major solar, wind, or geothermal development is controlled by the U.S. Bureau of Land Management. Off-shore projects are governed by state law if located within three miles of shore, and by federal law if located farther out on the outer continental shelf.

Currently, the California Energy Commission reviews requests to build power plants of 50 megawatts (MWs) or greater if they use heat to make electricity. This primarily affects utilities' efforts to build coal, natural gas, and nuclear generating plants, although the Energy Commission also issues licenses for larger renewable energy projects that use heat for generation, such as geothermal and concentrating solar thermal plants.

**Proposition 7:** The proposition would give the California Energy Commission exclusive siting jurisdiction over all non-hydroelectric renewable energy facilities of 30 megawatts (MWs) or greater, and hydroelectric facilities of

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<sup>6</sup> Proposition 7, Section 399.14(1)(4)



30 MWs or less.<sup>7</sup> <sup>8</sup> Facilities to be located on federal lands or in federal waters would also require federal permits. The Energy Commission would be required to issue its permits for renewable energy facilities within six months of an application date if substantial evidence suggests that the project would cause no significant harm to the environment. Otherwise, normal, longer deadlines apply.<sup>9</sup>

- **Transferring Responsibility for Some Regulatory Functions From California’s Public Utilities Commission to the California Energy Commission**

1. **Determining the Market Price**

As discussed earlier, a retail seller’s obligation to purchase renewable energy is influenced by the cost of renewables compared to the market price for other power purchases. Currently, it is the California Public Utilities Commission that determines the market price used for that comparison. Proposition 7 would shift that responsibility to the California Energy Commission.<sup>10</sup>

2. **Issuing Certificates for Some Transmission Lines**

Currently, the Public Utilities Commission reviews most requests by regulated utilities to build transmission lines. By contrast, under existing law, the Energy Commission only considers transmission proposals when the line would connect a power plant within its jurisdiction to the rest of the grid. As Proposition 7 expands the Energy Commission’s power plant siting jurisdiction to include virtually all renewable generation 30 MW or larger, it also expands its authority to site transmission lines from those projects to the rest of the grid. Some interpret this provision to also grant the Energy Commission transmission siting authority over a broader variety of transmission projects. This appears not to be the case. Regardless, the proposition would not eliminate the requirement that utilities receive permission from the Public Utilities Commission before building new transmission lines.

3. **Deciding That a Transmission Line is Needed for RPS Compliance**

Currently, when the Public Utilities Commission determines that a new transmission line is needed in order for a utility to meet its RPS requirements, it can approve the line on that basis alone. Otherwise, the utility would have to demonstrate a need to build the line to create sufficient system reliability, or lower costs.<sup>11</sup> Proposition 7 would delete the related language from the Public Utilities Commission’s implementing statutes. That language served a secondary function of describing the circumstances under which the state would attempt to persuade federal regulators that all customers should pay for the project through transmission charges. The proposition

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<sup>7</sup> Proposition 7, Sections 25137 and 25517.

<sup>8</sup> The significance of hydroelectric facilities of 30 MWs or less, is that they would be considered to be “small hydro” projects. Larger hydroelectric facilities do not qualify for the RPS program.

<sup>9</sup> Proposition 7, Section 25550(c).

<sup>10</sup> Proposition 7, Section 399.15(c).

<sup>11</sup> California Public Utilities Code Section 1001.

designates the Energy Commission to make the finding about whether the project is needed for RPS compliance. It would then require the Public Utilities Commission to rely on that finding in determining what to say to federal regulators. However, because it deletes the language expressly permitting the Public Utilities Commission to approve a line for RPS purposes alone, the proposition appears to leave the Public Utilities Commission without the authority to do so.

## Key Unresolved Issues About Proposition 7

- **Would the new law ban smaller renewable energy projects?**

One of the most debated questions concerning Proposition 7 is whether the initiative would require the utilities and other retail sellers of electricity to rely on larger renewable energy projects, to the detriment of smaller firms. Currently, any size renewable energy facility can qualify for inclusion in the RPS program. Some critics argue that Proposition 7 would limit the program to facilities that are 30 MWs or larger. This is not the most likely interpretation of the language of the proposition, however. Although the pathway to discussing this issue marches directly through the briar patch of detailed legal analysis, the level of importance placed on this point suggests a need to spend a moment joining the march.

The logic behind the suggestion that the proposition only allows for larger projects is as follows:

1. Proposition 7 amends two statutory schemes: one, found in California's Public Utilities Code, governs the CPUC. The other, found in the California Public Resources Code, governs the Energy Commission.
2. The Public Utilities Code provisions create the RPS requirement. They state that in order to be counted for compliance, a power facility must be an "eligible renewable energy resource" (§ 399.15(b)(1)). The Public Utilities Code currently defines an eligible resource as "an *electric generating* facility that meets the definition of 'in-state renewable electricity generation facility' in Section 25741 of the Public Resources Code..." (Public Utilities Code § 399.12(c)). Proposition 7 would change this provision by removing the words *an electric generating* and replacing them with the words *a solar and clean energy*. These new words match the title given to the proposition, but the Public Utilities Code does not define them. Thus, under the terms of the proposition, an RPS-qualifying facility must be *a solar and clean energy* facility that meets the Resource Code's definition for in-state renewable generation.
3. The definition in the Public Resources Code for *in-state renewable generators* is unchanged by Proposition 7, and is broad enough to allow facilities of any size. However, the proposition would also add to the Resources Code a definition for *solar and clean energy*. That definition includes the limitation that such facilities have "a generating capacity of 30 megawatts or more" with the exception of small hydroelectric facilities, which must be "30 megawatts or less" (Public Resources Code § 25137).
4. One interpretation is that this definition applies to the proposition's insertion of the words *solar and clean energy* in the Public Utilities Code, leading to the conclusion that

even if a broader definition of qualifying renewables might have otherwise applied, the proposition would limit it mostly to those 30 MWs or larger.

5. Recognizing that applying a Public Resources Code definition to a mandate contained in the Public Utilities Code is a leap, some then rely on the following reasoning:
  - a. There must have been some reason that the proposition inserts the words *solar and clean energy* into the existing law, and
  - b. The statutory schemes reflected in the Public Resources Code and Public Utilities Code are so closely related that the Public Resources Code's definition of *solar and clean energy* must apply to the Public Utilities Code sections as well.
6. On this basis, one might conclude that the proposition would limit the RPS to very large renewable generators, pushing smaller facilities and smaller firms out of the market.

While Proposition 7's wording for the Public Utilities Code is not very helpful in this regard, there are several reasons that the above interpretation is not persuasive:

1. The express intent of the proposition is to dramatically increase the deployment of renewable resources. It seems unlikely that a reviewing court would interpret a potential ambiguity in a manner inconsistent with the express intent.
2. Proposition 7 does not include in the Public Utilities Code a definition for either *solar and clean energy* or *eligible facilities*. However, while the proposition would have the Public Utilities Code expressly defer to the Public Resources Code for the definition of *eligible facilities*, the former does not expressly defer to the Public Resources Code for the definition of *solar and clean energy*. When interpreting the language, a court would be likely to note that distinction and assume that it is purposeful. Thus, it is illogical to assume that the initiative's authors intended to apply the Public Resources Code definition for *solar and clean energy* to the RPS requirements in the Public Utilities Code.
3. It is also important to consider the clear purpose for the definition within the Resources Code. After having defined *solar and clean energy* to apply mostly to facilities of 30 MWs or larger, the proposition goes on to expand the Energy Commission's exclusive power plant siting jurisdiction to include such facilities (Public Resources Code Section 25502). This use of the definition is consistent with the purpose of the initiative, since granting the Energy Commission this authority should make it simpler for many projects to achieve necessary permits. It makes sense that the permitting authority would only apply to larger facilities, since it would be counterproductive to subject the smallest projects to state agency review. It also makes sense that only smaller hydroelectric facilities would meet the definition, since larger hydro projects are not considered renewable for RPS purposes, and already receive permits from other state or federal agencies.
4. The section containing the Public Resources Code definition clearly states that it applies to the division that contains it (Public Resources Code § 25100, et seq.). The Public Utilities Code does not refer to the definition, and the Public Resources Code does not state that it should be given any broader application.

5. It becomes less persuasive to suggest that a Resources Code definition should be used for interpreting the Public Utilities Code, without the law expressly stating as much, when one reviews the other definitions in the same Public Resources Code series. For instance, a neighboring provision defines *electric transmission* in a way that describes only a small portion of the transmission grid. That is because the law grants only limited jurisdiction over transmission lines to the Energy Commission. The Public Utilities Code directs the Public Utilities Commission to do many things related to transmission lines, but does not offer a definition for *electric transmission*. Using the logic offered by those making the “30 MW” argument, the Public Utilities Commission should have been applying the Resources Code definition for electric transmission all along, and declining to take jurisdiction over most transmission lines in the state. Similarly, using the Public Resources Code definitions, the only *facilities* the CPUC could regulate would be transmission lines and thermal power plants (Public Resources Code § 25110), the only *account* with which the CPUC could bother would be the Energy Resources Program Account (Public Resources Code § 25111), and a *plan* could only mean the Emergency Load Curtailment and Energy Distribution Plan (Section 25117). It is not likely that this is what the Legislature had in mind.

The lingering question is, why did the authors of the proposition insert the phrase *solar and clean energy* into the Public Utilities Code to begin with? For an answer, one need not look any further than the title of the proposed law: *The Solar and Clean Energy Act of 2008*. As the initiative’s Findings and Declarations reveal, the authors evidently wanted to emphasize their interest in promoting solar energy, as well as other clean technologies, as ways to address global warming, climate change and air pollution, and to “build a healthier, cleaner environment for our children” (Proposition 7, § 2.D.). Including those words in the code sections, is consistent with that intent. It is not likely that a court would have to search for any other explanation.

All of this does not make the size limitation question go away. Although the argument that the proposition would create a minimum project size lacks a strong foundation, the absence of a definition in the Public Utilities Code for *solar and clean energy* creates the possibility of confusion and could require judicial interpretation. And the necessity for such an interpretation is likely to lead to delays in successful implementation of Proposition 7 if the initiative is approved by California voters.

- **Would the proposition significantly expand the Energy Commission’s jurisdiction over transmission lines?**

For several years, some members of the Legislature and the Energy Commission have sought to remove the Public Utilities Commission’s authority to site transmission lines and transfer that authority to the Energy Commission. Since it is the Public Utilities Commission that sets rates, the motivation appears to be to separate the decision about the need for a transmission line from the question of whether or not the new line would directly serve the ratepayers’ economic interest. It is unlikely that the wording of Proposition 7 would end the debate. First, since the Public Utilities Commission is a creation of the California Constitution, many argue that its fundamental jurisdiction cannot be reduced without a constitutional amendment. The proposition would not

amend the constitution. Second, the definition of “electric transmission” for purposes of the Energy Commission’s jurisdiction under the Public Resources Code is too limited to embrace most of the transmission projects brought before the Public Utilities Commission.

Any uncertainty is derived from the fact that Proposition 7 would take several sections of the Public Utilities Code related to facility siting and repeat them, wholesale, in the Public Resource Code. It is far from clear why, since the Energy Commission already operates under a comprehensive program for facility siting – a program that is not amended by the proposition. The repeated language includes the admonition that regulated utilities should not build a transmission line without getting prior approval. In the Public Resources Code, this would apply to the Energy Commission. Since the language remains in the Public Utilities Code, the proposition might appear to create redundant regulatory processes.

Some would argue that the more limited definition of *electric transmission* in a neighboring section of the Public Resources Code leads to strict limits on Energy Commission siting jurisdiction. However, those who find redundancy point to the difference between the terms *electric transmission* in the definition, and *transmission* without the word *electric* in the cut-and-pasted sections about siting authority. The argument is that since *electric* was left out of the siting section, then the stand-alone *transmission* preceded by the word *any* must mean something different.

Since the only transmission lines in question are electric transmission lines, it is not clear what other definition of the stand-alone word *transmission* the authors could have had in mind. One would have to find ambiguity where there is none in order to reach the conclusion that every transmission line proponent must gain the approval of the Energy Commission. Thus, the best reading of this provision is that the proposition would expand the Energy Commission’s transmission siting jurisdiction to include lines connecting new solar and clean energy facilities to the grid, and nothing more. It is worth noting, however, that some such lines may be quite lengthy, since many promising renewable energy sites are a significant distance from the existing grid.

- **What does Proposition 7’s amendment to Public Utilities Code section 1001 mean?**

Public Utilities Code section 1001 sets forth the Public Utilities Commission’s authority to site various facilities, including transmission lines. It provides that no utility seeking to build a transmission line can do so without first getting a certificate of public convenience and necessity from the Public Utilities Commission. This is one of the code sections that Proposition 7 would repeat in the Public Resources Code. The proposition would add the following words at the beginning of the section in the Public Utilities Code: *Except as otherwise provided in Division 15 (commencing with Section 25000 of the Public Resources Code...*” Division 15 would contain, among other things, the repeated language from Section 1001.

The problem is that Division 15, even as amended, would not “otherwise provide”. In other words, repeating the language from the first code in the second does nothing to change the fact that it still appears in the first. There is no clear explanation as to what the new clause is supposed to accomplish, and implementing it would be a challenge.

- **Is there a cap on total cost to ratepayers from implementing Proposition 7?**

Proposition 7 would require retail sellers of electricity to pay up to 110% of the market price for power if necessary in order to buy renewable energy. Some opponents of the measure argue that this ensures that every renewable energy provider will charge that extra 10%. Proponents of Proposition 7 respond that 110% of market price is only an upper limit, and that competitive forces will motivate bidders to lower their price. Proponents also argue that the proposition puts a 3% limit on rate increases stemming from RPS compliance.<sup>12</sup> However the desire to keep increases within 3% is only in the intent language, and is not implemented in the substantive provisions of the proposition.

The proposition does not place a specific cap on rate increases resulting from RPS compliance. However, the rate impacts of the 110% provision should be limited. After full implementation of Proposition 7, only half of the power would be renewable. If the cost of power was the only component of electric rates, then the maximum possible rate effect would be 5%. However, the cost of power is only about half of the cost reflected in electric rates (the rest covers transmission, distribution, billing, meter reading, and other utility programs). This means that the maximum rate effect from purchasing all renewable power at 110% of market rate would be a 2.5% increase. In this hypothetical example, a charge that might otherwise be 18 cents per kilowatt hour would become 18.45 cents.

These numbers are offered only as a very rough example. The difference between 110% of the market price and the cost of other power may be more than 10%, because Proposition 7 would have the Energy Commission quantify some externalities when calculating the market price. On the other hand, not all of the renewable energy required to meet the RPS targets would be purchased at 110% of the market price. The utilities are well on their way to achieving 40% of the renewables that would be required under Proposition 7 without the benefit of the 110% rule, and much of the current resources have been purchased for less than the market price.

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<sup>12</sup> Proposition 7, Section 2.E.

- **How likely is it that Proposition 7 will affect the ability of municipal utilities to meet a 20% renewable energy target by 2010?**

It is highly unlikely that a 20% RPS standard imposed on municipal utilities in late 2008 could lead to additional compliance by the end of 2010. Municipal utilities that do not have a head start on meeting the goals would likely have too little time to comply. While Proposition 7 sets the 20% target, it also allows for exceptions when compliance is infeasible.<sup>13</sup> This may be the case for some municipal utilities.

- **Would it be too difficult to change the law if problems arise?**

The current RPS program is not the product of a single legislative act. As the program has evolved, it has been necessary to return to the Legislature, and to modify key provisions. Perhaps the most significant example is the 20% by 2010 standard, itself. In its initial version, passed by the Legislature in 2002, the law allowed the regulated utilities to reach the 20% level by 2017. After the Public Utilities Commission began working with the utilities on implementation, it concluded that a more ambitious schedule should work. The Legislature responded in 2006 with SB 107, which moved the 20% target up to 2010, applied the standard to energy service providers and community choice aggregators, and required municipal utilities to establish their own goals. There is now significant movement in the direction of adopting a 33% target for 2020.

Proposition 7 provides that it can only be amended in the future by a 2/3 vote of the members in each house of the California Legislature. Had a similar vote been required in order to pass SB 107, it would have failed in both houses of the Legislature, and compliance with the 20% standard might still be about a decade away.

Proposition 7 would amend laws that have previously been adopted and revised in a way that creates one of the most ambitious renewable energy programs in the country. If Proposition 7 were to be enacted, it would never be as easy to revise these earlier laws again. This would protect the voters from an effort to relax the renewable energy standard, but it would make it much harder to accelerate the deadlines, or to fix problems that might impede Proposition 7's implementation.

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<sup>13</sup> Proposition 7, Section 399.14(j).

## Conclusion

The State of California currently has in place one of the most ambitious renewable energy programs in the nation. It requires that 20% of the power delivered to utility customers must be renewable by 2010. California's renewable energy programs are the product of several laws that have been passed and revised over the last seven years. They are also the result of a successful collaboration between the California Public Utilities Commission, the California

Energy Commission, and the Governor. All three are currently working to increase the standard to 33% by 2020. Proposition 7 would lock in a target of 50% renewable power by 2025 and impose the standard on municipal utilities as well. If successful, the result would be one of the most advanced renewable energy systems in the world. If unsuccessful, the proposition would make it very difficult to correct any underlying problems.