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)

CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES COMMENTS ON SEC. 399.20 OCTOBER 13, 2011 RENEWABLE FIT STAFF PROPOSAL

November 2, 2011

SARA STECK MYERS
Attorney for the
Center for Energy Efficiency and
Renewable Technologies

122 – 28th Avenue
San Francisco, CA 94121
Telephone: (415) 387-1904
Facsimile: (415) 387-4708
E-mail: ssmyers@att.net

TABLE OF CONTENTS

Page

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)

CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES COMMENTS ON SEC. 399.20 OCTOBER 13, 2011 RENEWABLE FIT STAFF PROPOSAL

The Center for Energy Efficiency and Renewable Technologies (CEERT) respectfully submits these Comments to the Sec. 399.20 "October 13, 2011 Renewable FIT [feed-in tariff] Staff Proposal." These Comments are filed and served pursuant to the Commission's Rules of Practice and Procedure and the Administrative Law Judge's Sec. 399.20 Ruling of October 13, 2011 ("October 13 Sec.399.20 Ruling").

I.
THE OCTOBER 13, 2011 RENEWABLE STAFF PROPOSAL MISCHARACTERIZES THE "OPTIONS" AND HAS BEEN INAPPROPRIATELY OFFERED AS DISPOSITIVE OF SEC. 399.20 IMPLEMENTATION.

The October 13 Sec.399.20 Ruling does the following: (1) "incorporate[s]…into the record of this proceeding" the October 13, 2011 Renewable FIT Staff Proposal, appended as "Attachment A" to the ruling, and (2) *limits* comments on the topic of "implementation of the Senate Bill 32 and Senate Bill 21X amendments to §399.20" to "specifically state their support or opposition to each item in the October 13, 2011 Renewable FIT Staff Proposal and provide a rationale for their support or opposition."[1] The October 13 Sec.399.20 Ruling then proceeds to identify the next step after such comments are filed as the issuance of "a proposed decision toward the end of 2011."[2]

[1] October 13 Sec.399.20 Ruling, at pp. 2-3.
[2] Id., at p. 3.

Unfortunately, as further described below, these instructions, in combination with the discussion, analysis and adopted "staff proposals" contained in the October 13, 2011 Renewable FIT Staff Proposal, result in a ruling that is *dispositive* of the issue of Sec. 399.20 implementation, especially as to key "elements" such as "a. Pricing."[3] In this regard, the October 13, 2011 Renewable FIT Staff Proposal, including the Proposal Questions" posed for party comments, *presume* adoption of this proposal. Thus, as an example, "Proposal Questions" do not seek input on alternative legal or factual approaches, but rather *presume* that "RAM Pricing" and the "Pricing Adders" "proposed" by Staff will in fact be adopted, with comment limited to circumstances when both might be adjusted.[4] In addition, discussion in the October 13, 2011 Renewable FIT Staff Proposal on the statute at issue and "guiding principles" completely neglect applicable rules of statutory construction and treat the law's implementation as a matter of discretion by the Commission.[5]

As further detailed below, CEERT believes it is important to remind the Commission at this point that it is the Commission, not the ALJ or Staff, that can make a "final determination of proceedings."[6] Even if not specifically labeled as such, actions by the ALJ or Staff that seek to limit a "final determination" by the Commission as to the record, the law, or the opportunity of parties to be heard on an issue are equally inappropriate.

While the October 13, 2011 Renewable FIT Staff Proposal generally references the positions taken by parties at odds with that adopted by the Staff, the Renewable FIT "Pricing" proposed by the Staff does not appropriately "weigh" this "evidence" or base its determination on any reasonable construction of the provisions of Section 399.20 in its entirety or application

[3] October 13, 2011 Renewable FIT Staff Proposal, at p. 8.
[4] Id., at pp. 24-25.
[5] Id., at pp. 4-7.
[6] Commission's Rules of Practice and Procedure, Rule 9.1.

of relevant Commission precedent. Instead, the October 13, 2011 Renewable FIT Staff Proposal is governed by a very selective approach to "guiding principles," fails to include or follow applicable principles of statutory construction, and improperly assesses the "Value-based FIT" and "Cost-Based FIT" Pricing Options in a manner designed to support its chosen outcome – "to make the Renewable FIT a subset of RAM" (the Renewable Auction Mechanism).[7]

While the issue of "guiding principles" and statutory construction are discussed in the next section, this "selective" approach to the record and the "options" is most apparent in the October 13, 2011 Renewable FIT Staff Proposal's categorization of the options as either a "value-based FIT" or a "cost based FIT" and its statement of the "pros" and "cons" of each. First, the use of the term "value-based FIT" to describe one, but not the other, option is a complete misnomer and suggests that one approach has "value" over another that imposes "costs." The Staff also errors by suggesting that only the "value-based FIT" considers value to, and costs avoided by, the utilities. In fact, what distinguishes the "value-based FIT," as interpreted by Staff, is that it uses or can rely on an "*auction-based*" pricing mechanism, as opposed to an "*administratively determined*" pricing mechanism, which is the only approach consistent with the "standard tariff" intended by Section 399.20.

The confusion on this point continues with the "pros" and "cons" ascribed by the Staff to the "value-based FIT" (i.e., RAM) and "cost-based FIT" pricing options in the October 13, 2011 Renewable FIT Staff Proposal.[8] Thus, the "value-based FIT" is listed as having multiple "pros" and only one "con" ("price is not based on the actual project's cost"), whereas the "cost-based

[7] October 13, 2011 Renewable FIT Staff Proposal, at p. 7.
[8] Id., at pp. 3-4.

FIT" is identified as having only one "pro" ("price is likely to be high enough to stimulate development") and multiple "cons."[9]

No matter how the Commission chooses to proceed here, CEERT strongly urges the Commission to take a strong hand to reject the "cons" listed for a "cost-based FIT" at page 5 of the October 13, 2011 Renewable FIT Staff Proposal. These "cons" are both *wrong* and *insulting*, especially to all parties who have participated in good faith in this proceeding and offered recommendations consistent with the law. Further, none of the 4 "cons" listed should or can serve as a basis to reject a "cost-Based FIT."

To begin with, of the 4 "cons," one claims that a "cost-based FIT" "is vulnerable to industry lobbying, which could lead to overpayment."[10] There is absolutely no evidence that any "industry" has or will engage in "lobbying" to produce such a result or that a "cost-based FIT" (which actually would be an *administratively*-determined, fixed price) would be any more subject to such lobbying as the very vague and unknown pricing that might result from RAM bids or contracts.

In addition, of the 3 remaining "cons," two effectively state the same thing and, like any allegation of "lobbying" effects, are just as true for any adopted "value-based FIT." Thus, the first and fourth "con" relate to potential legal challenge should a "cost-based FIT" be adopted. Presumably, the reference here relates to the extent of the Commission's authority to set a fixed, wholesale rate for power. However, not only has this authority and its lawful exercise by the Commission been detailed in multiple briefs and even a Commission decision, Commission adoption of a "value-based FIT" that does not implement Section 399.20 *as written and intended by the Legislature* (see discussion below) will subject *that* decision to legal challenge.

---

[9] Id., at pp. 4-5.
[10] Id., at p. 5.

In the end, only one "con" from the list for the "cost-based FIT" has any meaning. Namely, the Staff claims that "[c]alculating the price is complex to administer and complicated if a separate price is needed for each project attribute."[11] There is no record of if or whether this task will in fact be "complex," rather this is an unsupported assumption made by Staff that conflicts with numerous options that have been proposed by parties.[12] Further, complexity is not a reason to ignore the plain meaning of the statute being implemented, especially where the option described as a "cost-based FIT" will result in the transparent, standard tariff for small RPS-eligible projects (up to 3MW) intended by Section 399.20, even as modified by SB 1X 2.

CEERT, as addressed further in Section III below, urges the Commission to direct the Staff to offer a Proposal that in fact implements Section 399.20 as intended and written. While the implementation of SB 32 has been unnecessarily delayed by the Commission, adopting a program that conflicts with the law at issue will only create additional delays (i.e., litigation) and uncertainty for a segment of the renewable generation market (distributed resources) that both the Legislature and the Governor have sought to accelerate.

II.
THE OCTOBER 13, 2011 RENEWABLE FIT STAFF PROPOSAL INAPPORPRIATELY EXCLUDES APPLICABLE RULES OF STATUTORY CONSTRUCTION IN ITS "GUIDING PRINCIPLES" AND, IN TURN, FAILS TO REASONABLY INTERPRET SECTION 399.20.

A. The "Principal" "Guiding Principle" for Implementation of a Statute – the Application of Established Principles of Statutory Construction - Has Been Inappropriately Excluded in the October 13, 2011 Renewable FIT Staff Proposal.

As stated by the ALJ's Ruling of June 27, 2011 (Sec.399.20 June 27 ALJ's Ruling), the express purpose of this phase of R.11-05-005 (RPS) is to implement PU Code Section 399.20, as

[11] Id., at p. 5.
[12] See, e.g., Sec.399.20 Comments and Reply Comments of Fuel Cell Energy, California Solar Energy Industry Association (CalSEIA), Sustainable Conservation, and CEERT.

amended first by Senate Bill (SB) 32[13] and, more recently, by SB 1X 2.[14] Faced with a similar statutory implementation task, the Proposed Decision on RPS Portfolio Content Categories (Proposed Decision) recently issued in this same rulemaking states: "Since the principal task of this decision is implementing new statutory provisions, the decision is guided by the basic principles of statutory construction."[15] The Proposed Decision further confirms that the "California Supreme Court has enunciated clear standards for courts and agencies construing a statute."[16]

These standards, as noted in the Proposed Decision, require the Commission to "look to the statute's words and give them their usual and ordinary meaning," to ensure that the "plain meaning controls [its] interpretation unless its words are ambiguous," and, if "more than one reasonable interpretation" is possible, to "consider other aids, such as the statute's purpose, legislative history, and public policy" and "to favor the construction that leads to the more reasonable result" consistent with the "purpose of the legislation."[17] Reasonable statutory interpretation also requires construing '"a statute in *context*, keeping in mind the nature and purpose of the legislation."'[18]

None of these applicable and *controlling* legal requirements of statutory construction is referenced, included, or used as the basis for implementing Section 399.20 in either the Sec. 399.20 October 13 ALJ's Ruling or the October 13, 2011 Renewable FIT Staff Proposal. Thus,

---

[13] Stat. 2009, ch. 328.
[14] Stat. 2011, ch. 1.
[15] Proposed Decision (October 7, 2011), at p. 6.
[16] Id., at p. 6.
[17] Id., at pp. 6-7, citing *Imperial Merchant Services, Inc. v. Hunt* (2009) 47 Cal. 4th 381, 387-388; *People v. Canty* (2004) 32 Cal.4th 1266, 1276; *Lungren v. Deukmejian* (1988) 45 Cal.3d 727, 735.
[18] *Dyna-Med, Inc.* v. *Fair Employment Housing Com.* (1987) 43 Cal.3d 1379, 1387 (emphasis added); see also, *People* v. *Valladoli* (1996) 13 Cal.4th 590, 602; *Squaw Valley Ski Corp.* v. *Superior Court,* (1992) 2 Cal. App. 4th 1499, 1511.

these requirements are not included in either the "Guiding Principles" or the "Staff Interpretation of Legislative Guidance" contained in the October 13, 2011 Renewable FIT Staff Proposal.

Instead, the October 13, 2011 Renewable FIT Staff Proposal is merely guided by the principal that the proposal should "comply with state and federal law and minimize legal risk" and its assessment of "legislative guidance" fails to account for the "plain language" of the Section 399.20 as a whole, the Legislature's applicable and governing "declarations," and even applicable Commission precedent. As discussed in the following section, this "analysis" does not suffice as, and does not result in, a reasonable statutory interpretation of Section 399.20.

B. The October 13, 2011 Renewable FIT Staff Proposal's Pricing Determinations Are Not a Reasonable Statutory Construction of Section 399.20 and Also Ignore Applicable Commission Precedent.

The failure to follow the applicable principles of statutory construction in the October 13, 2011 Renewable FIT Staff Proposal results, not unexpectedly, in recommended "pricing" provisions that do *not* comply with the purpose or the "context" of Section 399.20 and further conflict with Commission precedent. Thus, the October 13, 2011 Renewable FIT Staff Proposal selectively isolates those provisions that permit the Commission to establish a methodology to determine "market price," claiming that the addition of this language by SB 1X 2, in place of a reference to PU Code Section 399.15, "is significant because it expands the options the Commission has to set the feed-in tariff (FIT) price."[19]

This allegation is simply not true. The addition of this language is *not* significant since it is the *same* as, and merely embeds, the language of the previous statutory reference of Section 399.20. As such, it cannot be read or interpreted in a manner that ignores or conflicts with the other provisions of Section 399.20 that expressly describe the type of small project and the

[19] October 13, 2011 Renewable FIT Staff Proposal, at p. 1.

specific costs that are to be reflected in the *standard tariff* that is to result from its implementation.

In fact, by doing so, the October 13, 2011 Renewable FIT Staff Proposal mistakenly adopts and seeks to link the Section 399.20 "tariff" with a pricing mechanism, the Renewable Auction Mechanism, that is *not* referenced in Section 399.20 and, by the Commission's own admission, is *not* a feed in *tariff* program. In adopting the RAM in Decision (D.) 10-12-048, the Commission made clear that the RAM was "distinct" from a "feed in tariff."[20] Specifically, the Commission recognized that, while a RAM "is a streamlined contracting mechanism and utilizes a standard contract," it differs from a FIT since it "relies on market-based pricing, utilizes project viability screens, and selects projects based on least cost *rather than* on a first-come first-served basis at an administratively determined price."[21]

> In that same decision, the Commission also clarified its jurisdictional authority:
>
> "Thus, to avoid this legal dispute and implement a new procurement mechanism as quickly and efficiently as possible, the Commission may either comply with PURPA and establish an avoided cost price, *or* it may adopt a market-based approach. If it pursues the first option, the Commission could develop a fixed price tariff applicable to QFs at avoided cost, and implement the recommendations of the attorney general and others to update avoided costs for new market conditions and additional factors."[22]

With this understanding of its jurisdictional authority, the Commission elected a "market-based approach" or the RAM for projects up to 20 MWs, a size many times larger than the 3 MW project size at issue in Section 399.20. The Commission also made clear that, in turn, the "RAM is not a QF program," and "[w]e decline to impose a QF requirement on RAM."[23]

---

[20] D.10-12-048, at p. 2.
[21] D.10-12-048, at p. 2; emphasis added.
[22] D.10-12-048, at p. 18; emphasis added.
[23] D.10-12-048, at p. 73; emphasis added.

It is obvious from D.10-12-048 that the Commission understood the difference in developing a procurement mechanism based on an administratively determined price ("feed in tariff") and a procurement mechanism based on a market-based price (the RAM) and the varying jurisdictional requirements for each. The bottom line is that these are different programs and different price mechanisms.

Yet, with no analysis as to what *program* the Legislature *intended* in Section 399.20, the October 13, 2011 Renewable FIT Staff Proposal nevertheless concludes that "to harmonize the Renewable FIT program with other RPS programs, staff proposes to make the Renewable FIT a subset of RAM and to use the rules established through D.10-12-048 and Resolution E-4414" to do so.[24] The October 13, 2011 Renewable FIT Staff Proposal further states that "Staff agrees with *the parties* that RAM represents the most relevant renewable market segment that the Renewable FIT generators are avoiding since RAM is available for projects between 500 kilowatt (kW) to 20 MW."[25]

To begin with, this latter statement is completely misleading unless corrected to read "the parties that support use of the RAM." CEERT, along with many other parties, *never* proposed an implementation of Section 399.20 that started with or was based on RAM auction or results. Further, there is no legal or factual basis or requirement, especially given the Commission's own recognition of the distinctions, to "harmonize" the Renewable FIT with the RAM.

Nevertheless, the Staff proceeds to conclude that the "results of the RAM auction" will be used "to set the Renewable FIT price" for three "product" categories ("baseload, peaking as-available, non-peaking as-available," and the price to "be paid to the FIT generator will be the executed contract price plus the project's share of the transmission costs for the particular RAM

[24] October 13, 2011 Renewable FIT Staff Proposal, at p. 7.
[25] Id., at p. 9.

contract."[26] Despite this reliance on the RAM for the Renewable FIT, the October 13, 2011 Renewable FIT Staff Proposal requires generators participating in the Renewable FIT to "register as QFs with FERC," utilizing a "self-certification process" because the "FIT price must be determined to be an avoided cost under PURPA."[27]

These statements reveal the fatal flaw of the October 13, 2011 Renewable FIT Staff Proposal – namely, it has sought to mix apples and oranges to implement Section 399.20 and, does so, by ignoring the statute's "plain" language and purpose, as well as Commission precedent (D.10-12-048). To begin with, the Commission has already made clear that the RAM is *not* a FIT and has key differences. Notably, these include the fact that the RAM is an auction-based program and pricing mechanism aimed at projects much larger than those targeted by Section 399.20. This understanding is mirrored in SB 32, in which the Legislature specifically declared that an impetus to enacting a standard FIT tariff was the recognition that RPS solicitations are a recognized barrier to small projects up to 3 MWs.[28]

Further, the RAM relies on a market-based, not administratively-determined price, that puts it beyond the reach of PURPA. Participants in RAM, as the Commission has made clear, are *not* QFs. Thus, for any program to be a "subset of RAM" means that the pricing is not administratively determined and does not require participants to register as QFs.

But is a RAM-based program what the Legislature intended in Section 399.20 or even the Commission imagined as applicable to Section 399.20 in D.10-12-048? The answer is "No." Throughout D.10-12-048, the Commission drew regular distinctions between the RAM and the Renewable FIT. The Legislature in Section 399.20, regardless of the more recent change to remove reference to Section 399.15 ("market price referent") clearly intended a *standard tariff*,

[26] Id., at pp. 8-9.
[27] Id., at p. 8.
[28] SB 32, Section 1.

both as to contract and price, to result. Further, while the language of Section 399.15 as to pricing methodology has been embedded in Section 399.20 by SB 1X 2, CEERT believes that a reasonable interpretation of that change is that the MPR methodology can be a "starting point" for developing the cost-based pricing determination intended by Section 399.20, but must be expanded, as intended and directed by that statute, to include environmental costs and the supply, generation, and locational characteristics of each resource type.[29],

This interpretation is supported by the fact that SB 1X 2 did *not* change the Legislature's findings and declarations for SB 32. Those declarations, in combination with the "plain" language of Section 399.20, make clear that the *intent and direction of the statute as a whole* was to result in a *simplified, transparent "standard tariff for electricity"* that will encourage "small projects" that "face difficulties" in participating in RPS solicitations. For those projects, Section 399.20 requires that this tariff will offer a payment "for every kilowatt hour" that will reflect the "environmental attributes of the renewable technology, the characteristics that contribute to peak electricity demand reduction, reduced transmission congestion, avoided transmission and distribution improvements, and…accelerate[d] … deployment of renewable energy resources."[30]

Having this "payment" tied to the market-based RAM, in which there has not been any experience and which has not resulted in, and may not result in, any "executed contracts" is an uncertain, non-transparent basis of "payment."[31] Further, by Staff's own admission again, such a pricing approach, which is actually tied to bids, "is not based on the actual project's cost," and

[29] See, e.g., CEERT Comments to Sec. 399.20 Ruling of June 27, 2011.
[30] SB 32, Section 1; Section 399.20(b), (c), and (d).
[31] Among other things, the October 13, 2011 Renewable FIT Staff Proposal acknowledges that "there may be a time lag between the approved decision and setting the Renewable FIT using RAM" and poses the question of how the Commission should "set the [Renewable FIT] price if an IOU does not execute any [RAM] contracts in on more product categories." (October 13, 2011 Renewable FIT Staff Proposal, at pp. 9, 24.)

the "price may be too high or too low for a specific project."[32] Quite simply, the RAM itself is not targeted to, nor was conceived to address, the small projects that are the subject of Section 399.20.

Finally, by the *Commission's* own determinations the RAM is based on a pricing mechanism that, again, is "distinct" from a feed in tariff and fails to confirm inclusion of the "all current and anticipated environmental compliance costs."[33] As noted above, the *Commission's own* decision adopting the RAM is at odds with having the Renewable FIT be a "subset of RAM" and requiring QF status of the Renewable FIT generators.

It is CEERT's position that, when read in context, the Legislature has directed this Commission to establish a standard Feed-In Tariff, not a market-based auction mechanism like RAM, for projects up to 3 MWs in size. Using the Commission's analysis in D.10-12-048 as precedent, this statutory task is "distinct" from the RAM and, in fact, requires the Commission, understanding its pricing authority options, to establish an administratively-determined price for the FIT. In that circumstance, requiring generators participating in the renewable FIT to become certified as QFs makes sense and is appropriate. Such an approach will also avoid legal challenges to the implementation of Section 399.20 that would be inconsistent with its "plain language" and intent as a whole. The bottom line is that October 13, 2011 Renewable FIT Staff Proposal has wrongly made the inapposite "RAM" dispositive of implementation of Section 399.20.

[32] October 13, 2011 Renewable FIT Staff Proposal, at p. 4.
[33] Section 399.20(d)(1).

III.
THE COMMISISON MUST DIRECT ITS STAFF TO OFFER A "PROPOSAL" CONSISTENT A REASONABLE STATUTORY CONSTRUCTION OF SEC. 399.20.

It remains CEERT's position, as stated in its briefs and comments on Section 399.20, that an appropriate statutory construction of Section 399.20, with reference to current avoided cost determinations made by the Federal Energy Regulatory Commission (FERC), requires the following approach to pricing under the standard tariff that is expected to result from implementation of Section 399.20:

> "In CEERT's view, the market price of electricity depends on the resource and technology used to generate electricity, as well as the locational attributes of the generation site…[¶] … CEERT … recommend[s] that the market price of electricity used to establish the SB 32 FIT price be differentiated according to resource types, with an avoided cost price determination that reflects their individual environmental, locational, and supply characteristics. In this regard, CEERT believes that the applicable avoided cost pricing can be tailored to the market segment targeted in §399.20, which includes projects uniquely situated closer to load centers and sized to interconnect at the distribution level. This approach is appropriate, especially when such projects have not been effectively incorporated into any other RPS procurement mechanism."[34]

In terms of the *additional* costs to be reflected in the calculation of the avoided cost pricing to be used for the SB 32 FIT, CEERT incorporates herein the list it provided in its Comments to Sec. 399.20 June 27, 2011 Ruling (filed on July 21, 2011) at pages 4 through 5.

CEERT does not propose to repeat all of the elements of its approach to implementation of Section 399.20 here, but instead incorporates by reference, in particular, its Comments and Reply Comments on Section 399.20 implementation filed on July 21 and August 26, 2011. Further, despite the direction by the October 13 Sec. 399.20 ALJ's Ruling that parties "specifically state their support or opposition to each item in the October 13, 2011 Renewable FIT Staff Proposal," such an instruction is inappropriate when the Staff's starting point for its

[34] CEERT Comments to Sec.399.20 Ruling of June 27, 2011, at pp. 2-3.

proposals or items is not based on a reasonable statutory construction of Section 399.20 (see, Sections I and II above). Instead, if a Staff Proposal is to serve as the lynchpin for this task, CEERT asks that the Commission direct that the October 13, 2011 Renewable FIT Staff Proposal be withdrawn, especially as to its recommended pricing mechanism, and a different proposal offered consistent with the language of the statute and its intent for the Commission to adopt a standard tariff for projects sized up to 3 MWs.

In addition, the Commission should make clear that any standard tariff that results from implementation of Section 399.20, as amended by SB 32 and SB1X 2, will not supplant the existing AB 1969 tariffs (250 MW cap). Instead, those tariffs should remain and the new standard tariffs serve to procure energy in addition thereto (750 MW cap).

IV.
CONCLUSION

To avoid any legal challenges to the Commission's final decision implementing the Sec. 399.20 FIT program, CEERT strongly urges the Commission to provide express direction to its Staff (Energy Division) to offer a "Proposal" consistent with the Legislature's *directions* to the Commission in that statute. The currently proposed October 13, 2011 Renewable FIT Staff Proposal does not comply with that law as to its reliance on the inapposite Renewable Auction Mechanism (RAM) to implement Sec.399.20.

Respectfully submitted,

November 2, 2011

/s/ SARA STECK MYERS

Sara Steck Myers
Attorney for CEERT

122 – 28th Avenue
San Francisco, CA 94121
Telephone: (415) 387-1904
Facsimile: (415) 387-4708
E-mail: ssmyers@att.net

VERIFICATION

(Rule 1.11)

I am the attorney for the Center for Energy Efficiency and Renewable Technologies (CEERT). Because CEERT is absent from the City and County of San Francisco, California, where I have my office, I make this verification for said party for that reason. The statements in the foregoing Center for Energy Efficiency and Renewable Technologies Comments on Sec. 399.20 October 13, 2011 Renewable FIT Staff Proposal, have been prepared and read by me and 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.

I declare under penalty of perjury that the foregoing is true and correct and executed on November 2, 2011, at San Francisco, California.

Respectfully submitted,

/s/ SARA STECK MYERS

Sara Steck Myers
Attorney at Law
122 – 28th Avenue
San Francisco, CA 94121
(415) 387-1904
(415) 387-4708 (FAX)
ssmyers@att.net

Attorney for the
Center for Energy Efficiency and Renewable Technologies