**BEFORE THE PUBLIC UTILITIES COMMISSION**
**OF THE STATE OF CALIFORNIA**

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| Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program. | Rulemaking 11-05-005 |

# NOTICE OF EX PARTE COMMUNICATIONS BY THE ALLIANCE FOR RETAIL ENERGY MARKETS

December 2, 2011

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# NOTICE OF EX PARTE COMMUNICATIONS BY THE ALLIANCE FOR RETAIL ENERGY MARKETS

Pursuant to Rules 8.3 and 8.4 of the California Public Utilities Commission ("Commission") Rules of Practice and Procedure, the Alliance for Retail Energy Markets ("AReM") hereby provides this notice of ex parte communications in the above-captioned proceeding.

At approximately 10:00am on November 29, 2011, Mary Lynch, Vice President Regulatory and Legislative Affairs for Constellation NewEnergy, Inc., representing AReM and Andrew Brown of Ellison, Schneider & Harris, LLP, regulatory counsel to AReM, initiated a meeting with Sara Kamins, Energy Advisor to Commissioner Ferron, and Scott Murtishaw, Energy Advisor to President Peevey, at the Commission's offices in San Francisco. Ms. Lynch and Mr. Brown first met with Ms. Kamins along with Mr. Murtishaw for about an hour, and then separately with Mr. Murtishaw for about 20 minutes. No written materials were used.

Ms. Lynch and Mr. Brown discussed AReM's concerns regarding the proposed decision on renewable electricity product categories for the new renewables portfolio standard ("RPS") program. They discussed three broad issue areas of concern to electric service providers (ESPs): 1) retention of initial delivered product categorization irrespective of any secondary market transactions and Product 1 treatment for in-state distributed generation output consumed on-site;

2) the Product 2 definition for firming and shaping products; and 3) concerns regarding "seams issues", including how prior procurement made in compliance with the 20% program would be treated and carried into the 33% program.

AReM representatives stressed that the PD should be modified to allow Product 1 purchases to retain their Product 1 categorization even if subsequently traded after delivery. Otherwise, compliance costs would increase as load serving entities who need Product 1 resources buy additional supply even though other parties may have excess Product 1 resources available for sale. They stressed that a product's category eligibility should be based on meeting qualifications as the product is actually delivered, and not on the transaction structures anticipated in the contract between transacting parties. In this way, an obligated entity may make a secondary market transaction of delivered product by transferring title to the package of the WREGIS certificate and all data supporting the specific product category claim.

Ms. Lynch and Mr. Brown discussed the need for flexibility with the Product 2 firming and shaping definition by removing the restrictive elements in the proposed decision calling for execution of a contemporaneous substitute energy transaction for the same duration and quantity as the RPS contract. Having flexibility to make a product claim when delivery is known will reduce compliance costs by allowing the LSE to optimize the resource in light of transmission constraints or other factors that drive the product categorization, and that wholesale transactions at the market hubs may be used to support the firmed and shaped volumes.

AReM's representatives presented the ESP view that defining the Product 2 category should rely on the CEC's firmed and shaped structure used in the existing 20% RPS program

The last area discussed was the ESPs' concerns about the need to get the "seams issues" addressed soon so obligated entities will know whether and how compliant procurement banked

under the 20% RPS program will be carried forward into the 33% program, avoiding any loss of value for ESPs and their customers. Without clarity on the status of the existing inventory of past, compliant procurement, obligated entities cannot understand the scope of their net procurement requirement position.

Respectfully submitted,

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