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)

JOINT COMMENTS OF BEAR VALLEY ELECTRIC SERVICE (U 913-E), A DIVISION OF GOLDEN STATE WATER COMPANY, AND CALIFORNIA PACIFIC ELECTRIC COMPANY, LLC (U 933-E) ON ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS ON PROCUREMENT EXPENDITURE LIMITATIONS FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM

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Pursuant to the January 24, 2012 Administrative Law Judge's Ruling Requesting Comments on Procurement Expenditure Limitations for the Renewables Portfolio Standard Program ("ALJ Ruling"), Bear Valley Electric Service ("BVES") (U 913-E), a division of Golden State Water Company, and California Pacific Electric Company, LLC (U 933-E)[1] ("CalPeco") hereby submit the following comments addressing issues in the ALJ Ruling.

I. Introduction and Background

BVES is a small electric utility in the Big Bear Lake recreational area of the San Bernardino Mountains that provides electric distribution service to approximately 21,900 residential customers in a resort community with a mix of approximately 40% full-time and 60% part-time residents. Its service area also includes about 1,400 commercial, industrial and public-authority customers, including two ski resorts. BVES' service territory is connected to the California Independent System Operator ("CAISO") via agreements with Southern California Edison, including a Wholesale Distribution Access Tariff ("WDAT").

[1] CalPeco also does business in California as "Liberty Energy-California Pacific Electric Company, LLC." CalPeco has authorized BVES to submit this filing on its behalf.

CalPeco is an investor-owned electric utility that serves approximately 49,000 customers in the Lake Tahoe area of California. CalPeco has limited electrical connections with the rest of California and is not a part of the electrical grid controlled by the CAISO. Instead, CalPeco is included in NV Energy's multi-state balancing authority area, which is subject to Western Electricity Coordinating Council ("WECC") reliability standards. CalPeco currently procures all of its RPS requirements from out-of-state resources through a single Commission approved power purchase agreement with Sierra Pacific Power Company ("Sierra PPA").[2] Thus, CalPeco's RPS procurement activities are dramatically more limited than the other California investor-owned utilities.

Both BVES and CalPeco have relatively small customer bases and employee counts when compared to California's largest investor-owned utilities ("IOUs") and the intricacies of the RPS program and its associated reporting and compliance requirements result in a disproportionately larger administrative burden on a per customer basis than is realized by California's largest IOUs. For example, as a smaller utility, BVES currently only has 48 employees and approximately 23,000 customers. Similarly, CalPeco currently has 72 employees and approximately 49,000 customers. Compared to Southern California Edison Company's ("SCE") 4.91 million customers and 18,230 employees,[3] BVES has approximately 0.3% of the workforce to complete the same reports and 0.5% of the customer base from which to recover these administrative costs when compared to SCE (similarly, CalPeco only has approximately 0.4% of the workforce and 1% of the customer base). The California Public Utilities Commission ("Commission" or "CPUC") should recognize the disproportionate impact of any

[2] The Sierra PPA obligates Sierra to supply CalPeco's "full requirements" to serve CalPeco's customers, including 20% from RPS-eligible renewable sources. D.10-10-017, mimeo at 20.

[3] These numbers are based on SCE's 2010 Financial & Statistical Report.

renewable procurement related administrative burdens for smaller utilities and should aim to ensure that any procurement expenditure limitation is tailored to minimize costs for such utilities.

The Legislature, when enacting California's RPS bill, Senate Bill No. 2 of the California Legislature's 2011 First Extraordinary Session ("SB 2 (1X)"), and the Commission, when interpreting and implementing SB 2 (1X), have recognized these unique characteristics of BVES and CalPeco. Sections 399.17 and 399.18 of SB 2 (1X) lay out the unique RPS requirements that apply to BVES and CalPeco. These requirements differ from the requirements of other California retail sellers and any new RPS procurement expenditure limitation adopted by the Commission should reflect these differences.

The Commission has consistently recognized that the diversity among the electric utilities it regulates means that a "one-size-fits-all" approach is not appropriate with respect to establishing RPS compliance obligations. In Decision ("D.") 03-06-071, the Commission designated Pacific Gas and Electric Company ("PG&E"), SCE and San Diego Gas & Electric Company ("SDG&E") in a separate large utility category for RPS Program purposes (collectively the "Large Utilities"). Then recognizing the substantial differences between these Large Utilities and the other California investor-owned utilities, in D.08-05-029, the Commission established for RPS purposes two additional categories of utilities: the "small utility" and the "multi-jurisdictional utility" ("MJU", or jointly "SMJUs"). The Commission also developed different RPS obligations that are designed to better reflect the smaller sizes, different supply of available procurement options, and operating practices of the SMJUs. The Commission should maintain its practice of recognizing and acting upon the differences among the California regulated utilities in revising their respective RPS compliance obligations associated with SB 2 (1X).

In light of these differences, and pursuant to the explicit statutory authority in Sections 399.17 and 399.18 of the Public Utilities Code, the Commission must ensure that any procurement expenditure limitation mechanism adopted and applied to BVES or CalPeco is reasonably tailored to reflect BVES' and CalPeco's unique circumstances and planning requirements. BVES and CalPeco provide specific recommendations for a procurement expenditure limitation mechanism below.

II. Responses to Issues Posed in the ALJ Ruling

BVES and CalPeco provide the following responses to specific issues posed in the ALJ Ruling. For those questions for which BVES and CalPeco have not provided a response, BVES and CalPeco reserve the right to comment in reply comments.

1. Section 399.15(c) provides that a procurement expenditure limitation must be established "for each electrical corporation."[4] How should the procurement expenditure limitation methodology reflect this instruction?

- **Should the methodology be the same for all IOUs in all respects?**

No. A specific methodology should be established for BVES and CalPeco to recognize their unique characteristics and statutory requirements under Sections 399.17 and 399.18. However, for all IOUs the procurement expenditure limitation methodology should include some comparison of the cost of renewable power supply options with non-renewable options.

- **Should the inputs to the methodology be specific to each IOU?**

Yes, at least for any methodology applied to BVES and CalPeco. Any inputs to a procurement expenditure limitation should recognize the unique circumstances and the statutory allowances that apply to BVES and CalPeco and should minimize administrative costs that more significantly impact their small customer bases and employee counts.

[4] Section 399.17(f) directs that multi-jurisdictional utilities or successor entities, as defined by Section 399.17(a), shall be subject to this procurement expenditure limitation.

- **Should both the methodology and the inputs be IOU-specific?**

At least in the case of BVES and CalPeco, both the methodology and the inputs of any procurement expenditure limitation must be specific to recognize the different characteristics of BVES and CalPeco compared to other California utilities.

In particular, any procurement expenditure limitation methodology developed for CalPeco must take into account CalPeco's Commission-approved single transaction power procurement/RPS compliance agreement with Sierra and the fact that CalPeco cannot practically or cost-effectively obtain substantial amounts of power from any supply area other than from or through the Sierra system. No transmission facilities effectively connect CalPeco with the CAISO system and thus CalPeco cannot practically access supply sources from California, the Northwest, or the Southwest. Regarding BVES, the fact that it has issued several requests for proposals ("RFPs") for RPS-eligible products with nothing to show for it, demonstrates the market's reluctance to deal with a small utility.

- **Should some other relationship between methodology and IOU be established? Please specify and explain any proposal.**

As described above, BVES and CalPeco's unique circumstances warrant different treatment from the other IOUs.

2. Section 399.15(c)(2) provides that "the costs of all procurement credited toward achieving the renewables portfolio standard" should count towards the procurement expenditure limitation.

- **Please identify the types of procurement that should be included in this requirement and identify any special rules or methods that may be required to account for the costs. Please consider at a minimum the following situations:**

  - **Procurement from RPS-eligible qualifying facilities under the federal Public Utility Regulatory Policies Act of 1978 (Public law 95-617);**

- **Procurement pursuant to the renewable auction mechanism established by D.10-12-048;**
- **Procurement pursuant to the feed-in tariff program established by SB 32 (Negrete McLeod), Stats. 2009, ch. 328;**
- **Procurement from bilaterally negotiated contracts, not part of a utility solicitation for RPS-eligible generation resources;**
- **Procurement by means of utility-owned generation.**

BVES and CalPeco recommend that in addition to all forms of procurement described above, any procurement used to meet a utility's RPS procurement obligation should be included in this requirement. Furthermore, no special rules or methods to account for different types of procurement should apply to BVES and CalPeco since this would create burdens similar to those created by the portfolio content category limitations from which BVES and CalPeco are exempt. Due to their unique characteristics, BVES and CalPeco should not be subject to arbitrary rules or limitations that will serve no purpose for these small utilities other than to unnecessarily increase both procurement and administrative costs.

- **Please identify all "costs" that are implicated by this requirement, taking into account those costs that are excluded by Section 399.15(d)(3).**

Transaction and RPS compliance costs should be considered as part of the RPS cost limitation. Although these costs may be proportionately small for the large electric utilities, for small utilities these costs will and have represented a substantial cost to ratepayers. For example, BVES recently requested reimbursement for outside legal and consultant costs booked into its Renewable Portfolio Standard Memorandum Account, for the period September 1, 2007 through March 31, 2011.[5] The costs booked into the account included outside costs for assistance in preparation and evaluation of RFPs, contract negotiations, RPS applications before the

[5] *See* A.11-06-002.

Commission, participation in the RPS proceeding, and RPS reporting to the Commission. The one-year effect on a typical residential customer bill for the costs booked through March 2011 are estimated to be $3.74/month, or about a 3.1% increase over current rates. CalPeco has similarly requested the ability to track such costs in its own Renewables Portfolio Standard Memorandum Account.[6] All of these RPS-related costs should be included in any RPS expenditure limitation mechanism adopted by the Commission. When incorporating these costs into the mechanism, the Commission must also consider the impact of such costs on customers. Accordingly, while such costs may have a minimal impact on large utilities, the impact is much greater for smaller utilities and the procurement expenditure limitation methodology should be designed to account for such differences.[7]

- **Should the statutory characterization of "the costs of all procurement credited toward achieving the renewables portfolio standard" be interpreted as including:**
  - **Estimates, made at the time a procurement contract is approved by the Commission, of the costs that will be incurred over a period of time.**
    - **should the period of time be the entire period of the contract?**
    - **should it be some other time period? Please describe and justify the choice of another period; or**
  - **A record of actual expenditures by the utility for the procurement contract over a period of time.**
    - **should the period of time be the entire period of the contract?**

[6] *See* CalPeco Advice Letter 9-E.

[7] If the limitation mechanism does not reflect such differences, BVES and CalPeco recommend that the Commission simplify procedures relating to RPS procurement for smaller utilities to reduce the cost impacts to the customers of smaller utilities. For example, simplified RPS reporting and RPS contract approval procedures should be implemented for smaller utilities to minimize administrative costs and thereby minimize costs to customers.

It should also be noted that while "indirect expenses" may not be reflected in the cost containment calculations, such expenses would continue to be recoverable in rates through traditional mechanisms.

- **should it be some other time period? Please describe and justify the choice of another period.**
- **how should the actual expenditures be determined?**

- **How should RPS procurement costs incurred prior to the implementation of the procurement expenditure limitation required by SB 2 (1X) be addressed in the procurement expenditure limitation methodology?**

The Commission should ensure that its methodology does not disadvantage utilities that met the RPS standards prior to the implementation of the procurement expenditure limitations required by SB 2 (1X). Utilities that met the RPS standards throughout the 2010-2012 period may have a higher average cost for their RPS procurement over that period and should not be penalized accordingly.

- **How should the costs of procurement from utility-owned generation be addressed in the procurement expenditure limitation methodology? Please discuss any issues not addressed in response to other questions.**

The procurement expenditure limitation mechanism should be designed as a benchmarking structure based on individual contracts of specific technology types for bundled RPS energy. This benchmarking structure should analyze renewable project prices compared to non-renewable supply options. Individual caps would be set for differing technologies and would be designed to assure that renewable costs stay within a range related to the costs of non-renewable alternatives. Such a design would help provide regulatory guidance as to what prices would be deemed reasonable and approved by the Commission.

With regard to renewable energy credits (RECs), the estimated costs to be incurred over the entire period of the contract should be considered. Per D.11-12-052, "[p]ursuant to new §§ 399.18(b) and 399.17(b), small and multi-jurisdictional utilities (SMJUs) meeting the criteria set

out in those sections are not subject to the requirements and limitations [on] the use of procurement in each portfolio content category."[8]

3. Should the procurement expenditure limitation methodology provide a single limitation for the time period 2011-2020?

No. Rather than utilizing an overall expenditure limitation, the limitation should be technology or product specific, as described above. Any adopted limitation should also be updated for each compliance period as SB 2 (1X) increases the overall procurement targets and will likely impact pricing.

4. Should the procurement expenditure limitation methodology provide a limitation for a different time period or set of time periods?

- ☐ **Annual.**
- ☐ **Each compliance period through 2020 (i.e. 2011-2013; 2014-2016; 2017-2020).**
- ☐ **The period 2011-2015 and the period 2016-2020.**[9]
- ☐ **The year 2020.**
- ☐ **The entire time an RPS procurement obligation has been in place (i.e., beginning in 2003).**
- ☐ **Some other time period. Please specify and explain the reasons for the time period proposed.**

As described above, any limit should be based on technology or product types and should be updated for each compliance period to reflect demand and price changes.

Again, due to BVES' limited RFP response and CalPeco's unique circumstances of having a single source for all power procurement/RPS compliance and its inability to practically or cost-effectively obtain substantial amounts of power from any supply area other than from or

[8] D.11-12-052, p. 63, footnotes omitted.

[9] See Section 399.15(e)(1).

through the Sierra system, the Commission should not adopt a procurement expenditure limitation methodology that creates arbitrary constraints that could limit the flexibility needed to obtain the best price and terms for their limited RPS procurement.

5. Since RPS procurement obligations continue indefinitely, how should the procurement expenditure limitation methodology treat RPS procurement in the years after 2020?[10]

For years after 2020, the procurement expenditure limitation methodology described above should remain in place and continue to apply. Such an approach would continue the Commission's oversight and approval of above-market costs associated with maintaining compliance with the RPS procurement obligation over time.

6. Section 399.15(c)(1) provides that, in establishing the procurement expenditure limitation, the Commission shall rely on, among other things, "the most recent renewable energy procurement plan."

- **What elements of an IOU's RPS procurement plan should be used in establishing the procurement expenditure limitation methodology?**
- **Should the methodology include a mechanism for updating the limitation with information from the IOU's most recent RPS procurement plan?**
- **Should the methodology use information from the most recent RPS procurement plan available at the time the Commission adopts the methodology, but not provide for periodic updates from more recent RPS procurement plans?**

The best element of an IOU's procurement plan or integrated resource plan (IRP)[11] to assist in establishing the procurement expenditure limitation methodology is likely to be the portion of the plan that examines such things as "multiyear portfolio supplies and demand."[12]

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[10] There is a procurement quantity requirement of 33% of total retail sales in each year from 2021 onward. See Section 399.15(b)(2)(B) and D.11-12-020.

[11] BVES does not, nor is it required, to file a procurement plan with the CPUC; however, BVES includes a copy of its IRP in pertinent filings with the CPUC.

[12] Pub. Util. Code § 399.13(a)(5)(A).

However, procurement plans or IRPs may be less important in establishing any methodology as the Commission should use a technology or product specific methodology. A technology or product specific methodology should be updated to reflect changes that may occur in demand and pricing based on increasing procurement targets (and portfolio content category limitations).

CalPeco does not have a renewable energy procurement plan due to the fact that it receives all power, including RPS requirement, from a single source, Sierra. BVES also does not have a formal renewable energy procurement plan. Therefore, CalPeco and BVES should be exempt from Section 399.15(c)(1) requirements.

7. Section 399.15(c)(2) provides that, in establishing the procurement expenditure limitation, the Commission shall rely on, among other things, "procurement expenditures that approximate the expected cost of building, owning, and operating eligible renewable energy resources."

- **What sources of data should be used to develop this approximation? Please provide specific examples.**
- **Should the methodology differentiate between utility-owned RPS-eligible generation and RPS-eligible generation owned by independent power producers? If so, what information or parameters should differ between the two types?**
- **Should only publicly available data be used to develop this approximation? Please identify and explain any limitations of publicly available data for this purpose.**

Cost estimates used in the methodology could be developed using information on utility procurement and tailored to analyze procurement and pricing of various technologies or product categories to determine technology-specific limits.

8. Section 399.15(c)(3) provides that, in establishing the procurement expenditure limitation, the Commission shall rely on, among other things, "the potential that some planned resource additions may be delayed or canceled." How should the methodology take such potential into account?

- **How should the methodology define a "delay"? A "cancellation"? Please discuss usual commercial practice and provide examples in support of the**

proposed definition. Please provide examples of how a delay could be distinguished from a cancellation for purposes of the procurement expenditure methodology.

- **Should delays in the progress of contracted-for RPS resources be treated differently from cancellations?**
- **Should the methodology use data on the historical record of delays/cancellation of RPS procurement contracts for each IOU?**
- **Should the methodology use each IOU's projections of likely delays/cancellations in the future?**
- **Should the methodology create projections of delays/cancellations of contracted-for RPS generation projects in some other way? Please describe the proposal in detail.**
- **How should the potential for delays/cancellations, however determined, be used in the procurement expenditure limitation methodology?**

BVES and CalPeco provide no comments on this issue at this time.

9. Taking into account your responses to questions 3-8, above, how often should the procurement expenditure limitation be calculated for the years through 2020, using the methodology and inputs that the Commission will adopt?

- **Annually.**
- **At the beginning of each compliance period (i.e. 2011-2013; 2014-2016; 2017-2020).**
- **Once for the period 2011-2015 and once for the period 2016-2020.**[13]
- **Once for the period 2011-2020.**
- **Once for the year 2020.**
- **Once for the entire time an RPS procurement obligation has been in place (i.e., beginning in 2003).**
- **Some other time period. Please specify and explain the reasons for the time period proposed.**

[13] See Section 399.15(e)(1).

As the methodology should use a technology or a product-specific approach, then any updating to the methodology should be done when there is an expectation of material changes to technology or product costs. This is likely to occur at the beginning of each compliance period based on increasing renewable targets.

10. How often should the procurement expenditure limitation be calculated for the years after 2020, using the methodology and inputs that the Commission will adopt?

After 2020, the methodology should continue to be updated periodically to ensure that any cost limitations are reasonable. BVES and CalPeco recommend that the Commission review and update the methodology from time to time.

11. Section 399.13(a)(4)(D) requires the Commission to adopt "[a]n appropriate minimum margin of procurement above the minimum procurement level necessary to comply with the renewables portfolio standard to mitigate the risk that renewable projects planned or under contract are delayed or canceled."

- **How should such a margin of above-minimum procurement be addressed in the procurement expenditure limitation methodology?**

- **How should the methodology treat the interaction of the margin of above-minimum procurement and the potential for delays and/or cancellations?**

This question is basically one of RPS "planning reserve" which should reflect not only development-related risks of delay or cancellation, but also risks associated with load fluctuations. Because the procurement obligation is a function of a percentage of load served, and because that load can be sensitive to both economic cycles as well as weather, Section 399.13(a)(4)(D) suggests a mandate to over-procure RPS energy resources. The margin of required over-procurement would need to appropriately balance the anticipation of load swings against the higher level of above-market costs that the cost containment mechanism is intended to address.

12. Section 399.13(a)(4)(A) requires the Commission to adopt "criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources…on a total cost basis…," taking various factors into account.

- **Should the procurement expenditure limitation methodology incorporate the "total cost basis" factors set out in Section 399.13(a)(4)(A). If so, how?**

- **Should the procurement expenditure limitation methodology be used as the criterion of "least-cost" for the least-cost best-fit determination? If so, how?**

For BVES, any technology or product specific cost limitations should take into account least-cost best-fit criteria as currently used in BVES' RFP efforts.

CalPeco believes that the least-cost best-fit criteria does not make sense for its unique situation because it only has one supplier for all energy procurement. The Commission has already found the Sierra PPA to be reasonable and thus this criterion should not apply to CalPeco.

13. Should the procurement expenditure limitation methodology take into consideration the value of diversification of resources in IOUs' RPS procurement? Specifically,

- **Should the methodology create a set of technology-specific expenditure limitations?**

- **Should the methodology create a set of geographically-defined expenditure limitations?**

- **Should the methodology give "extra credit" for diversification by technology?**

- **Should the methodology give "extra credit" for geographic diversification?**

BVES and CalPeco provide no comments on this issue at this time.

14. How should the procurement expenditure limitation be applied to the Commission's evaluation of individual RPS contracts?

- **The methodology should include a way to calculate a benchmark limit on the price of RPS procurement contracts (in dollars per megawatt-hour of generation) of a particular duration and technology type.**

- **The methodology should include a way to consider an individual RPS procurement contract, on a total expected cost basis, as a fraction of some larger procurement expenditure limitation.**

- **The methodology should use some other way to consider an individual RPS procurement contract in the context of the procurement expenditure limitation. Please provide a detailed explanation.**

- **The methodology should not be applied to individual RPS procurement contracts at all.**

Any procurement expenditure limitation should be applied to individual contracts and contract-related costs to cover above-market costs associated with meeting the RPS procurement obligation over a reasonably forecasted compliance period.

15. Should the procurement expenditure limitation methodology include a methodology by which Energy Division staff could "monitor the status of the cost limitation for each electrical corporation," as required by Section 399.15(g)(1)?

- **What elements would be required in order to monitor the status of the cost limitation for each IOU?**

- **How often should the status of the cost limitation for each IOU be examined?**

  - **Annually;**

  - **Once per compliance period;**

  - **Once before January 1, 2016;**[14]

  - **Once before January 1, 2016 and again before December 31, 2020;**

  - **Once before December 31, 2020;**

[14] See Section 399.15(e)(1).

- **At the discretion of the Director of Energy Division;**
- **Some other time interval.**

Yes. It is important that any adopted limitation methodology be flexible enough to allow tailoring if the limitation is not properly limiting costs for a utility. As described above, the adopted methodology should serve as a benchmarking structure based on individual contracts of specific technology or product types. In the case of bundled RPS energy, this benchmarking structure should analyze renewable project prices compared to non-renewable supply options. Individual caps would be set for differing technologies and would be designed to assure that renewable costs stay within a range related to the costs of non-renewable alternatives. Such a design would help provide regulatory guidance as to what prices would be deemed reasonable and approved by the Commission.

BVES and CalPeco recommend a fluid and flexible approach that would be largely feedback-based and collaborative between utilities and Energy Division. Rather than have a set examination schedule for the approach, BVES and CalPeco recommend that the methodology be examined at the request of the utility. This way, utilities could report any unusual or unanticipated results in order to ensure that the limitation methodology is properly keeping costs within a reasonable range.

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III. Conclusion

For the reasons described above, the Commission should recognize the unique characteristics of BVES and CalPeco and implement a technology-specific cost limitation methodology that would be updated every compliance period.

Dated: February 16, 2012

Respectfully submitted,

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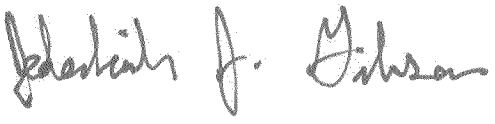
VERIFICATION

I am the attorney for Bear Valley Electric Service ("BVES") (U 913-E), a division of Golden State Water Company; BVES is absent from the County of Sacramento, California, where I have my office, and I make this verification for that reason. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the forgoing is true and correct.

Executed on February 16, 2012 at Sacramento, California.



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VERIFICATION

I am the Vice President, Commodity Procurement for Liberty Energy Utilities Co. and am authorized to make this verification on behalf of California Pacific Electric Company, LLC. I am informed and believe that the statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the forgoing is true and correct.

Executed on February 16, 2012 at Oakville, Ontario, Canada.

/s/

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