

**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

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

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June 7, 2012

Attorneys for the  
Alliance for Retail Energy Markets

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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 1:30pm on June 4, 2012, representatives from AREM (Mary Lynch, Vice President, State Government Affairs for Constellation NewEnergy, Inc., Greg Bass, Director, Noble Americas Energy Solutions LLC, and Andrew Brown of Ellison, Schneider & Harris, LLP, regulatory counsel to AREM) initiated a meeting with Sara Kamins, Energy Advisor to Commissioner Ferron at the Commission’s offices in San Francisco. Also attending the meeting was Grace Hsu, an intern with the Commission. The meeting lasted approximately 30 minutes.

At approximately 2:00 pm on June 4, 2012 the AREM representatives spoke with Scott Murtishaw, Energy Advisor to President Peevey. The meeting lasted approximately five minutes.

No written materials were used at either meeting.


AREM’s representatives discussed AREM’s support of the proposed decision (“PD”) issued on April 24, 2012 and their concerns regarding comments filed on compliance rules and

seams issues for the new renewables portfolio standard (“RPS”) program. AReM reiterated its comments supporting the PD, in particular:

- The PD’s determination that there are two distinct procurement obligations under SB2 (1X)—a “total volumetric” and a “product content” obligation—correctly reflects statutory intent and comments opposed to this structure would create stranded customer costs;
- The PD properly interpreted the statute’s grandfathering language as well as the 36-month renewable energy credit (“REC”) shelf life rule thereby avoiding stranded costs and ensuring that customers receive the full value implicit in RPS purchases made in accordance with the rules and law at the time those purchase were made and comments opposed to this structure would create unjustifiable stranded costs for customers;
- By limiting the ability to seek a compliance waiver until after the closing of a compliance period, the PD has avoided the potential for market distortions that could occur if compliance waiver requests could be made prior to the end of the compliance period;
- The “closing rules” for determining whether any net surplus RPS eligible generation as of December 31, 2010 may be carried into the new RPS program are equitable, consistent with the statute, and should be adopted without change to preserve the value of prior procurement made in good-faith compliance with the then-existing program; and,
- The PD properly rejects efforts to impose more counterproductive complexity or administrative burdens in an already extremely complex program by establishing a single annual informational progress report obligation that will include a distinct compliance report element for reports submitted after the end of a compliance period.

The AReM representatives noted the need for one modification to the PD regarding the “minimum long-term procurement” rule to eliminate the “reset” for each new compliance period. By eliminating the “reset” feature, retail sellers who enter into longer-term procurement early in the program will not be penalized and can avoid splitting contracts or projects to secure separate, smaller contracts to achieve compliance with the proposed long-term contracting requirement. The “reset” mechanism should be replaced by a mechanism that establishes an incremental volumetric procurement obligation with each new compliance period at 0.25% of the appropriate period’s retail sales, and allows the carry-forward of any surplus long-term procurement.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "A. B. Brown", with a long horizontal stroke extending to the right.

Dated: June 7, 2012

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