

**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)

**RENEWABLES PORTFOLIO STANDARD PROCUREMENT PLAN OF
COMMERCE ENERGY, INC.**

PUBLIC VERSION

August 15, 2012

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**RENEWABLES PORTFOLIO STANDARD PROCUREMENT PLAN OF
COMMERCE ENERGY, INC.**

Pursuant to the April 5, 2012 Assigned Commissioner’s Ruling Identifying Issues and Schedule of Review for 2012 Renewables Portfolio Standard Procurement Plans Pursuant to Public Utilities Code Sections 399.11 et seq. and Requesting Comments on new Proposals (“Assigned Commissioner’s Ruling”) and the August 2, 2012 Administrative Law Judge’s Ruling (1) Adopting Renewable Net Short Calculation Methodology (2) Incorporating the Attached Methodology into the Record, and (3) Extending the Date for Filing Updates to 2012 Procurement Plans (“ALJ Ruling”), Commerce Energy, Inc. (“Commerce Energy”) submits the following revised Renewables Portfolio Standard (“RPS”) Procurement Plan to add renewable net short data to the May 23, 2012 RPS Procurement Plan submitted by Commerce Energy. In accordance with the Assigned Commissioner’s Ruling, Commerce Energy provides the following responses to sections 6.1 through 6.5.

I. Assessment of RPS Portfolio Supplies and Demand - § 399.13(a)(5)(A) (Section 6.1 of the Assigned Commissioner’s Ruling)

Section 6.1 of the Assigned Commissioner’s Ruling provides:

Provide a written description assessing annual or multi-year portfolio supplies and demand to determine the retail seller’s optimal mix of eligible renewable energy resources. In addition, the assessment should consider, at a minimum, a 10-year planning horizon. This written description must include the retail seller’s need for RPS resources with specific deliverability characteristics,

such as, peaking, dispatchable, baseload, firm, and as-available capacity. It should also address the retail seller's need for and plan for procuring resources that satisfy the three portfolio content categories of RPS procurement. This written description must explain how the proposed renewable energy portfolio will align with expected load curves and durations. It must also explain how quantitative analysis provided in response to section 6.5 supports the assessment.

Response of Commerce Energy:

Commerce Energy is not developing and does not own any renewable generation that would qualify under the California RPS program. Instead, Commerce Energy purchases renewable energy under third-party contractual agreements that will range from short-term to long-term contracts to meet its RPS procurement obligations, including the requirement to procure a minimum amount of long-term renewable contracts.

Commerce Energy does not typically forecast out 10 years as requested by the Assigned Commissioner's Ruling. Not only do Commerce Energy's internal systems not support a 10 year planning horizon, but Commerce Energy's load changes on a yearly basis as its load is fully contestable, making any forecast more than a few years out incredibly speculative and effectively useless. Commerce Energy's load forecast process includes a five year historical analysis of past, current and future expected load, including factors such as climate, switching trends, demand response programs and the competitiveness of the market to determine final load forecasts. The final forecast is derived using combined data of customer billed historical usage and load profiles from the utility for non interval meters. For interval customers the forecast is derived from Settlement Quality Meter Data ("SQMD"). Furthermore, Commerce Energy's forecast includes an attrition rate and probability of drop.

With respect to the RPS program and RPS procurement planning, Commerce Energy will follow its typical process when projecting retail sales for RPS compliance purposes. Commerce

Energy will purchase renewable energy on an annual basis based on projected sales, hedging against risks with other procurement options. This procurement process will account for the various portfolio content category requirements, and will ensure that Commerce Energy has sufficient procurement from each portfolio content category to satisfy the requirements of Public Utilities Code Section 399.16(c). Commerce Energy will seek to meet its resource adequacy (“RA”) obligations through the procurement of non-renewable energy and will put little emphasis on what type of capacity or ancillary service characteristics are associated with its renewable procurement.

After the end of each year and each compliance period, Commerce Energy will true up its purchases and re-evaluate its retail sales data, to help ensure it will purchase and procure sufficient renewable energy to meet its RPS procurement and portfolio content category requirements, as well as other RPS requirements once they are finalized by the Commission.

II. Potential Compliance Delays - § 399.13(a)(5)(B) (Section 6.2 of the Assigned Commissioner’s Ruling)

Section 6.2 of the Assigned Commissioner’s Ruling provides:

Describe in writing any potential issues that could delay RPS compliance, including inadequate transmission capacity and the relationship, if any, to deliveries and project development delays by, for example, permitting, interconnection, or other circumstances. Describe the steps taken to account for and minimize these potential compliance delays. The potential compliance delays included in the written description must be reflected in the quantitative analysis provided in response to section 6.5. Given this analysis, discuss how the compliance delays will impact the retail seller’s net short and its procurement decisions.

Response of Commerce Energy:

Potential issues that could delay RPS compliance such as inadequate transmission capacity, permitting delays, interconnection delays and other circumstances do not apply to

Commerce Energy as Commerce Energy does not own generation. Renewable energy will be purchased from a third-party generator or seller on the open market to satisfy Commerce Energy's RPS procurement obligations. Long-term contracts and agreements will be set up with a reliable supplier and such contracts will allow Commerce Energy to shift purchases and make arrangements with other parties, if necessary, to ensure that Commerce Energy can remain compliant under the RPS program rules. Unless there is a market shortage on eligible RPS products, Commerce Energy sees no reason for a compliance delay.

III. Project Development Status Update - § 399.13(a)(5)(D) (Section 6.3 of the Assigned Commissioner's Ruling)

Section 6.3 of the Assigned Commissioner's Ruling provides:

Provide a written status update on the development schedule of all eligible renewable energy resources currently under contract but not yet delivering generation. This written status update may rely upon the most recent filed Project Development Status Reports but must elaborate upon these reports. Providing a copy of the Project Development Status Report will not be a sufficient response. The status updates provided in the written description must be reflected in the quantitative analysis provided in response to section 6.5, below. Given this analysis, discuss how the status updates will impact the retail seller's net short and its procurement decisions. Project Development Status Reports shall continue to be filed twice a year based on a schedule directed by the Commission's Energy Division Director.

Response of Commerce Energy:

Commerce Energy is not currently developing any renewable facilities and is not under contract with any renewable facilities under construction. Additionally, Commerce Energy does not submit Project Development Status Reports. Accordingly, as there is no development update to report, development schedules will not impact Commerce Energy's net short or its procurement decisions.

IV. Risk Assessment - § 399.13(a)(5)(F) (Section 6.4 of the Assigned Commissioner’s Ruling)

Section 6.4 of the Assigned Commissioner’s Ruling provides:

Provide a written assessment of the risk of failure to build or of construction delay for eligible renewable energy resource projects currently under contract. The risk assessment provided in the written description must be reflected in the quantitative analysis provided in response to section 6.5. Given this analysis, discuss how the risk assessment will impact the retail seller’s net short and its procurement decisions. The written assessment must explain how quantitative analysis provided in response to section 6.5 supports this response.

Response of Commerce Energy:

Commerce Energy does not have any existing contracts with facilities in development or under construction. Accordingly, this question is inapplicable to Commerce Energy.

V. Quantitative Information - §§ 399.13(a)(5)(A),(B), (D) and (F) (Section 6.5 of the Assigned Commissioner’s Ruling)

Section 6.5 of the Assigned Commissioner’s Ruling provides:

In addition to the written descriptive responses to section 6.1 through 6.4, provide quantitative data, methodologies, and calculations relied upon to assess the retail seller’s RPS portfolio needs and procurement net short. This quantitative analysis must take into account, where appropriate, the quantitative discussion requirement by sections 6.1-6.4, above. As stated above, the portfolio assessment should be for a minimum of ten years in the future. The responses must be clear regarding the quantitative progress made towards RPS requirements and the specific risks to the electrical corporation’s RPS procurement portfolio. Risks may include, but are not limited to, project development, regulatory, and market risks. The quantitative response must be provided in an Excel spreadsheet or similar format.

The Commission’s Energy Division Staff will hold a workshop for retail sellers and all interested parties to develop a methodology, inputs, and format, as needed, for reporting the quantitative information required here. This will include a discussion on the definition of the net short to be calculated for the RPS Procurement Plans and the extent to which it takes into account a utility’s need

to satisfy future electric load and/or RPS procurement requirements. The date of this workshop will be announced in the near future. Once a methodology is developed, it shall be incorporated in either the draft or final 2012 Procurement Plans, depending on the availability of the final methodology.

Response of Commerce Energy:

As described above, Commerce Energy's load is fully contestable and retail sales and procurement forecasts are highly speculative at best. Due to the speculative nature of any information provided, Commerce Energy previously determined that any net short calculation would not provide sufficiently reliable or accurate information to help the Commission with any meaningful analysis, and accordingly did not include such a calculation in its RPS procurement plan. However, the ALJ Ruling now requires all retail sellers to re-submit their RPS procurement plans to include a net short calculation.¹ Therefore, while Commerce Energy does not feel it is appropriate to provide any quantitative information at this time and questions the meaningfulness of any information provided, Commerce Energy provides the following net short calculations in accordance with the ALJ Ruling.

¹ ALJ Ruling, p. 3.

Annual RPS Risk-adjusted Net Short Calculation

Year	Annual RPS Risk-adjusted Net Short Calculation (MWh) (Bundled Retail Sales Forecast * RPS Procurement Quantity Requirement + Voluntary Margin of Over-Procurement) – (Online Generation + Risk-adjusted Forecast Generation + Pre-approved Generic Generation) ²
2011	(████████ * 0.20 + 0) – (89,000 + 0 + 0) = ██████████ ³
2012	(████████ * 0.20 + 0) – (92,832 + 0 + 0) = ██████████
2013	(████████ * 0.20 + 0) – (0 + 0 + 0) = ██████████
2014	(████████ * 0.217 + 0) – (0 + 0 + 0) = ██████████
2015	(████████ * 0.233 + 0) – (0 + 0 + 0) = ██████████
2016	(390,823 * 0.25 + 0) – (0 + 0 + 0) = 97,705.75
2017	(371,282 * 0.27 + 0) – (0 + 0 + 0) = 100,246.14
2018	(352,718 * 0.29 + 0) – (0 + 0 + 0) = 102,288.22
2019	(335,082 * 0.31 + 0) – (0 + 0 + 0) = 110,075.42
2020	(318,328 * 0.33 + 0) – (0 + 0 + 0) = 105,048.24
2021	(318,328 * 0.33 + 0) – (0 + 0 + 0) = 105,048.24
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2026	(318,328 * 0.33 + 0) – (0 + 0 + 0) = 105,048.24

² See ALJ Ruling, Attachment A, pp. 5-6.

³ As Commerce Energy’s load is fully contestable and forecasts are highly speculative, Commerce Energy does not procure resources beyond what is required under the RPS program and accordingly does not have a specific “voluntary margin of over-procurement.” Commerce Energy has no contracts with facilities in development or forecast to come online and does not typically contract with such facilities. Therefore, Commerce Energy has no “risk-adjusted forecast generation.” Similarly, Commerce Energy has no “pre-approved generic generation”.

2027	$(318,328 * 0.33 + 0) - (0 + 0 + 0) = 105,048.24$
2028	$(318,328 * 0.33 + 0) - (0 + 0 + 0) = 105,048.24$
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2030	$(318,328 * 0.33 + 0) - (0 + 0 + 0) = 105,048.24$

Total RPS Risk-adjusted Net Short Calculation

Total RPS Risk-adjusted Net Short = $\sum_{2011-2020 + 10 \text{ years}}$ Annual RPS Risk-adjusted Net Short – Eligible Excess Procurement⁴

For Commerce Energy, the Total RPS Risk-adjusted Net Short = 1,859,879.3 MWh.

VI. Conclusion

In accordance with the Assigned Commissioner’s Ruling, Commerce Energy provides this RPS procurement plan. As described herein, Commerce Energy plans to fully comply with and meet the RPS procurement, portfolio content category product, and other RPS requirements going forward. Commerce Energy looks forward to working with the Commission on these issues and helping California meet its renewable goals.

Dated: August 15, 2012

Respectfully submitted,



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⁴ See ALJ Ruling, Attachment A, p. 6.

**DECLARATION OF INGER GOODMAN
IN SUPPORT OF CLAIMS OF CONFIDENTIALITY
OF COMMERCE ENERGY, INC.**

I, Inger Goodman, declare as follows:

1. I am employed by Commerce Energy, Inc. (“Commerce”) in the position of Regulatory Affairs Specialist.
2. I have reviewed, or caused to be reviewed, the August 15, 2012 RPS Procurement Plan of Commerce.
3. The statements in this declaration are based on my knowledge, information, or belief.
4. I am authorized to make this declaration on behalf of Commerce.
5. Those portions of Commerce’s RPS Compliance Report identified in Table 1 below are eligible for confidentiality protection pursuant to Decision (“D.”) 06-06-066 and D.08-04-023 and the Matrix of Allowed Confidential Treatment for Energy Service Provider Data (“ESP Matrix”) attached as Appendix B to the latter decision.
6. The data for which Commerce requests confidentiality and thereby protection from public disclosure are of the types and correspond to the category (or categories) in the ESP Matrix specified below:

TABLE 1: IDENTIFICATION OF CONFIDENTIAL INFORMATION

<i>RPS Procurement Plan Location</i>	<i>Type of Data</i>	<i>Matrix Category</i>
Annual RPS Risk-adjusted Net Short Calculation for Years 2011-2015 (RPS Procurement Plan pages 7-8.)	<p>Bundled Retail Sales (MWhs) for prior year, current year and 3 years of retail sales forecasts.</p> <p>Annual RPS Risk-adjusted Net Short Calculation for prior year, current year and 3 years of net short forecasts.</p>	<p>I – Renewables Portfolio Standard (RPS) Information.</p> <p>A) RPS compliance filings required by CPUC, by ESP: data redacted because disclosure of first three years of forecast retail sales and resource mix data (MWh) and of historical retail sales and supply data (MWh) for prior year would reveal entire net short of ESP.</p> <p>B) Annual RPS compliance filings, by ESP: data redacted because disclosure of first three years of forecast retail sales and supply data would reveal the entire net short of ESP.</p>

7. The data for which Commerce is claiming confidentiality is not already public.

8. The confidentiality of the data for which Commerce is claiming confidentiality would not be compromised if it were first aggregated with the equivalent data of all other load serving entities before being made public. Other than by the aforesaid process, the data cannot be aggregated, redacted, summarized, masked or otherwise protected in a way that allows partial disclosure.
9. Commerce's customers may be harmed by the loss of confidentiality insofar as members of the public not eligible to review the data as non-market participating parties—primarily other market participants such as other ESPs or suppliers—can use this data to derive detailed estimates of Commerce-specific procurement requirements and Commerce's current compliance position.

Declared under penalty of perjury that the aforesaid is true of my own knowledge, except as to matters that are stated on information or belief and as to those matters I believe them to be true.

Dated: August 15, 2012



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APPENDIX A

REDLINED VERSION OF
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PROCUREMENT PLAN OF
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| ~~May 23~~ August 15, 2012

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Response of Commerce Energy:

Commerce Energy is not developing and does not own any renewable generation that would qualify under the California RPS program. Instead, Commerce Energy purchases renewable energy under third-party contractual agreements that will range from short-term to long-term contracts to meet its RPS procurement obligations, including the requirement to procure a minimum amount of long-term renewable contracts.

Commerce Energy does not typically forecast out 10 years as requested by the Assigned Commissioner's Ruling. Not only do Commerce Energy's internal systems not support a 10 year planning horizon, but Commerce Energy's load changes on a yearly basis as its load is fully contestable, making any forecast more than a few years out incredibly speculative and effectively useless. Commerce Energy's load forecast process includes a five year historical analysis of past, current and future expected load, including factors such as climate, switching trends, demand response programs and the competitiveness of the market to determine final load forecasts. The final forecast is derived using combined data of customer billed historical usage and load profiles from the utility for non interval meters. For interval customers the forecast is derived from Settlement Quality Meter Data ("SQMD"). Furthermore, Commerce Energy's forecast includes an attrition rate and probability of drop.

With respect to the RPS program and RPS procurement planning, Commerce Energy will follow its typical process when projecting retail sales for RPS compliance purposes. Commerce

Energy will purchase renewable energy on an annual basis based on projected sales, hedging against risks with other procurement options. This procurement process will account for the various portfolio content category requirements, and will ensure that Commerce Energy has sufficient procurement from each portfolio content category to satisfy the requirements of Public Utilities Code Section 399.16(c). Commerce Energy will seek to meet its resource adequacy (“RA”) obligations through the procurement of non-renewable energy and will put little emphasis on what type of capacity or ancillary service characteristics are associated with its renewable procurement.

After the end of each year and each compliance period, Commerce Energy will true up its purchases and re-evaluate its retail sales data, to help ensure it will purchase and procure sufficient renewable energy to meet its RPS procurement and portfolio content category requirements, as well as other RPS requirements once they are finalized by the Commission.

II. Potential Compliance Delays - § 399.13(a)(5)(B) (Section 6.2 of the Assigned Commissioner’s Ruling)

Section 6.2 of the Assigned Commissioner’s Ruling provides:

Describe in writing any potential issues that could delay RPS compliance, including inadequate transmission capacity and the relationship, if any, to deliveries and project development delays by, for example, permitting, interconnection, or other circumstances. Describe the steps taken to account for and minimize these potential compliance delays. The potential compliance delays included in the written description must be reflected in the quantitative analysis provided in response to section 6.5. Given this analysis, discuss how the compliance delays will impact the retail seller’s net short and its procurement decisions.

Response of Commerce Energy:

Potential issues that could delay RPS compliance such as inadequate transmission capacity, permitting delays, interconnection delays and other circumstances do not apply to

Commerce Energy as Commerce Energy does not own generation. Renewable energy will be purchased from a third-party generator or seller on the open market to satisfy Commerce Energy's RPS procurement obligations. Long-term contracts and agreements will be set up with a reliable supplier and such contracts will allow Commerce Energy to shift purchases and make arrangements with other parties, if necessary, to ensure that Commerce Energy can remain compliant under the RPS program rules. Unless there is a market shortage on eligible RPS products, Commerce Energy sees no reason for a compliance delay.

III. Project Development Status Update - § 399.13(a)(5)(D) (Section 6.3 of the Assigned Commissioner's Ruling)

Section 6.3 of the Assigned Commissioner's Ruling provides:

Provide a written status update on the development schedule of all eligible renewable energy resources currently under contract but not yet delivering generation. This written status update may rely upon the most recent filed Project Development Status Reports but must elaborate upon these reports. Providing a copy of the Project Development Status Report will not be a sufficient response. The status updates provided in the written description must be reflected in the quantitative analysis provided in response to section 6.5, below. Given this analysis, discuss how the status updates will impact the retail seller's net short and its procurement decisions. Project Development Status Reports shall continue to be filed twice a year based on a schedule directed by the Commission's Energy Division Director.

Response of Commerce Energy:

Commerce Energy is not currently developing any renewable facilities and is not under contract with any renewable facilities under construction. Additionally, Commerce Energy does not submit Project Development Status Reports. Accordingly, as there is no development update to report, development schedules will not impact Commerce Energy's net short or its procurement decisions.

IV. Risk Assessment - § 399.13(a)(5)(F) (Section 6.4 of the Assigned Commissioner’s Ruling)

Section 6.4 of the Assigned Commissioner’s Ruling provides:

Provide a written assessment of the risk of failure to build or of construction delay for eligible renewable energy resource projects currently under contract. The risk assessment provided in the written description must be reflected in the quantitative analysis provided in response to section 6.5. Given this analysis, discuss how the risk assessment will impact the retail seller’s net short and its procurement decisions. The written assessment must explain how quantitative analysis provided in response to section 6.5 supports this response.

Response of Commerce Energy:

Commerce Energy does not have any existing contracts with facilities in development or under construction. Accordingly, this question is inapplicable to Commerce Energy.

V. Quantitative Information - §§ 399.13(a)(5)(A),(B), (D) and (F) (Section 6.5 of the Assigned Commissioner’s Ruling)

Section 6.5 of the Assigned Commissioner’s Ruling provides:

In addition to the written descriptive responses to section 6.1 through 6.4, provide quantitative data, methodologies, and calculations relied upon to assess the retail seller’s RPS portfolio needs and procurement net short. This quantitative analysis must take into account, where appropriate, the quantitative discussion requirement by sections 6.1-6.4, above. As stated above, the portfolio assessment should be for a minimum of ten years in the future. The responses must be clear regarding the quantitative progress made towards RPS requirements and the specific risks to the electrical corporation’s RPS procurement portfolio. Risks may include, but are not limited to, project development, regulatory, and market risks. The quantitative response must be provided in an Excel spreadsheet or similar format.

The Commission’s Energy Division Staff will hold a workshop for retail sellers and all interested parties to develop a methodology, inputs, and format, as needed, for reporting the quantitative information required here. This will include a discussion on the definition of the net short to be calculated for the RPS Procurement Plans and the extent to which it takes into account a utility’s need

to satisfy future electric load and/or RPS procurement requirements. The date of this workshop will be announced in the near future. Once a methodology is developed, it shall be incorporated in either the draft or final 2012 Procurement Plans, depending on the availability of the final methodology. (Emphasis added.)

Response of Commerce Energy:

~~At this time Energy Division has not yet hosted a workshop or developed the methodology, inputs, or format for reporting the quantitative information requested by Section 6.5 of the Assigned Commissioner's Ruling. Additionally, as described above, Commerce Energy's load is fully contestable and retail sales and procurement forecasts are highly speculative at best. Due to the speculative nature of any information provided, Commerce Energy previously determined that any net short calculation would not provide sufficiently reliable or accurate information to help the Commission with any meaningful analysis, and accordingly did not include such a calculation in its RPS procurement plan. However, the ALJ Ruling now requires all retail sellers to re-submit their RPS procurement plans to include a net short calculation.¹ Therefore, while Commerce Energy is further compounded by the fact that the Commission is still working to finalize and refine compliance rules for the RPS program. For example, it is unclear how transition issues from the pre 2011 20% RPS program to the post-2010 33% RPS program will be handled. For these reasons, Commerce Energy does not feel it is appropriate to provide any quantitative information at this time and questions the meaningfulness of any information provided, Commerce Energy provides the following net short calculations in accordance with the ALJ Ruling.~~

Annual RPS Risk-adjusted Net Short Calculation

<u>Year</u>	<u>Annual RPS Risk-adjusted Net Short Calculation (MWh)</u> <u>(Bundled Retail Sales Forecast * RPS Procurement Quantity Requirement + Voluntary Margin of Over-Procurement) – (Online Generation + Risk-adjusted Forecast Generation + Pre-approved Generic Generation)²</u>
<u>2011</u>	(██████████ * 0.20 + 0) – (89,000 + 0 + 0) = ██████████³

¹ ALJ Ruling, p. 3.

² See ALJ Ruling, Attachment A, pp. 5-6.

<u>2012</u>	$(\text{████████} * 0.20 + 0) - (92,832 + 0 + 0) = \text{████████}$
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³ As Commerce Energy's load is fully contestable and forecasts are highly speculative, Commerce Energy does not procure resources beyond what is required under the RPS program and accordingly does not have a specific "voluntary margin of over-procurement." Commerce Energy has no contracts with facilities in development or forecast to come online and does not typically contract with such facilities. Therefore, Commerce Energy has no "risk-adjusted forecast generation." Similarly, Commerce Energy has no "pre-approved generic generation".

Total RPS Risk-adjusted Net Short Calculation

Total RPS Risk-adjusted Net Short = $\sum_{2011-2020 + 10 \text{ years}}$ Annual RPS Risk-adjusted Net Short – Eligible Excess Procurement⁴

For Commerce Energy, the Total RPS Risk-adjusted Net Short = 1,859,879.3 MWh.

VI. Conclusion

In accordance with the Assigned Commissioner's Ruling, Commerce Energy provides this RPS procurement plan. As described herein, Commerce Energy plans to fully comply with and meet the RPS procurement, portfolio content category product, and other RPS requirements going forward. Commerce Energy looks forward to working with the Commission on these issues and helping California meet its renewable goals.

Dated: ~~May 23~~August 15, 2012

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⁴ See ALJ Ruling, Attachment A, p. 6.

VERIFICATION

I am an officer of the reporting corporation herein, and am authorized to make this verification on its behalf. 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 foregoing is true and correct.

Executed on August 15, 2012 at La Palma, California.



Blake Lasuzzo, Vice President, Supply