

**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)

**COMMENTS OF THE INDEPENDENT ENERGY PRODUCERS
ASSOCIATION ON THE SECOND ASSIGNED
COMMISSIONER'S RULING ISSUING PROCUREMENT
REFORM PROPOSALS**

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Dated: November 20, 2012

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*The Second Assigned Commissioner's Ruling Issuing Procurement Reform
Proposals and Establishing a Schedule for Comments on Proposals (ACR)*, issued on October 5,
2012, poses a series of questions related to procurement reform. In these comments, the
Independent Energy Producers Association (IEP) responds to each of these questions in order.
In light of the commercial realities in which renewable development occurs, IEP looks forward
to working with the Commission to reform the procurement process with the goals of (1)
providing a stronger measure of regulatory certainty to the procurement and development
process and (2) developing a procurement mechanism that that minimizes total costs to
consumers as the Commission manages the procurement process leading to the achievement of
the statutory Renewables Portfolio Standard (RPS) goals.

I. General Comments

**A. The Procurement Process Should Balance the Interest in Expediting
Approvals against Commercial Needs**

As a general rule, expediting review of power purchase agreement (PPAs) submitted by the utilities is a positive step, and IEP is encouraged that the ACR raised the issue and initiated a dialogue on how best to speed up the Commission's review. All too often over the past years, the delay in Commission's approval of PPAs has created regulatory uncertainty that undermined the commercial viability of projects.

The Commission's efforts to expedite consideration and approvals of PPAs should be undertaken in full awareness of the commercial environment in which projects are developed and financed. The Commission's procurement procedures and review processes must be fully aligned with the interconnection procedures of the California Independent System Operator (CAISO) that also control the schedule for project development. Both PPA approval and interconnection are critical to the commercial viability of the project. Developers are often faced with a "chicken or egg" situation: the procurement rules place a high value on progress to completion of the interconnection process, while the CAISO's interconnection process places a high value on having an executed contract. The Commission should strive to align these two critical processes and to ensure that they reinforce each other and the emphasis on project viability, rather than create a stalemate, each process waiting for a result from the other.

B. Commercial Viability Requires Regulatory Certainty and Timeliness

Commercial viability is a function of the regulatory environment in which projects are developed. Accordingly, it is important for the Commission to establish procurement rules and procedures in advance in an open and transparent manner. Furthermore, regulators need to make critical decisions on requests for approvals of PPAs in a timely manner so that offers do not become stale.

C. Certain Aspects of the Decision Accepting 2012 RPS Plans Undermine Development of Viable Projects

Some of the provisions adopted in Decision (D.) 12-11-016 accepting the utilities' 2012 RPS Plans undermine the commercial viability of renewable energy projects. These provisions include (a) granting the utility the unilateral right to terminate executed contracts when transmission upgrade costs exceed an agreed-on amount, (b) the failure to properly align RPS procurement review with the CAISO interconnection procedures, and (c) the failure to provide for regular, annual RPS procurements (or at least a set regular schedule of procurements), which would help support project development. IEP recommends that the Commission should reconsider these issues as part of the procurement reform contemplated by the ACR.

II. IEP's Responses to the ACR's Questions

In this section, IEP responds to the questions posed in the ACR. For ease of review, the numbering system applied here is consistent with the numbering system used in the ACR.

4. Proposals - Streamline and Increase Transparency of the Commission's RPS Contract Review Process

4.1. Proposal – Standards of Review for IOUs' Shortlists

1. Provide comments on the strengths and weaknesses of increasing the level of review of IOUs' shortlists. If an alternative review process or review standards are proposed, include justification for the proposal.

Increasing the level of review of the utilities' shortlists could be helpful if it does not undermine the commercial viability of projects. While upfront approval of the shortlists offers the possibility for downstream expedited review of shortlisted contracts, unless there is a set process and timeline for submittal and approval of the shortlist, it is unclear whether this efficiency hurts or helps the review process. Accordingly, IEP recommends that the Commission should establish a timeline for utility's submittal of the shortlist after bidding has

closed and commit to approve or reject the shortlist within an established timeframe (e.g., 90 days). This commitment will be especially critical in 2013 since solar projects that hope to be online before the expiration of tax credits in 2016 need to have an approved contract in late 2013 or early 2014 to begin construction in 2014.

Current Commission policy articulated in D.12-11-016 states that a utility's shortlist will expire 12 months after *submission* of the short-list to the Commission for review. In addition, after 12 months, the shortlist is terminated and the projects without executed contracts are removed from the shortlist, and the utility may not execute a bilateral contract with the same project until the next RPS Request for Offers (RFO) is initiated. If the Commission's proposed review of the shortlist presented as a Tier 3 Advice Letter (AL) takes longer to complete than the more expedited Tier 2 AL process, then IEP is concerned that the 12-month timeframe adopted in D.12-11-016 will become unworkable, as the Commission's review of the shortlist will consume more of the 12 months that D.12-11-016 allocates for negotiation and execution of the PPAs.

4.2.Proposal – Establish Date Certain for Request for Commission Approval of Contracts

2. Discuss the strengths and weaknesses of the proposal to set a time requirement for requesting Commission approval of an RPS contract. What impact will it have on the market, ratepayer, and regulator? If an alternative time requirement is proposed, include a justification for the proposal.

While on its face the proposal to require PPAs to be executed with one year after approval of the shortlist and to require the utility to submit the request for approval of the PPA within one month of execution of the PPA sounds helpful, IEP has concerns about the details of this proposal. First, under D.12-11-016, the shortlist expires 12 months after it is *submitted* for the Commission's approval, and consequently D.12-11-016 requires PPAs to be negotiated in less than one year, *i.e.*, the time between the Commission's approval of the shortlist (which the

ACR proposes to require a Tier 3 AL review) and the expiration of the shortlist 12 months after submission. While IEP generally agrees that negotiation and execution of a PPA should take no more than a year, the Commission's recent decision provides less than a year to complete negotiation and execution of the PPA. Second, since the utility will be negotiating with a number of bidders at the same time (*i.e.*, the shortlisted projects), the utility could stall negotiations until near the deadline for contract execution, play the bidders off against each other, and then demand unreasonable concessions from a project that is facing termination of the shortlist and a ban on executing a bilateral agreement with the utility. In other words, a deadline for execution of the PPA tends to increase the utility's already formidable negotiating position. This negotiating imbalance will discourage legitimate bidders and increase lenders' perception of the risk of a project.

4.3. Proposal - Expedited Review of RPS Purchase and Sales Contracts

3. The above proposal defines expedited review prerequisites differently for contracts <5 years and those ≥5 years in term length. Comment on the appropriateness of the 5-year term length distinction. If an alternative is proposed, include a justification for the proposal.

IEP recognizes that a number of existing renewable contracts are terminating in the near future. Clearly, these projects have proved their operational capabilities and viability and therefore ought to pass review in an expedited manner. For example, the review for site control or operating permits ought to be simple. This example suggests that expedited review would be justified for existing projects. At this point, however, IEP sees no justification for establishing different levels of review based on the duration of the proposed contract (except possibly for PPAs with very short terms of less than 12 months). Rather, the review ought to be expedited for contracts with projects that can readily meet the standards for operational capability and viability. Furthermore, particularly for existing projects, the proposal to require

delivery start-date within one year of contract execution seems unnecessary as an express prerequisite for streamlined review.

4. The above proposal allows for contracts that meet all of the prerequisites to be submitted with Tier 1 and Tier 2 Advice Letters for contracts <5 years in term length and contracts ≥5 years in term length, respectively. Comment on the appropriateness of the designated Advice Letter Tier. If an alternative is proposed, include a justification for the proposal.

As IEP understands the proposal, a contract would be eligible for expedited review if (a) the contract is procured by means of a competitive process, (b) the contract is a pro forma contract executed without modification, (c) the contract is consistent with identified need. In addition, for contracts longer than five years in duration, the developer would have to prove site control, have all necessary applications filed, and have a completed Phase II interconnection study. For contracts less than five years in duration, the project delivery start date would be within one year of contract execution.

As noted above, IEP sees no justification for establishing different levels of review based on the duration of the proposed contract. IEP recognizes that the Renewable Auction Mechanism and Renewable Market Adjusting Tariff contracts are required to have a commercial operation date (COD) consistent with the Commission's established rules for "shovel ready" projects, so this requirement makes sense for those programs.

5. The above proposals do not apply to sales contracts five years or greater in term length. Is there a market need to extend an expedited approval process to sales contracts five years or greater in term length?

As noted above, at this point, IEP sees no justification for establishing different levels of review based on the duration of the proposed contract.

6. The above proposal requires contracts using the expedited review process to be selected from competitive solicitations but it also allows bilateral contracts <5 years in term length if they are of equivalent or better net market value than offers from a prior solicitation for similar products. Would a solicitation for short-term transactions be robust enough to

adequately benchmark short-term bilateral transaction if the contract is negotiated bilaterally?

At this point, IEP cannot offer an opinion on the robustness of short-term, less than 5-year transactions. IEP notes, however, that enough renewable energy projects may come off their existing contracts in the near term to make a solicitation for short-term transactions competitive. However, in light of the Commission's adopted Least-Cost/Best Fit (LCBF) methodology, IEP sees no reason to focus procurement on RPS products of five years' duration or less. Contracts like these are not likely to lead to new development, so this procurement route will be limited to existing resources. The current selection methodology provides for varying contract terms, at a competitive price, mutually agreed to by the Buyer and Seller. On the other hand, robust procurements in which Buyers and Sellers can mutually negotiate the terms of their deals, whether shorter than 5 years or longer, are consistent with a fully competitive marketplace which seems to characterize procurement of renewables in California today.

7. The above proposal extends the expedited approval process to contracts greater than five years in term length. Because long-term contracts are primarily for generation from facilities that are not yet operating, viability screens are proposed as prerequisites to reduce RPS portfolio risk for the IOUs and ratepayers. Comment on the strengths and weaknesses of the proposed viability screens.

The viability screens contained in the proposal are (a) the developer must have full site control, and the project must have a score on this factor of 10, (b) all necessary permits have been filed, and the project must have a score on this factor of 5 or more, and (c) a Phase II Study or its equivalent has been completed, and the project must have a score of 9 or above.

IEP agrees that these factors can be used as a determinant of project viability. IEP withholds comments on the minimum score standard pending receipt of further information as to how these factors and these scores have been applied historically and to what effect.

4.4.Proposal – Improve RPS Power Purchase Agreement Standards of Review

A. Proposed Standards of Review for Power Purchase Agreements from Solicitations

8. The above proposal requires contracts to be consistent with an IOU’s net short approved in the most recent Procurement Plan. Propose how this criterion could be applied to an individual contract.

The utilities’ net short calculation should not act as a ceiling on renewable procurement. Generation development is often “lumpy” in nature. Ratepayers may benefit significantly when the utilities negotiate PPAs for resources that exceed the immediate net short calculation. For example, if faced with the expiration of federal tax credits, it may make sense to contract for deliveries that exceed the net short calculation in order to deliver lower costs to ratepayers over the long term. More importantly, the LCBF evaluation methodology should inform the Commission whether the value to ratepayers is present in proposed contracts that may happen to exceed the calculation of the utilities’ net short.

9. Are the proposed cohorts to be used to evaluate the reasonableness of a contract’s price, net market value, and viability appropriate? If not, provide an alternative proposal and justification for the alternatives.

The proposed cohorts to be used to evaluate reasonableness of PPAs submitted under the Tier 3 AL process are contract price, net market value, and viability compared to (a) shortlisted bids from the annual RPS solicitation from which the contract originated, and (b) all PPAs executed in the 12 months prior to the contract execution. IEP has commented in the past about the need to keep the comparisons contemporaneous and, furthermore, that it is not appropriate to compare prices in executed contracts with bids in more recent RFOs. The proposed approach appears to accommodate these concerns. Moreover, these cohorts are appropriate, **IF** the Commission commits to having annual RPS RFO solicitations. In the absence of this commitment, the cohort associated with “the most recent annual RPS Solicitation” may not be appropriate as the information may be too dated.

B. Proposed Standards of Review for Bilateral Power Purchase Agreements

10. Are there additional reasons for executing bilateral power purchase agreements outside of the solicitation process other than those stated above (e.g. fleeting opportunity, very high viability, near-term commercial operation date, etc.)? If yes, provide the additional reasons and the justifications for bilateral contacts outside of a solicitation.

It is difficult to establish in advance the conditions under which utilities will enter into bilateral contracts and seek the Commission's approval of the contract. Bilateral contracts ought to be considered in the context of contemporaneous RPS RFOs. Furthermore, the procurement process should be implemented to encourage projects to bid into RPS RFOs rather than remain outside the most common competitive mechanism. However, the Commission should provide mechanisms for the consideration of bilateral contracts, in light of other competitive options, for the reasons stated in the ACR.

11. Are the proposed cohorts to be used to evaluate the reasonableness of a contract's price, net market value, and viability appropriate? If not, provide an alternative proposal and justification for the alternatives.

The proposed cohorts in the evaluation of bilateral contracts are (a) shortlisted bids from the most recent annual RPS solicitations and (2) all PPAs that were executed in the 12 months prior to contract execution. These cohorts are appropriate **IF** the Commission commits to having annual RPS RFO solicitations. In the absence of this commitment, "the most recent annual RPS Solicitation" may not be an appropriate cohort as the information may be too dated.

12. Are the proposed criteria and standards within the minimum viability requirements appropriate for bilaterally offered projects? If not, provide alternative criteria and standards and justification for the proposal.

The viability screens contained in the proposal are (a) full site control, including a score on this factor of 10 or more; (b) all necessary permits have been filed, and a corresponding score on this factor of 5 or more; (c) completion of a Phase II Study or its equivalent, and a corresponding score of 9 or more for Interconnection Progress; and (d) transmission upgrades for

project interconnection that require the Commission’s approval, and a request for that approval “has been filed” and the project has a corresponding score of 8 or above for Transmission System Upgrade Requirements.

IEP agrees that factors (a) through (d) are appropriate criteria for determining project viability. IEP withholds comments on the ”minimum score” standard pending further information as to how these factors and these scores have been applied historically and to what effect.

C. Proposed Standards of Review for Amended Contracts

13. The proposed SOR are for contract amendments that substantially modify a contract. Are additional SOR needed for other types of contract amendments (i.e., contract amendments that do not substantially modify approved contracts) or does review of “contract administration” within the IOUs’ Energy Resource and Recovery Account filings encompass all other contract amendment types? If additional SOR are needed, propose alternative or additional SOR and describe the type of contract amendment that they would apply to.

Additional contract amendments that should be considered as significant and subject to additional standards of review (SORs) include (a) significant increases in price; (b) significant changes in size (MW) or deliveries (MWh); (c) significant change in the COD; and (d) significant change in the interconnection point (i.e., different zone, significant increase in forecast interconnection costs).

If contract amendments are proposed that significantly change the original contract, based on the key factors outlined herein, then the Commission should apply a higher standard of contract review. Specifically, amendments that represent significant changes to the original project ought to be subject to a requirement to show demonstrably higher ratepayer value than would otherwise occur. If the standard is applied in this manner, the Commission would not be foreclosing the possibility of realizing significant improvement in ratepayer value,

but would be sending a signal to the marketplace that contract amendments must meet this test or face the prospect of being re-bid.

14. Are the proposed cohorts to be used to evaluate the reasonableness of a contract's price, net market value, and viability appropriate? If not, provide an alternative proposal and justification for the alternatives.

The proposed cohorts in the evaluation of bilateral contracts are (a) shortlisted bids from the most recent annual RPS solicitations and (2) all PPAs that were executed in the 12 months prior to contract execution. These cohorts are appropriate **IF** the Commission commits to having annual RPS RFO solicitations. In the absence of this commitment, the cohort associated with “the most recent annual RPS Solicitation” may not be an appropriate cohort as the information may be too dated.

15. Should minimum project development milestones (as proposed for the SOR for bilateral contracts) be incorporated into the SOR for amended contracts as a way to ensure only viable projects proceed with contracts, thus decreasing the amount of risk in the IOUs' RPS portfolios? If not, provide alternative SOR that would reduce the risk of IOUs' RPS portfolios.

The review of amended contracts should include consideration of minimum project development milestones.

D. Proposed Standards of Review for Power Purchase Agreements that are Beyond the Scope of the Commission's Advice Letter Process.

16. The above proposal proposes that the process by which IOUs must seek Commission approval of RPS contracts be based, in part, on the contracted amount of expected annual generation. Comment on how projects with multiple contracts for total facility capacity and projects with contracts for multiple phases should be treated under the proposal or propose an alternative delineation and justification.

In general, the fact that a project has multiple contracts for its total capacity or sells different electric products (*i.e.*, Renewable Energy Credits (RECs), Resource Adequacy capacity) to different buyers should have no bearing on the evaluation of the individual contracts.

In theory, all projects have a potential for additional development at a site or the potential for expansion of output from existing sites. The potential for future development should not necessarily be a consideration in the review of projects that have been proposed. To the extent that the potential for future development is a value-added factor in bid evaluation, then this criterion must be stated explicitly up-front in the bid protocols. Furthermore, the value to the Buyer of this optionality should be stated explicitly in the LCBF bid selection methodology relative to all other factors used to evaluate project submittals.

17. Comment on the appropriateness of the requirement that contracts that are expected to provide annually more than one percent of the IOU's total bundled sales in the first full year of deliveries should be filed by application. Provide justification for any alternative proposals.

IEP sees no justification for establishing separate standards of review for projects based on size. To the extent that size is a positive or negative attribute, then that value should be specified in the RFO protocols and the LCBF methodology.

18. Are there additional circumstances for which RPS contracts should be submitted by application for Commission approval? For example, if the contract exceeds a certain capacity or it would cause a rate impact above a certain amount the IOU would be required to seek approval with an application. In the proposal, provide a justification and include not only the circumstance(s) but also any limits (e.g., all contracts that cause more than a 0.05 cents/kWh rate increase must be filed by application because that would cause a statistically significant rate increase to the average electric rate in California).

IEP sees no justification for establishing separate standards of review for projects based on size or rate impacts. To the extent that size, rate impacts, or other factors represent a positive or negative attribute, then that value should be specified in the RFO protocols and the LCBF methodology.

19. Are there any items (e.g., contract's net market value or viability score) in addition to the contract terms and conditions that should be part of the public record? Provide a justification.

IEP is unclear about what the “public record” means in this context. Factors such as a contract’s net market value and viability score are currently a part of the information the Commission considers, but the Commission’s confidentiality rules keep much of this information inaccessible to the general public.

4.5 Proposed Standards of Review for Unbundled Renewable Energy Credits

19. Are there any other cohorts that unbundled REC contracts should be compared to? If yes, propose additional appropriate cohorts and the justification for their appropriateness.

The proposed cohorts in the evaluation of unbundled RECs are (a) shortlisted unbundled REC bids from the most recent annual RPS solicitations and (2) all unbundled REC contracts that were executed in the 12 months prior to contract execution. These cohorts are appropriate **IF** the Commission commits to having unbundled REC solicitations on an annual or other regular interval. In the absence of this commitment, the cohort associated with “the most recent annual RPS Solicitation” may not be an appropriate cohort as the information may be too dated.

20. Are there any criteria in addition to need authorization, consistency with an IOU’s renewable net short, consistency with Commission decisions, and price that should be considered by the Energy Division and the Commission when reviewing unbundled REC contracts for reasonableness?

IEP has no comments on this matter at this time.

21. Is there a methodology that would accurately allow the comparison of unbundled REC contracts to bundled procurement? Please provide a quantitative example.

IEP has no comments on this matter at this time.

4.6 Proposal – RPS Independent Evaluator Reports

22. Comment on the strengths and weaknesses of the IE providing supplemental calculations.

IEP makes the general observation that currently the IE reports are so heavily redacted that it is not possible for market participants or members of the general public to assess

their strengths and weaknesses. In general, availability of more information about the bid evaluation process will lead to a more efficient and competitive market.

23. Are there additional evaluation criteria or requirements for IEs assigned to RPS solicitations that the Commission should adopt?

IEP has no comments on this matter at this time.

5. Other Procurement Reforms

5.1 Implementation of New Least-Cost Best-Fit Requirements

24. Please describe how the Commission should implement each of the four specific topics listed in Section 399.13(a)(4)(A). Please include quantitative examples where relevant.

IEP has long emphasized the need to evaluate project viability as part of the LCBF evaluation, and the Commission has adopted use of the Project Viability Calculator for this purpose.

In addition to the consideration of the four topics listed in section 399.13()(4)(A), greater transparency in the design and application of the LCBF methodology is warranted. If the Commission is trying to encourage the development of the best projects when and where they are needed, with the operational characteristics most highly valued, then it is important to reveal in advance the extent to which these geographic or operational characteristics are valued relative to each other. For example, if impact on low-income communities or impact on jobs is more important in bid evaluation than operational flexibility, then it would be helpful to convey this general sentiment to the marketplace so that potential sellers and structure their projects and their bids accordingly. To be clear, IEP is not suggesting that bidders need know the intricacies of the utilities' LCBF bid evaluation tools. On the other hand, it would be helpful to generally inform the marketplace that, for example, impact on low-income communities will be valued on a 1-10 point scale; impact on jobs will be valued on a 1-15 point scale; price will be valued on a 1-50 point scale; and operational characteristics (*e.g.*, ramping speed, storage, etc.) will be valued on a

1-25 point scale. Expressing the Commission’s preferences by publicly stating these broad preferences will do much to promote the development of the types of projects or products deemed more valuable by the utilities. This approach will also tend to reduce the probability that non-viable or less-viable projects either bid in the RPS RFOs or remain in the CAISO queue if they perceive that they have little chance of competing based on these measures of relative value.

25. For each of these four topics, please compare your implementation proposal with the existing LCBF methodology as set out in D.04-07-029 and applied in the 2011 RPS Procurement Plans approved in D.11-04-030.

IEP has no comments on this matter at this time.

26. For each of these four topics, and for your LCBF proposal as a whole, please explain how your proposal would affect costs ultimately paid by ratepayers for RPS-eligible energy, using quantitative examples where relevant.

IEP has no comments on this matter at this time.

27. For each of the four topics, and for your LCBF proposal as a whole, please explain how your proposed criteria would contribute to the efficiency of the RPS procurement process.

See response to question 24 above.

28. What additional topics, if any, should be part of the LCBF process? Please provide a detailed discussion of each topic, using quantitative examples where relevant.

As outlined above, rather than treating the LCBF methodology as equivalent to “black-box” decision-making, the Commission should provide more transparency on the relative value of the key, general factors driving procurement decision-making and bid evaluation. In the end, a greater level of clarity on the types of products sought will make the procurement process more efficient, and ratepayers will be the beneficiaries.

5.2 Green Attributes Standard Term and Condition

29. In view of the adoption of RECs as the basis for RPS compliance, is STC 2 still necessary in its entirety? Please explain in detail, with reference to: 1) current commercial practice; 2) the regulatory requirements of the Commission and any other relevant agencies (e.g., the California Energy Commission (CEC) and the California Air

Resources Board (CARB)); and 3) recent legislation related to biofuels (Assembly Bill (AB) 1900 (Gatto); AB 2196 (Chesbro); and SB 1122 (Rubio)).

IEP has no comments on this matter at this time.

30. Are specific elements of STC 2 still necessary? If so, which ones? Please explain in detail, with reference to: 1) current commercial practice; 2) the regulatory requirements of the Commission and any other relevant agencies (e.g., CEC and CARB); and 3) recent legislation related to biofuels (AB 1900 (Gatto); AB 2196 (Chesbro); and Senate Bill (SB) 1122 (Rubio)).

IEP has no comments on this matter at this time.

31. Even if not necessary, is STC 2, or are some elements of STC 2, still useful in RPS procurement contracts? Please explain in detail, with reference to: 1) current commercial practice; 2) the regulatory requirements of the Commission and any other relevant agencies (e.g., the CEC and CARB); and 3) recent legislation related to biofuels (AB 1900 (Gatto); AB 2196 (Chesbro); and SB 1122 (Rubio)).

See generally IEP's comments, above.

Respectfully submitted this 20th day of November, 2012 at San Francisco, California.

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By /s/ Brian T. Cragg

Brian T. Cragg

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VERIFICATION

I am the attorney for the Independent Energy Producers Association in this matter. IEP is absent from the City and County of San Francisco, where my office is located, and under Rule 1.11(d) of the Commission's Rules of Practice and Procedure, I am submitting this verification on behalf of IEP for that reason. I have read the attached "Comments of the Independent Energy Producers Association on the Second Assigned Commissioner's Ruling Issuing Procurement Reform Policies," dated November 20, 2012. I am informed and believe, and on that ground allege, that the matters stated in this document are true.

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

Executed on this 20th day of November, 2012, at San Francisco, California.

/s/ Brian T. Cragg

Brian T. Cragg