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)

REPLY COMMENTS OF BRIGHTSOURCE ENERGY, INC. ON THE SECOND ASSIGNED COMMISSIONER'S RULING ISSUING PROCUREMENT REFORM PROPOSALS AND ESTABLISHING A SCHEDULE FOR COMMENTS ON PROPOSALS

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BrightSource Energy, Inc. ("BrightSource") appreciates this opportunity to provide its reply comments on the Second Assigned Commissioner's Ruling Issuing Procurement Reform Proposals and Establishing a Schedule for Comments on Proposals, issued on Oct. 5, 2012 (the "ACR"), and submits these reply comments to the California Public Utilities Commission ("Commission") in accordance with the provisions of the ACR and the Nov. 5, 2012, email notification by Administrative Law Judge Simon extending the time for submission of comments and reply comments on the ACR.

I. Introduction

The ambitious scope and proposals framed by the ACR in an effort to further the purposes of California's Renewables Portfolio Standard ("RPS") and provide further structure to the review of procurement have, unsurprisingly, elicited extensive responses from a broad range of market participants. BrightSource focuses its reply comments on key areas in which the ACR's proposals should be revised to better achieve and sustain the goals of the RPS program. Specifically, BrightSource recommends that the Commission:

- Promote the innovation needed to attain California's RPS and AB 32 objectives while maintaining a cost-effective, reliable energy supply, and not deter this goal by requiring the use of the application process regardless of need for that process;

- Promote ratepayer interests, administrative efficiency and market stability by allowing for contract amendments that enhance ratepayer value without triggering the need for disproportionate review or re-bidding into new solicitation cycles;

- Continue the flexibility to obtain the value of exceptional opportunities through bilateral contracts when those opportunities do not fit neatly into solicitations, whether due to timing or to other unique characteristics;

- Update the Least Cost, Best Fit factors to reflect the changing nature of California's energy supply and the emerging reliability needs of the grid;

- Ensure, as the Commission has long held, that the 33% RPS mandate is viewed as a floor, rather than a ceiling, and that procurement is structured to support development of renewables that can increasingly meet the full range of the State's energy needs.

II. Reply Comments

A. The Commission Should Not Automatically Require Applications or Unduly Enhanced Standards of Review, and Should Maintain Confidentiality Rules.

The ACR proposes to require the review of several categories of contracts through an application process, which is considerably more resource- and time-intensive than the Tier 3 process. The Commission has approved all of these contract types through the Tier 3 advice letter process, illustrating that the application process is not necessary for these broad contract categories. As discussed in more detail below, BrightSource is most concerned that requiring an application process for contracts involving a technology that is not yet commercially established would be detrimental to attaining RPS goals in the most reliable and cost-effective manner, and that large contracts do not necessarily involve any greater complexity or need for evidentiary hearing than smaller contracts.

As a general matter, BrightSource agrees with the comments of Pacific Gas & Electric Company ("PG&E"), Southern California Edison ("SCE") and San Diego Gas & Electric Company ("SDG&E") (collectively, the Investor-Owned Utilities, or "IOUs") on the lack of justification for this broad requirement for applications. PG&E summarized this concern as follows:

> Nothing in the Reform ACR demonstrates why the existing RPS Procurement process is inadequate for addressing such Non-Conforming PPAs. In fact, the existing Advice Letter process requires a full examination of consistency with the RPS net short, of the project's viability (including an evaluation of the level of commercialization of the technology), and of the reasonableness of the PPA's price and value. Because existing Commission precedent allows an IOU to elect to submit a particular PPA by application on a case-specific basis, there is no need to establish rigid categories of contracts that must, in all cases, be so filed. For these reasons and others discussed below, the proposal should be eliminated as unnecessary and contrary to the goals of the Reform ACR.[1]

SCE raises the critical point that the ACR's proposed additional requirements for bilateral contracts and for applications for contracts involving innovative technology would deter projects that would otherwise be beneficial, noting as follows:

> …this approach will not only shrink the market for bilateral agreements and new technologies by limiting the number of offers for such projects, but it will also significantly decrease both buyers' and sellers' desire to enter into such transactions, even if

[1] "Pacific Gas & Electric Company's (U 39 E) Opening Comments on Second Assigned Commissioner's Ruling Issuing Procurement Reform Proposals and Establishing a Schedule for Comments on Proposals," R.11-05-0005 (filed on Nov. 20, 2012) (hereinafter "Opening Comments of PG&E") at p. 19; *see also* "Southern California Edison Company's (U 338-E) Comments on the Second Assigned Commissioner's Ruling Issuing Procurement Reform Proposals and Establishing a Schedule for Comments on Proposals," R.11-05-0005 (filed on Nov. 20, 2012) (hereinafter "Comments of SCE") at p. 28; *see also* "Comments of San Diego Gas & Electric Company (U 902 E) on Second Assigned Commissioner's Ruling Issuing Procurement Reform Proposals and Establishing a Schedule for Comments on Proposals," R.11-05-0005 (filed on Nov. 20, 2012) (hereinafter "Opening Comments of SDG&E") at p. 18.

> they provide a good value to customers. Indeed, it is likely that few, if any, of these agreements will be executed.[2]

The Commission should allow utilities to continue to determine whether a PPA involves issues that merit a greater commitment of resources by the Commission and all concerned for the application process, and as discussed further below, should not require additional standards of review for bilateral contracts other than those neatly tailored to justify why the contracts were not procured through a solicitation.

In addition, BrightSource remains concerned regarding the proposed departure from the Commission's precedent on confidentiality with respect to the review of the broad categories of contracts that fall under the ACR's term "Non-Standard Contracts." BrightSource agrees with the opening comments of most commenters, including PG&E, SCE and SDG&E, that existing confidentiality rules should be maintained to avoid market distortion and disclosure of sensitive business information, and that there is insufficient justification to depart from those rules for these broad categories of contracts. BrightSource commends SDG&E's thorough discussion of the confidentiality issue and applicable Commission's precedent and statutory authority, which justify the continued protection from disclosure of pricing information and other contract terms of PPAs.[3]

1. The Standards of Review Should Promote, Not Deter, Innovation that Improves Least Cost, Best Fit Objectives.

Numerous commenters note the changing nature of California's energy system, and the increasing challenges we will face in maintaining a cost-effective, reliable and renewables-based

[2] Comments of SCE at p. 28.

[3] *See* Comments of SDG&E at p. 21-22.

grid.[4] It is now well-established that as penetration of renewables in the market increases, the need for flexibility and for both capacity and energy in the morning and in the afternoon "shifted" net peak also increases. The wide range of commenters who raise this point in their opening comments are indicative of the seriousness of this concern, and of the need to effectively address it and to avoid procurement rules that could inadvertently worsen the problem. Similarly, the need to replace reliability services inherent to conventional generation will also increase, and as Green Power Institute points out, "[g]enerators that provide grid-support services deserve to be appropriately compensated for the services they provide."[5]

At the same time as grid needs are increasing, innovative new technologies are emerging in every sector of the renewable industry. Some of these technologies include: advanced biomass and biogas with improved efficiency and emissions; lower-temperature geothermal that can be located in a broader areas; increasingly efficient concentrated solar power; photovoltaics with sophisticated inverters that can provide frequency response, reactive power and other services that are being demanded by other grid systems; and advanced wind turbines that provide similar reliability services as conventional turbines and operate at differing times. Renewable energy technologies can be combined with thermal, compressed air or electrical storage, increasing their flexibility and enabling varying degrees of dispatchability, reducing the challenge to the grid and system costs while increasing their value. The Commission's

[4] *See* generally "Comments of Calpine Corporation on Second Assigned Commissioner's Ruling Issuing Procurement Reform Proposals," R.11-05-0005 (filed on Nov. 20, 2012) (hereinafter "Comments of Calpine"); "Comments of the California Wind Energy Association on Second Assigned Commissioner's Ruling Issuing Procurement Reform Proposals," R.11-05-0005 (filed on Nov. 20, 2012) (hereinafter "Comments of CalWEA"); "Opening Comments of the Coalition of California Utility Employees on Second Assigned Commissioner's Ruling Issuing Procurement Reform Proposals," R.11-05-0005 (filed on Nov. 20, 2012) (hereinafter "Comments of CCUE");"Comments of the Center for Energy Efficiency and Renewable Technologies on the Second Assigned Commissioner's Ruling Issuing Procurement Reform Proposals," R.11-05-0005 (filed on Nov. 20, 2012) (hereinafter "Comments of CEERT"). *See also* "Comments of the Green Power Institute on the RPS Procurement Reform Proposals," R.11-05-0005 (filed on Nov. 20, 2012) (hereinafter "Comments of Green Power Institute") at pp.2-3.

[5] Comments of Green Power Institute at p. 6.

procurement rules should incentivize these improvements, not raise hurdles to their deployment— especially as federal incentives for innovation are decreasing.

As the Coalition of California Utility Employees explains, the combination of streamlining contracts with commercially-proven technologies while forcing innovative technologies to be reviewed through the more cumbersome, resource-intensive and lengthy application process will have a perverse effect unintended by the ACR, promoting acquisition of existing technologies that could have been supplanted with improved versions that reduce the problems that are increasingly drawing concern:

> …why do we want to fast track technologies that will likely be out of date in a few years? Moreover, the proposal fails to incent developing new technologies. Forcing projects using new technologies through the time-consuming application process while projects using existing technologies are expedited, however, will bias utilities and developers against proposing them. Ultimately, the proposal will have a chilling effect on developing new technologies. By creating an almost guaranteed certainty of approving commercially-proven technologies, projects that might use emerging technologies will be disfavored by utilities and those parties seeking to develop new generation.[6]

NextERA Energy Resources, LLC ("NextEra") strikes a similar chord, noting that relatively minor technology changes could, if undeterred, inure to the benefit of both the customer and the project developer:

> For example, solar photovoltaic technologies are advancing quickly. A supplier may be able to capitalize on advancements after the solicitation. Such advancements may include improved panel efficiency, efficiency that allows a change to tracking technology from fixed, or a different AC to DC ratio, to offer a better product that can lead to both ratepayer benefits and improved project economics.[7]

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[6] Comments of CCUE at pp. 4-5; *see also* Comments of CEERT at pp. 11-12; Comments of Green Power Institute at pp. 2-3.

[7] "Comments of NexEra Energy Resources, LLC on Second Assigned Commissioner's Ruling Issuing Procurement Reform Proposals," R.11-05-0005 (filed on Nov. 20, 2012) (hereinafter "Comments of NextEra") at p. 10.

Even if California could attain its policy goals, maintain reliability and reduce costs with existing commercial technology, it is not in the best interest of the ratepayers for the Commission to require a slower and more difficult process for technological improvements that could increase efficiency and reliability, reduce emissions and other environmental impacts, and/or reduce cost. The proposed shunting of innovative technology to the application process does not serve ratepayer interests and will have a chilling effect on the types of generation entering the market, and should thus be rejected.

Ultimately, the Commission's vision of dovetailing RPS procurement with overall procurement,[8] as well as the need to obtain low- and no-carbon means of providing grid reliability in order to attain AB 32 goals, are dependent on advancing the state of current renewable technologies. The Standards of Review should enable these goals, rather than hinder them, while the development and performance security required of contracts continues to contain risk to ratepayers.

2. Large Contracts for Renewables Do Not Necessarily Involve Additional Complexity Meriting an Evidentiary Hearing.

Large contracts, such as those identified in the ACR as requiring an application simply because their first full year of deliveries represent more than one percent of the IOUs' bundled sales, can provide substantial benefits, but do not necessarily present any greater complexity than contracts for smaller amounts of renewable generation. Large contracts should therefore not be automatically required to be reviewed through the more resource- and time-intensive application

[8] *See* generally Comments of CEERT; Comments of UCS.

process.[9] Benefits of larger contracts include economies of scale for the generation project, reduced generation sprawl, as well as potentially reduced cost and sprawl of transmission projects. BrightSource agrees with the many commenters, which include NextEra, PG&E, and SCE, in their assessment that this requirement is not well tailored to meet the ACR's objectives. As PG&E explains, "[t]he volumes that would be provided by a particular PPA should be irrelevant to the Commission's review of the reasonableness of the contract… ."[10] SCE's concern is well-founded that this new hurdle, similar in effect to those applicable to bilateral contracts and contracts for new technology, will be detrimental to the RPS program:

> … the Commission should realize that many of the projects that have helped SCE contribute to the State's renewable energy goals are large projects whose deliveries constituted more than 1% of SCE's bundled retail sales. Making it more difficult and burdensome to contract with projects that make significant contributions to California's RPS targets is contrary to the goals of the RPS program and the State's preference for renewable resources.[11]

The Commission should continue to provide the IOUs with discretion on whether the volume involved in a contract triggers issues that would merit the application process.

B. Contract Amendments Should Not be Automatically Disfavored, Particularly Those Improving Technology.

The additional hurdles that the ACR raises for contract amendments would unfortunately lead to less favorable future obligations that with which ratepayers would be burdened. This is

[9] *See, e.g.*, "Comments of the Independent Energy Producers Association on Second Assigned Commissioner's Ruling Issuing Procurement Reform Proposals," R.11-05-0005 (filed on Nov. 20, 2012) at p. 12; Comments of SCE at pp 18-19.

[10] Comments of PG&E at p. 21.

[11] Comments of SCE at p. 28.

particularly true with respect to contract amendments that would provide innovative technology that would benefit ratepayers.

1. Degree of Review of Contract Amendments Should be Proportionate to Potential of Negative Impact to Ratepayers.

As SCE explains, when considering contract amendments, the choice is not between the existing contract and whatever may be available in the market at the time that the amendment is considered; rather, the choice is between the value to ratepayers of the existing contract relative to the improvements on that status quo that a contract amendment can provide. SCE summarizes the issue as follows:

> … the Commission must consider any amendments in comparison to the existing power purchase agreement. If an IOU with a binding, Commission-approved power purchase agreement is offered an amendment that would decrease the price of such contract, that amendment would benefit customers, even if the amended contract price does not compare favorably to shortlisted bids from the most recent RPS solicitation or other executed contracts. The Commission should consider other market data in evaluating amendments but it should not reject amendments that benefit customers when the alternative is the higher priced contract without the amendment.[12]

The California Wind Energy Association ("CalWEA") raises similar comments, underlining the importance of not only allowing parties to improve contract terms but also to provide standards of review that create appropriate incentives for such improvements:

> …there are circumstances in which a developer may be reasonably likely to perform under the original PPA, but there are changes to the PPA that would be mutually beneficial to the developer and the IOU. In such circumstances, the Commission should not apply the comparison to current market conditions, which would discourage

[12] Comments of SCE at p. 26.

> the parties to the PPA from amending the PPA in a manner that leaves both parties better off compared to the original PPA.[13]

As SDG&E's comments illustrate, if review of a contract amendment negatively affects prior approval of a contract already in place, the benefits of the contract amendment could well be lost. The necessity for review should therefore be narrowly tailored to reflect the degree to which the changes could negatively affect ratepayer interests. Specifically, SDG&E states:

> [w]here a contract has previously been approved by the Commission, review of a proposed contract amendment should focus *solely* on the proposed amendment. Effectively withdrawing the previously granted approval and subjecting the contract to a second wholesale review would violate principles of regulatory certainly and would greatly destabilize the RPS market.[14]

Requiring enhanced review of any contract amendments would be disproportionate and wasteful of the Commission's resources. The existing review framework for contract amendments provides appropriate oversight, as SDG&E explains:

> The need for an advice letter filing, and the attendant review process, should be tied to the materiality of the contract amendment proposed. Indeed, the ACR acknowledges that the energy resource recovery account ('ERRA') exists to address non-material contract modifications included in general contract administration. … [A]pproval of a contract amendment must be sought only when the modification in question would result in a material decrease in value to utility ratepayers or an increase in cost. … Requiring an advice letter filing in *every* case of a change in the commercial online date or other circumstance defined in the ACR – regardless of the degree of impact on ratepayers – would multiply the number of RPS advice letter filings the IOUs must make, which would increase the burden placed on the Commission and greatly undermine the ACR's stated goal of increasing administrative efficiency. In short, the public interest is not served by applying limited Commission resources to review of

[13] Comments of CalWEA at p. 14.

[14] Comments of SDG&E p. 17.

contract changes that have minimal to no impact on ratepayers.[15]

SCE and SDG&E both raise concerns regarding the negative consequences that would result to their customers and the RPS program as a result of the ACR's proposed change to the review standards for amendments.

2. Modifications of Technology Should Not Automatically Require Re-Bidding Where Value to Ratepayers is Increased.

Most troubling to BrightSource, and to other commenters, is the proposed requirement to force re-bidding of contracts where there is a "major modification" to the contract technology; the definition of "major modification" remains unclear, other than to note that it includes storage.[16]

SCE explains how this proposal would leave its customers worse off than they might otherwise be:

> Forcing projects to bid into the next solicitation rather than amending a contract to accommodate a change in technology may not be appropriate in all situations. For instance, if there is a unique opportunity to amend an approved power purchase agreement that would result in commensurate customer value, the IOU should have the ability to amend the agreement to the benefit of its customers. The only other alternative in that case would be to leave the contract as is and it would not make sense to prohibit all amendments to a project's technology regardless of the benefit to customers.[17]

SDG&E notes that there is no reason to differentiate technology modifications from other contract amendments, stating that:

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[15] *Id.* at pp. 15-17.

[16] ACR at p. 26.

[17] Comments of SCE at p. 24.

> Proposed technology changes should be handled in a manner consistent with other proposed contract changes; where the change is material (*i.e.*, the modification would result in a material decrease in value to utility ratepayers or an increase in cost) it should be submitted for Commission approval via the advice letter process.[18]

The mechanics of the proposal to require re-bidding would place counterparties in a difficult framework that does not allow them to make progress on the renewable procurement needed to provide valuable benefits. As SDG&E states:

> …the proposal to require such contracts to be re-bid into the next RPS solicitation … would put the utility and the counterparty in an untenable position. The contract originally approved by the Commission would appear unviable, but the project developer would be required to continue to pursue the project until the utility's next RPS solicitation. Depending on the timing of the amendment vis-à-vis the next RPS solicitation, it could be close to a year that the parties are working with a defunct contract and a dead project, with no ability to work toward a more viable project.[19]

While CalWEA and NextERA, both of whom are among the strongest supporters of pure market approaches, support the proposal with respect to wholesale technology changes, they do not think it should apply to changes to improve the designated technology (such as changing wind turbine designs or PV from fixed to tracking, which would increase capacity); CalWEA also does not think it should apply to incorporation of storage.[20]

The Commission, in considering this issue, should focus on the costs and benefits to ratepayers. Requiring re-bidding of contract amendments for technology advancement,

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[18] Comments of SDG&E at p. 18.

[19] Comments of SDG&E at p. 18.

[20] *See* Comments of CalWEA at p. 13; Comments of NextERA at p. 11.

including storage, will freeze existing technology in place that could be upgraded, regardless of any improvement to the overall value proposition— particularly with respect to incorporation of storage, which can help address many of the future grid challenges that have been identified by many commenters.

C. The Commission Should Continue to Treat Bilateral Contracts on Equal Footing.

The Commission's long-standing equivalent treatment of bilateral and solicitation contracts should continue, without separate standards that would dampen, if not entirely eliminate, opportunities for bilateral contracting. As SDG&E states, "the public interest does not support treating bilateral contracts differently from contracts entered into via a solicitation."[21] SCE provides further explication of both the purpose of bilateral contracting and the procedural safeguards enabling their commensurate treatment with contracts resulting from solicitations:

> It is in the best interests of the IOUs' customers to allow the IOUs to consider compelling bilateral offers for renewable resources. Such bilateral contracts may provide unique value to the IOUs' customers and it would put the IOUs at a competitive disadvantage if they were not able to pursue the same bilateral offers as other loadserving entities. Moreover, as noted in the ACR, in their advice letters requesting approval of a bilateral RPS contract, the IOUs are already required to explain: (1) the IOU's procurement and/or RPS portfolio needs that require the utility to procure bilaterally as opposed to through a solicitation; (2) a description of the reasons the seller did not participate in a solicitation; and (3) why the benefits of the bilateral contract cannot be procured through a subsequent solicitation. There is no need for additional development milestone criteria.[22]

Lastly, CalWEA notes a particularly compelling reason for continued equivalent treatment of bilateral contracts. Federal tax policies, such as the Production Tax Credit and the Investment

[21] Comments of SDG&E at p. 10.

[22] Comments of SCE at p. 23.

Tax Credit, as well as other economic benefits of federal and state policy, include deadlines that may not coincide well with solicitations. The opportunity to take advantage of these economic benefits, which can substantially lessen the costs of the RPS program as a whole, could substantially increase the value to customers that might otherwise be lost. As CalWEA states,

> [T]he rules for bilateral contracting should be sufficiently flexible to allow the IOUs to execute PPAs outside the solicitation process when necessary to ensure that IOU ratepayers will reap the benefits of projects eligible for favorable federal policies, such as renewable energy tax credits.[23]

The Commission's interest in promoting vibrant solicitations and the benefits of price discovery that result from them have not been vitiated by bilateral contracts to date; the pricing of renewables has dropped faster and more significantly than could reasonably have been projected, while value has continued to climb. The existing safeguards that ensure bilateral contracts are commensurate with market indicators, considering any unique qualities that made the bilateral negotiations appropriate and a solicitation approach a poor fit, will continue to protect ratepayer interests.

D. Least Cost, Best Fit Should be Modified to Incorporate Renewable Integration and Changing Grid Needs.

BrightSource and other companies developing concentrating solar power projects are in a unique position with regard to the changing energy system needs. On the one hand, as renewable developers, these companies support reducing barriers to interconnection and integration of all renewable resources. On the other hand, concentrating solar power technologies, particularly when hybridized with other fuels or when augmented with thermal energy storage, bring desirable properties to the power system that will be increasingly needed as these changes to the system occur, although these properties are not currently well-captured by Net Market Valuation;

[23] *See* Comments of CalWEA at p. 9 (referencing PTC termination).

it is important to note that many of these qualities could also be provided by other renewables, if the right incentives were provided to them. These properties include being less variable when operated from storage or in hybrid modes, providing a clean source of dispatchable energy that can even help balance other renewables.

The concern of concentrating solar power developers is that when comprehensive valuation of this technology is prevented or limited by regulatory rules, concentrated solar power technology becomes disadvantaged when compared to other renewable technologies which *may* have lower initial capital costs but are less operationally flexible and reliable (absent technological improvements that would increase their costs). This is the finding of a survey of utility solar valuation methods by Lawrence Berkeley National Labs that will be forthcoming shortly. Ultimately, to ensure a reliable and cost-effective grid, a balance must be struck between cost and performance that finds the right least cost portfolio that also meets grid needs and supports long-term reliability. It is imperative that the Least-Cost, Best-Fit criteria provide the flexibility to allow buyers to meet these emerging needs and provide the lowest-cost, reliable solution for their own customers.

BrightSource agrees with the wide variety of commenters, including CalWEA, Calpine and Green Power Institute, that seek to make integration costs and comparative long-term capacity value components of the Least-Cost, Best Fit assessment. While there needs to be more analysis of these components, there is sufficient evidence to date that some indicative values could be applied when comparing different technologies, in turn providing a signal for all technologies to improve their performance relative to emerging needs.

BrightSource generally agrees with CalWEA that there is now sufficient information, between simulation studies and market data, to advance estimates of integration costs, although

the particular results derived from the California Independent System Operator Corporation need further review. In particular, it should be clear that the category of "solar plants" which they display will need to be sub-divided to reflect the different integration requirements of different solar technologies. However, we agree with CalWEA and Calpine that both the recent national lab studies — from Lawrence Berkeley National Labs and the National Renewable Energy Laboratory — and the California ISO's 33% RPS simulation data suggest that comparative capacity value of different solar and wind technologies under future RPS scenarios needs consideration under Least-Cost Best Fit. There is no question that *all* national lab studies to date have shown that concentrating solar power plants with thermal energy storage have very high renewable resource capacity value under any future scenario; to enable the least-cost, reliable renewable energy system that the Commission seeks, recognition of this value should be allowed under the procurement rules.

E. The 33% RPS Net Short Should Not Serve as a Procurement Limit.

BrightSource agrees with those commenters who raise concern that the RPS Net Short should not be used to establish the 33% RPS as a ceiling, rather than a floor. As Center for Energy Efficiency and Renewable Technologies ("CEERT"), CalWEA, Large-scale Solar Association and the Union of Concerned Scientists explain, (i) the organic RPS statute expresses the 33% RPS as minimum, not a maximum, standard; and (ii) the Commission's long-standing policy, expressed through the loading order as well as the intent to dovetail RPS and conventional procurement, encourages consideration of RPS-eligible generation not only to meet RPS requirements, but to meet California's general energy and reliability needs, as well as its AB 32 requirements.[24] The Commission, in its joint recommendations with the Energy

[24] *See, e.g.,* Comments of UCS at p. 5.

Commission to the California Air Resources Board, expressly called for measures to increase renewables procurement beyond the level of a 33% RPS mandate.[25] CEERT's call for a broader vision for the role of RPS-eligible generation deserves the Commission's full consideration, in keeping with its long history of policy pronouncements on the role of renewables in California's energy supply:

> …the Commission must seize this opportunity to make RPS procurement reforms that align and integrate the renewable and 'general' long term procurement planning processes. To do otherwise, would preclude renewables, as the *first*, preferred generation resource in the Commission's Loading Order, from meeting long term needs as they are being defined today and, in turn, cause an over-reliance on fossil resources to the disadvantage of ratepayers and State environmental and clean energy policies.[26]

III. Conclusion

BrightSource is very appreciative of the considerable thought and sincere concerns for the success of the RPS program that inspired the proposals incorporated in the ACR. BrightSource is committed to working with the Commission and all stakeholders to ensure that the Standards of Review that are ultimately adopted, and other procurement improvements that the Commission may implement, promote a cost-effective, reliable and renewables-based energy supply for California. The revisions to the procurement regime have the potential to not only better ensure that California meets its ambitious RPS and AB 32 objectives, but maintain the State as a world leader in developing and deploying a clean and sustainable economy. If appropriate flexibility and incentives for innovation are incorporated in the procurement regime,

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[25] California Energy Commission & California Public Utilities Commission, "Final Opinion & Recommendations on Greenhouse Gas Regulatory Strategies," p. 89 (Oct. 2008) (concluding as follows: "We support expanding the RPS, but also advocate additional policies and mandates to achieve at least 33% renewables for California, which may be met through a variety of approaches including voluntary investments.")

[26] Comments of CEERT at p. 2.

unlocking California's unequalled renewable energy potential, this will certainly be California's future.

Respectfully Submitted,

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Dated: December 12, 2012

VERIFICATION

I, Joseph Desmond, am the Senior Vice President of Government Affairs and Communications of BrightSource Energy, Inc. I am authorized to make this Verification on its behalf. I declare that the statements in the foregoing copy of the attached REPLY COMMENTS OF BRIGHTSOURCE ENERGY, INC. ON THE ON THE SECOND ASSIGNED COMMISSIONER'S RULING ISSUING PROCUREMENT REFORM PROPOSALS AND ESTABLISHING A SCHEDULE FOR COMMENTS ON PROPOSALS are true of my own knowledge, except as to the 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 December 12, 2012 at Oakland, California.

/s/ Joseph Desmond
Joseph Desmond