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RE: Comments of the Independent Energy Producers Association on the Joint CEC/CPUC Working Group Meeting on RPS Verification and Portfolio Content Classification

IEP appreciates this opportunity to comment on the joint CEC/CPUC informal working group meeting on RPS Reporting and Verification and Portfolio Content Classification that was convened at the CEC on November 30, 2012. IEP represents over 20,000 MWs of independently owned generation resources in California, including many renewable generators that are participating in the RPS program. In our comments below, IEP addresses the administrative issues first followed by a discussion on portfolio content classification.

I. General Comments on Program Administration

The Entity with the Compliance Obligation Under the RPS Should be the Entity Responsible for Providing the CEC with Static Data. During the informal working group meeting CEC staff indicated that it intends to create a database of projects to provide an upfront verification process where much of the verification work can be done prior to final verification. The static data that the CEC will be collecting for this database includes information on the

facility name, location, technology type, fuel, Owner/Seller, reporting year, etc.¹ At the workshop, there was some discussion around whether reporting of this static information should be reported via the utilities or the individual generators. In response, CEC and CPUC staff indicated their preference for collecting this information from the utilities in part because the amount of entities that the CEC has to contact is significantly less under an approach that solicits the utilities rather than generators.

IEP agrees with the CEC/CPUC approach which would put the onus of reporting this static information on the utilities. First, under the RPS program, the utilities (IOUs and POUs) are the regulated entities, not the generators. They are responsible for showing compliance with the RPS and thus it makes sense to collect the static information from them. In addition, IEP agrees that the task of collecting the static information on behalf of the CEC becomes a much larger task if the CEC is required to identify and collect this information from each generator. IEP recommends that the CEC collect this static information from the utilities and not the generators.

The CEC Should Collect Static Information on Approved Rather Than Executed

Contracts. Obtaining information on executed but not yet approved contracts may result in the CEC collecting unnecessary information. Not all contracts that are executed between buyers and sellers end up being approved by the Local Governing Boards (for the POUs) or the CPUC (for IOUs). To the extent that the CEC intends to collect static information on projects to fast-track the verification process, it should do so only on approved contracts. This will avoid unnecessary data input of projects that may never ultimately reach commercial operation.

¹ See Draft Static and Contract Information Form, presented at the Joint CEC/CPUC Working Group Meeting convened November 30, 2012.

II. Portfolio Content Classification

While IEP recognizes that neither the CEC nor the CPUC are willing to approve the portfolio content categories of individual contracts prior to the flow and verification of energy, there are still a number of steps can be used to better aid market participants in understanding how their transactions will be applied with respect to the individual portfolio content categories. Market participants (both buyers and sellers) need some certainty that the transactions that they are entering into will actually qualify under the specific categories that the transaction is designed to fill. IEP discusses these preliminary measures in more detail below.

An Upfront Checklist, Consistent Across Both the CEC and CPUC Will Provide Valuable Guidance to Buyers and Sellers as to Whether their Transactions Will Meet the Desired Goal. IEP supports the idea, as discussed at the November 30th meeting, of having an upfront checklist provided by the CEC/CPUC that can be used to guide buyers and sellers when structuring their transactions. The checklist should be designed as a reference against which transactions can be compared to see if they meet the necessary portfolio content requirements for the category they are attempting to fill. Recognizing that the CEC/CPUC do not intend to provide a case-by-case classification on which transactions fall into which portfolio content category prior to energy flowing and RECs being verified, an upfront checklist will provide market participants with valuable guidance that the transactions that they enter into have a reasonable chance of falling into the portfolio content category that they intend to meet.

Published Examples of Transactions that Fall into Each of the Portfolio Content Categories will give Parties a Benchmark for Comparison. The CEC and the CPUC should work jointly on providing market participants with examples of transactions that would fall into each of the different portfolio content categories. Once the examples have been thoroughly vetted and

approved by the CPUC and the CEC these examples should be published on both the CEC and the CPUC websites. This tool will give buyers and sellers a comparison to benchmark their transactions against and provide some certainty that if a similar transaction is employed, it will likely count for the RPS as intended.

It is also appropriate to publish these examples and the upfront checklist in the CEC Guidebook; however, to the extent that the CEC guidebook is delayed, it is appropriate for the CEC and the CPUC to publish these examples and the upfront checklist on their websites.

Thank you for the opportunity to comment on the joint CEC/CPUC informal working group meeting on RPS Reporting and Verification and Portfolio Content Classification.

Respectfully Submitted,



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