

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

**Order Instituting Rulemaking to                    )**  
**Continue Implementation and                    )** **Rulemaking 11-05-005**  
**Administration of California                    )** **(Filed May 5, 2011)**  
**Renewables Portfolio Standard                )**  
**Program**

**COMMENTS OF ALLCO RENEWABLE ENERGY LIMITED  
ON THE PETITION FOR MODIFICATION FILED BY ImMODA  
INTERNATIONAL CORPORATION**

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August 16, 2013

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

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|--|---|-----------------------------|
| <b>Order Instituting Rulemaking to</b>         | ) |                             |
| <b>Continue Implementation and</b>             | ) | <b>Rulemaking 11-05-005</b> |
| <b>Administration of California Renewables</b> | ) | <b>(Filed May 5, 2011)</b>  |
| <b>Portfolio Standard Program</b>              | ) |                             |

**COMMENTS OF ALLCO RENEWABLE ENERGY LIMITED  
ON THE PETITION FOR MODIFICATION FILED BY ImMODA  
INTERNATIONAL CORPORATION**

Allco Renewable Energy Limited (“Allco”) submits these comments on the petition for modification of D.11-11-012 (the “Petition”) filed by ImModa International Corporation (“ImModa”) on August 7, 2013, proposing a standard amendment to the 80 Southern California Edison (“SCE”) California Renewable Energy Small Tariff (“CREST”) Power Purchase Agreements (“PPAs”) approved by the California Public Utilities Commission (the “Commission”) in Resolution E-4593 (the “Excess PPAs”). On August 15, 2013, ImModa filed an Errata Notice regarding the Petition (the “Errata Notice”).

Allco supports the CREST PPA amendment as drafted and proposed by ImModa so long as (i) it is limited to the 80 Excess PPAs, and (ii) the amount of the Excess PPAs does not reduce SCE’s allocation under the Renewable Market Adjusting Tariff (“Re-MAT”). In addition, the record should reflect certain facts so as to provide a clear basis for decision, one of which was clarified in the Errata Notice. There should be no question after the Commission issues its decision that the record accurately reflects, and the Commission understood, the applicable facts.

**1. THE RECORD SHOULD ACCURATELY REFLECT THE INITIAL OPERATION DEADLINE OF EACH EXCESS PPA.**

SCE states that it executed the first Excess PPA on July 20, 2012<sup>1</sup>. That would put the earliest Initial Operation Deadline (as defined in the standard CREST PPA) under any of the Excess PPAs at January 20, 2014. As the Errata Notice discloses that date does not reconcile with ImModa's initial assertion that its Initial Operation Deadline under five of its contracts was October 1, 2013.<sup>2</sup>

The CREST PPA defines the Initial Operation Deadline as being 18 months from the PPA Effective Date, which, in turn, is defined as the last date that both parties signed the PPA. The expected date of initial operation listed in the PPA is not relevant to the issue raised by ImModa or the proposed amendment. As the Errata Notice recognized, ImModa conflated the "Forecasted Initial Operation Date" in SCE's Advice Letter 2870-E with the Initial Operation Deadline with respect to each Excess PPA. There is no indication in Advice Letter 2870-E or Resolution E-4593 as to what the "Initial Operation Deadline" in each Excess PPA actually is. Alco suggests that SCE file a schedule listing the "Initial Operation Deadline" so as to provide a complete record for decision.

**2. THE 75 EXCESS PPAs WERE BINDING CONTRACTS NOT CONTINGENT ON COMMISSION APPROVAL .**

The initial 75 Excess PPAs by their terms did not require Commission approval to constitute binding contracts. SCE obviously realized that fact by the time that it submitted the additional 5 Excess PPAs pursuant to Advice Letter 2870-E-A because it is only with respect to those 5 Excess PPAs that SCE included for itself a termination right if the Commission did not

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<sup>1</sup> See, Resolution E-4593 at p. 14.

<sup>2</sup> See, Petition at p.5.

approve those 5 Excess PPAs. The issue of Commission approval was therefore solely one for SCE if it desired to obtain rate recovery or other treatment.

As a result, while Allco supports the amendments as presented by ImModa, the rationale to support the proposed amendments cannot be that the Excess PPA counterparties could not proceed with the projects in the absence of Commission approval.

Allco affiliates that are counterparties to some of the 75 Excess PPAs have proceeded fully with the proposed projects, including engineering and permitting. Indeed, in order to meet commercial operation deadlines under the SCE/PGE feed-in tariffs, Allco affiliates have needed, in certain cases, to move ahead with full design, permitting and equipment procurement ahead of receipt of the construction permits. For example, in the case of one such project, the solar modules, inverters, racking and the balance of the equipment all had to be ordered and delivered prior to receipt of the permit. Once the permit was received, actual construction commenced the following day, which was late last month.

### **3. CONCLUSION .**

For the reasons stated above, Allco supports CREST PPA amendments as drafted and proposed by ImModa so long as (i) it is limited to the 80 Excess PPAs, and (ii) the amount of the Excess PPAs does not reduce SCE's allocation under the Re-MAT.

Respectfully submitted,

/s/ Thomas Melone

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## VERIFICATION

I, Thomas Melone, am the President of Allco Renewable Energy Limited and am authorized to make this verification on its behalf. I have read the foregoing *COMMENTS OF ALLCO RENEWABLE ENERGY LIMITED ON THE PETITION FOR MODIFICATION FILED BY ImMODA INTERNATIONAL CORPORATION*. The statements in the foregoing document are true based upon my knowledge. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 16th day of August 2013 at New York, NY.

/s/ Thomas Melone  
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