

**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 ALJ'S RULING REQUESTING COMMENTS  
ON PRELIMINARY STAFF PROPOSAL TO CLARIFY AND  
IMPROVE CONFIDENTIALITY RULES FOR RENEWABLE  
PORTFOLIO STANDARD PROGRAM**

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Attorneys for the Independent Energy Producers  
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Dated: August 5, 2013

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The Independent Energy Producers Association (IEP) offers the following comments on the July 1, 2013 Ruling of the Administrative Law Judge (ALJ) requesting comments on a preliminary Energy Division proposal to clarify and improve confidentiality rules for the renewables portfolio standard (RPS) program.

The Ruling provides a summary of the Energy Division's proposal for addressing confidentiality for the RPS program. The Ruling summarizes proposed Guiding Principles, provides the background for the proposal, and raises a series of questions related to the overall proposal and its key components. In the remainder of these comments, IEP responds to the specific questions posed in the Ruling in the order in which they occur. For ease of review, IEP provides the questions as posed in the Ruling prior to commenting.

## **I. GENERAL QUESTIONS POSED IN RULING**

The Ruling posed seven questions for general consideration. As noted by the Ruling, the comments should consider these questions in the context of the individual components of the proposal and the program as a whole.

**1. Would the proposal as a whole (or the component being discussed) promote transparency and the public interest with respect to the RPS program? Why or why not? What changes would improve the proposal with respect to its impact on transparency and the public interest in the RPS program?**

**2. Would the proposal as a whole (or the component being discussed) contribute to improved decision-making by the Commission? Why or why not? What changes would improve the proposal with respect to its impact on improving decision-making about the RPS program at the Commission?**

**3. Would the proposal as a whole (or the component being discussed) contribute to improved coordination between the Commission and other agencies and organizations with respect to California's energy policy, procurement planning and/or transmission planning. Why or why not? What changes would improve the proposal with respect to its impact on improving coordination with other agencies about procurement and transmission planning?**

**4. Would the proposal as a whole (or the component being discussed) improve the value received by the customers of retail sellers from RPS procurement? Why or why not? What changes would improve the proposal with respect to the value to customers of retail sellers?**

**5. Would the proposal as a whole (or the component being discussed) contribute to the long-term stability of the RPS market? Why or why not? What changes would improve the proposal with respect to the long-term stability of the RPS market?**

**6. Would the proposal as a whole (or the component being discussed) provide appropriate protection to information for which there is a legitimate need for confidentiality? Why or why not? What changes would improve the proposal with respect to the protection of information for which there is a need for confidentiality?**

**7. What, if any, legal issues might exist with respect to the implementation of the proposal as a whole (or the component being discussed)? What changes if any, would improve the proposal with respect to reducing or eliminating legal issues regarding its implementation? What changes to the existing legal framework, if any, would reduce or eliminate the issues identified?**

As a general matter, IEP has long advocated for greater transparency in application of the Least-Cost/Best-Fit bid evaluation criteria employed by the utilities in selecting resources. IEP has been clear that it is not interested in the details of the utilities' proprietary models. Providing greater transparency on the key factors for bid selection, particularly the relative weights of these primary evaluation factors, however, would help send important market signals about the specific types of resources most preferred by the utilities, *i.e.*, the when, where, and what of bid selection. For example, if “impact on low income communities” is of high importance in bid evaluation, then the market should be made aware of this information as developers plan their projects and bids.

On the other hand, IEP has in the past raised concerns regarding the release of truly proprietary and certain commercially sensitive and confidential information related to proposed or approved contracts. These concerns have not changed (see responses below). Further, it is not clear exactly what the rationale is for releasing for public review what heretofore has been considered confidential, market-sensitive contract information. Much of the explanation for the Energy Division's proposal seems to relate to the statutory requirement for the Commission to address cost containment of RPS procurement. IEP notes that the Commission has a separate track of this proceeding to address this matter. Cost containment by definition relates to costs actually incurred (or reasonably expected to incur). Information about contract costs can be provided through the use of aggregated data, as is currently proposed in the cost containment track. This information should not include short-listed bids or the prices of contracts not yet approved or even actual approved contracts, since the actual costs of the contract will be a function of MWh delivered rather than the contract price.

In summary, IEP is not convinced that the proposal for public disclosure of bid or contract information for renewable resources promotes the public interest (since it may undermine the competitiveness of the current RPS market); improves decision-making (since decision-makers have access to this data already); improves coordination related to planning (since planning by definition occurs in advance and these data will be stale and likely irrelevant by the time they are made public). Moreover, IEP is not convinced that public disclosure of confidential bid or contract information improves the value to customers contributes to the long-term stability of the RPS market or provides appropriate protections for proprietary and commercially sensitive bid and contract information.

## **II. RESPONSE TO SPECIFIC PROPOSALS**

[NOTE: The headings below are those used in the Ruling.]

### **C. Preliminary Staff Proposal on RPS Compliance Reporting**

#### **1. The confidentiality treatment of information from compliance reports should be the same for all retail sellers.**

*IEP's Response:* Certainly the confidentiality treatment of compliance information ought to be the same for all Commission-jurisdictional load-serving entities (LSEs). However, the corollary should be that confidentiality treatment for a minority of Commission-jurisdictional LSEs (*e.g.*, the Energy Service Providers (ESPs)) need not determine the level of confidentiality for the bulk of load served by the investor-owned utilities (IOUs), *i.e.*, the disclosure standards of ESPs should not set the standard for public availability of RPS compliance information. On the other hand, publicly owned utilities (POUs) may have broader disclosure obligations or practices depending on the requirements set by their governing boards. While POU are not included in the definition of “retail sellers” in the statute, the POU’s experience reveals that greater transparency in bid evaluation and solicitation results does not

necessarily result in abnormally high costs for the Buyer, inhibit the competitiveness of the marketplace, or lead to the exercise of market power.

**2. Information for the "front two years" of a retail seller's energy forecast of bundled load may be kept confidential.**

*IEP's Response:* The switch from an annual compliance period to multiyear compliance periods, as provided in SB 2 (1X), makes the utilities' purchase plans less sensitive to demand forecasts. In an environment in which robust competition is present, like the recent RPS solicitations in California, providing information regarding a utility's forecast bundled load does not undermine competition. By sending more accurate signals of market demand, the release of load forecasts promotes greater competition and more viable projects that are better attuned to market conditions. Enhancing competition should be a goal of the Commission's policy regarding public access to RPS data.

**3. The "front two years" of a retail seller's RPS net short position may be kept confidential.**

*IEP's Response:* The lack of market information regarding future needs of the state makes it more difficult for developers to plan and finance new resources. As noted in response to Question #2, when the conditions of robust competition are present, disclosing some general and basic information about the projected need for a specific product does not undermine competition. Rather, disclosure sends the appropriate market signals to developers about how best to plan new development.

The Commission should consider triggering the release of a utility's RPS net short position based on the level of competition in the most recent RPS Request for Offers (RFO). For example, if the results of an RPS RFO show that the number of bidders exceed a competitive level (*e.g.*, 20 bidders), then the Commission should feel comfortable releasing forecasts of the utility's RPS net short (or the aggregated RPS net short for the state as a whole).

**4. The compliance reporting tool should be redesigned to provide a self-contained report of past compliance performance, independent of any present performance or future procurement projections. This report should be publicly available.**

*IEP's Response:* IEP agrees. A public report of achieved compliance would be useful in assessing the retail seller's efforts. In addition, the compliance reporting tool should report on measures of competitiveness of the utilities' RPS RFOs, including number of bidders, number of project bids, number of MW bid, the forecast of MWh to be delivered, and similar information.

**D. Preliminary Staff Proposal on Price Disclosure Background**

Currently, the Commission has a formal protocol for the treatment of confidential information, based on the matrix developed in D.06-06-066. From the perspective of generators and developers of generation resources, this protocol has a number of positive features. First, it treats all generators the same irrespective of technology. Second, it protects confidential proprietary and commercially sensitive information for a period of three years. IEP supports this protection of commercially sensitive information, and IEP has concerns about proposals to change the existing treatment of proprietary and confidential data associated with bids, short-listing, and final contracts. The status quo for the confidential treatment of bids, short-listing, and final contracts is preferred by developers and generators for a number of reasons.

First, release of price information can complicate efforts to settle litigation, delay permitting and the start of commercial operation, and can increase project costs and ultimately the costs to consumers.

Typically, acquiring development and operational permits takes a considerable amount of time. In some cases, the permitting process may continue past the time when the Commission approves a contract and the decision approving the contract is no longer appealable. For example, experience has shown that information related to contract price can lead to

additional delays in the permitting process. Once sensitive confidential data is released, intervenors may be in position to leverage that information to further their agendas (*e.g.*, termination of a project, additional mitigation expense) or obtain outcomes that are favorable to their interests.

Similarly, the release of contract price information can influence land acquisition or lease costs. California property owners will respond to price information, and if the result is higher land costs, bids will be directly affected. Price disclosure should not undermine a developer's ability to negotiated the best possible land price.

In the end, if the release of sensitive information delays permitting, then the terms of the agreement negotiated between Buyer and Seller may be undermined.

The leveraging of sensitive information also can negatively impact ratepayers when project costs go up or, alternatively, it can undermine the viability of the project to the extent that the developer is unable to recoup the additional costs demanded by intervenors. In either case, while intervenors in siting cases may benefit, individual generators and ratepayers are harmed, and the state's RPS program is undermined.

Second, the release of confidential data in a contract prior to the current three-year period undermines market dynamics. For example, the output of individual RPS projects may be sold in tranches to multiple Buyers over time. If the information related to the sales agreement of the first tranche were to be publicly disclosed, it could affect on the market as the developer seeks to sale the remaining portions of the project. Here again, disclosure of sensitive information will not be good for generators or ratepayers as contract negotiations associated with RPS RFO become embroiled and the project is delayed due to the prospect of the premature release of confidential data.



Third, while RPS resources compete against each other, they also compete against other non-RPS technologies. Going forward, this competition may increase as RPS resources vie to provide other products sought in the California market, including Resource Adequacy (RA) and Flexible capacity. Imposing the burden of releasing heretofore confidential data on one segment of the competitors, *i.e.*, RPS resources, will effectively skew the competition among technologies going forward.

**1. For RPS procurement contracts requiring Commission approval via resolution, the contract price is publicly disclosed in the draft resolution and in the final resolution adopted by the Commission.**

*IEP's Response:* IEP disagrees. For proprietary and market-sensitive contract information, IEP recommends no change from the status quo.

**2. For RPS procurement contracts submitted for Commission approval via advice letter but not submitted through a Tier 3 advice letter that requires approval by Commission resolution (e.g., contracts under the renewable auction mechanism (RAM)), the contract price is publicly disclosed at the time the advice letter is filed.**

*IEP's Response:* IEP agrees in part. If the contract is a product of the RAM program, the price is revealed through the auction, and this information should be presented in the advice letter. On the other hand, for proprietary and market-sensitive contract information, IEP recommends no change from the status quo.

**3. For IOUs' RPS procurement contracts that are submitted for Commission approval via application, the following information in testimony and other documents is publicly disclosed at the time it is submitted in the proceeding:**

- the contract price;
- quantitative evaluation of the contract for least cost, best fit analysis;
- total expected contract costs;
- total expected indirect costs; and
- rate impact.
- All other information relating to the evaluation of the contract (e.g., specific quantitative analysis involved in scoring and evaluating RPS bids, score sheets, analyses, evaluations of proposed RPS projects) is publicly available 30 days after delivery of energy and/or renewable energy credits (RECs) commences, or three years after the Commission

*IEP's Response:* Here again, for proprietary and market-sensitive contract information, IEP recommends no change from the status quo. On the other hand, information related to bid evaluation, best-fit analysis, and similar topics ought to be publicly disclosed to provide a basis on which to assess relative value prior to Commission approval.

**4. For RPS procurement contracts that do not require specific Commission approval (e.g., any IOU's contracts with costs authorized to be booked directly to the IOUs' Energy Resource Recovery Account (ERRA); ESPs' contracts; CCAs' contracts) the contract price is publicly available six months after the contract is signed or 30 days after deliveries of energy and/or RECs under the contract commence, whichever occurs first.**

*IEP's Response:* For proprietary and market-sensitive contract information, IEP recommends no change from the status quo.

## **E. Preliminary Staff Proposal on Costs of RPS Procurement Contracts Background**

**1 Actual total MWh of RPS-eligible electricity procured in any prior year by each retail seller are public.**

*IEP's Response:* IEP agrees. There is no reason to protect information about retail sellers' performance for past years.

**2. Annual information on total RPS procurement costs incurred by each retail seller in any prior year is public.**

*IEP's Response:* IEP agrees. There is no reason to keep this information confidential from the ratepayers who pay these costs.

**3. RPS procurement contract generation cost forecasts of each retail seller are public when aggregated by resource category (e.g., wind, solar, geothermal, etc.), so long as there are more than two contracts or facilities in the resource category.**

*IEP's Response:* IEP agrees. Aggregated cost forecasts are important components of cost containment efforts.

**4. Certain general information about bids received in response to IOUs' RPS solicitations is public. This information includes:**

- 1. total number of bids received by each IOU in a solicitation; and**
- 2. number of bids shortlisted by each IOU for a solicitation.**

*IEP's Response:* IEP agrees. This information is important to ascertain the competitiveness of the RPS RFOs both collectively and for each individual utility.

## **F. Preliminary Staff Proposal: Commission Review Of RPS Procurement Contracts; Planning Requirements Background**

**1. Certain information about each bid received in response to each IOU's RPS solicitation, but not shortlisted, is public the day after the Commission approves the IOU's shortlist for that solicitation.**

**This information includes:**

- individual project capacity;**
- facility location;**
- identification of WECC Bus ID where the project is or will be interconnected;**
- generation technology;**
- proposed online date;**
- whether the project is new, currently operating, repowered, or restarted;**
- contract term length;**
- expected annual energy offered;**
- expected annual RECs offered in REC-only contracts; and delivery point.**
- All other information about individual bids may be kept confidential for three years after the close of the RPS solicitation to which the bids responded.**

*IEP's Response:* IEP does not believe that information about projects that are not shortlisted has value in terms of the goals of the RPS program. On the other hand, releasing this information could affect the projects' ability to bid into future solicitations and, thus, undermine the competitiveness of future RPS RFOs.

**2. Certain information about each shortlisted bid received in response to each IOU's RPS solicitation, but not resulting in an executed contract, is public the day after the shortlist for that solicitation expires.**

**This information includes:**

- individual project capacity;**
- facility location;**
- identification of WECC Bus ID where the project is or will be interconnected;**
- generation technology;**
- proposed online date;**
- whether the project is new, currently operating, repowered, or restarted;**

- contract term length;
- expected annual energy offered;
- expected annual RECs offered in REC-only contracts; and delivery point.

**All other information about individual bids may be kept confidential for three years after the close of the RPS solicitation to which the bids responded.**

*IEP's Response:* IEP does not believe that information about projects that are not shortlisted has value in terms of the goals of the RPS program. On the other hand, releasing this information could affect the projects' ability to bid into future solicitations and, thus, undermine the competitiveness of future RPS RFOs.

**3. Bid prices of all bids received in response to each IOU's RPS solicitation are public when aggregated by resource category, so long as there are more than two bids in a category, the day after the Commission approves the IOU's shortlist for that solicitation.**

*IEP's Response:* IEP supports release of bid information in aggregated format as a means to assess the competitiveness of current (and future) RFOs. However, to avoid undermining the competitiveness of future RFOs, IEP recommends that there should be at least five bids in a category as a precondition to release of the aggregated information.

**4. Information about the generation forecast in each approved RPS procurement contract of an IOU or UOG authorization to an IOU is public. This information includes:**

- forecasts of RPS-eligible energy (MWh), capacity (MW), and RECs;
- facility location;
- generation technology;
- emissions of air and/or water pollutants, by pollutant, for each individual contract or UOG facility.

*IEP's Response:* For proprietary and market-sensitive contract information, IEP recommends no change from the status quo.

**5. The RPS generation forecast is public for RPS procurement offers that have been short-listed in the solicitation process of an IOU, or that are the subject of bilateral negotiations between an IOU and a generation developer, if aggregated by resource category, and there are more than two contracts in a category. Forecast information includes:**

- forecasts of RPS-eligible energy (MWh), capacity (MW), and RECs;

- facility location;**
- generation technology;**
- emissions of air and/or water pollutants, by pollutant, for each category.**

*IEP's Response:* IEP supports release of bid information in aggregated form as a means to assess the competitiveness of current (and future) RFOs. However, to avoid undermining the competitiveness of future RFOs, IEP recommends that there should be at least five contracts in each category as a precondition to release of the aggregated information.

**6. The RPS generation forecast assumptions used by each IOU for purposes of calculating that IOU's renewable net short (RNS) are public, including project viability and failure assessment assumptions.**

*IEP's Response:* IEP agrees. Public scrutiny of the assumptions should lead to better forecasts.

**7. The following terms of RPS procurement contracts of IOUs are publicly disclosed in the advice letter submitting the contract for Commission approval:**

- price (see section 2, above);**
- counterparty;**
- project name**
- resource type;**
- technology;**
- location;**
- capacity (MW);**
- procurement (MWh, or RECs if REC-only);**
- delivery point;**
- vintage;**
- length of contract;**
- contracted and forecasted online date; and**
- WECC Bus ID where project is or will be interconnected.**

**Any other contract information is public three years after contract execution or upon contract expiration, whichever comes first.**

*IEP's Response:* Here again, for proprietary and market-sensitive contract information, IEP recommends no change from the status quo. On the other hand, information related to bid evaluation, best-fit analysis, and similar topics ought to be publicly disclosed to provide a basis on which to assess relative value prior to Commission approval.

**8. The following terms of RPS procurement contracts of ESPs and CCAs are publicly available 30 days after deliveries (energy and/or RECs) begin under the contract:**

- price (see section 2, above);
- counterparty;
- resource type;
- technology; location;
- capacity (MW);
- procurement (MW, or RECs if REC-only);
- delivery point;
- vintage;
- length of contract;
- contracted and forecasted online date; and
- WECC Bus ID where project is or will be interconnected.

**Any other contract information is public three years after contract execution or upon contract expiration, whichever comes first.**

*IEP's Response:* For proprietary and market-sensitive contract information, IEP recommends no change from the status quo. On the other hand, information related to bid evaluation, best-fit analysis, and similar topics ought to be publicly disclosed to provide a basis on which to assess relative value prior to approval.

**9. The following information in an RPS procurement contract using a standard contract is public.**

- Interconnection information that is published in an IOU's interconnection queue;
- Information in progress reports and/or advice letters submitted to the Commission regarding project development milestones;
- Descriptions in progress reports and/or advice letters submitted to the Commission of bids that were rejected and/or terminated on the basis of distribution or network upgrade costs.

*IEP's Response:* IEP agrees. This information could help identify sites for new resources that fit well in the existing grid.

**10. Amending an RPS procurement contract does not affect the confidentiality requirements that apply to prior versions of the contract, including the time frame for making information public.**

*IEP's Response:* IEP agrees. Amendments should be subject to the same rules as the original contract. An exception to this rule should be when the amendment is limited to extending the terms of the contract or expanding the MW size or MWh delivery obligation of the contract. In this situation, when the proposed amendments increase the amount of MW or the MWh delivery obligation, then the contract should be treated as a “new contract” and disclosure should be consistent with other new contracts. For proprietary and market-sensitive contract information, IEP recommends no change from the status quo. On the other hand, information related to bid evaluation, best-fit analysis, and similar topics ought to be publicly disclosed to provide a basis on which to assess relative value prior to commission approval.

**11. For UOG projects that the utility intends to be RPS eligible, the following information is publicly disclosed in the application for Commission approval of the UOG project:**

- all information about the proposed generation**
- facility, including**
- technology**
- location**
- capacity; and**
- WECC Bus ID where project is or will be interconnected.**
- known or estimated capital and operating costs;**
- whether utility ownership will be by turnkey arrangement, buy-out, or utility build.**

**Any additional information that the assigned ALJ determines should be publicly disclosed will be handled as directed by the ALJ.**

*IEP's Response:* IEP agrees. UOG projects considered outside of a competitive RPS RFO solicitation process are unique in more ways than one. Disclosure of information for UOG projects can help guard against improper self-dealing.

## **G. Preliminary Staff Proposal: General Planning and Disclosure**

**1. RPS project specific evaluations and scores for IOUs' procurement contracts approved by the Commission are publicly available 30 days after**

**energy and/or REC delivery begins pursuant to the contract, or three years after the Commission approves the contract, whichever comes first.**

**Publicly available evaluation and score information includes:**

- levelized and/or escalated bid prices;**
- energy cost/price forecasts;**
- resource adequacy forecast;**
- transmission upgrade cost adders;**
- wheeling charges;**
- congestion costs;**
- delivery characteristics;**
- portfolio fit;**
- “dump energy” quantities and cost; and**
- project viability scores.**

**All other evaluation information may be kept confidential for three years after the close of the IOU’s solicitation.**

*IEP’s Response:* IEP agrees. Releasing information about bid evaluation as part of the RFO information, in advance of the bidding, would help ensure that bidders are proposing projects the meet the retail sellers’ needs.

## **6. Effective Date and Transition Provisions**

**1. New rules, if any, would apply on the effective date of the Commission decision adopting the new rules to:**

- Any RPS procurement contract signed after the effective date of the decision and all steps in Commission review and/or approval of the contract, if Commission review and/or approval is required;**
- Any RPS compliance report, or other document related to compliance with or enforcement of any RPS obligation, that is submitted to the Commission after the effective date of the decision;**
- Any RPS procurement contract that expired prior to the effective date of the decision;**
- Any draft resolution on a Tier 3 advice letter seeking Commission approval of an RPS procurement contract that is issued for public comment after the effective date of the decision;**
- Any final resolution on a Tier 3 advice letter seeking Commission approval of an RPS procurement contract that was adopted by the Commission prior to the effective date of the decision;**



- Any Commission decision on an application for approval of an RPS procurement contract (whether PPA or UOG) that was issued prior to the effective date of the decision;**
- Any application seeking Commission approval of RPS procurement (whether PPA or UOG) pending on the effective date of the decision, in which the record of the application proceeding has not been closed;**
- Any application seeking Commission approval of RPS procurement (whether PPA or UOG) filed after the effective date of the decision;**
- Any RPS compliance report, or other document related to compliance with or enforcement of any RPS obligation, that was submitted to the Commission more than six months before the effective date of the decision; and**
- Any RPS procurement information, whenever generated, that can be aggregated to meet the requirements for disclosure in the decision.**

*IEP's Response:* IEP agrees. One caveat, as noted above, is the treatment of contract amendments. Furthermore, as noted elsewhere, for proprietary and market-sensitive contract information, IEP recommends no change from the status quo.

**2. The new rules, if any, would apply six months from the effective date of the Commission decision adopting the new rules to:**

- Any RPS procurement contract signed before the effective date of the decision for which a Tier 3 advice letter has been submitted and a draft resolution has not been issued for public comment;**
- Any RPS compliance report, or other document related to compliance with or enforcement of any RPS obligation, that was submitted to the Commission less than six months before the effective date of the decision; and**
- Any application seeking Commission approval of RPS procurement (whether PPA or UOG) pending on the effective date of the decision, in which the record of the application proceeding was closed less than six months prior to the effective date of the decision but the Commission had not issued a decision by the effective date of the decision.**

*IEP's Response:* IEP agrees. One caveat, as noted above, is the treatment of contract amendments. Furthermore, as noted elsewhere, for proprietary and market-sensitive contract information, IEP recommends no change from the status quo.

IEP respectfully asks the Commission to consider IEP's comments as it deliberates on the issues related to confidentiality and the disclosure of commercially sensitive information for procurement designed to meet the state's RPS goals. IEP looks forward to working with the Commission to develop a useful and effective program regarding the treatment of confidential and non-confidential data associated with the RPS.

Respectfully submitted this 5th day of August, 2013 at San Francisco, California.

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By /s/ Brian T. Cragg

Brian T. Cragg

Attorneys for the Independent Energy  
Producers Association

## 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 ALJ's Ruling Requesting Comments on Preliminary Staff Proposal to Clarify and Improve Confidentiality Rules for Renewable Portfolio Standard Program," dated August 5, 2013. 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 5th day of August, 2013, at San Francisco, California.

*/s/ Brian T. Cragg*

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Brian T. Cragg