

**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)

**LIBERTY POWER HOLDINGS LLC REQUEST TO DEFER ITS RENEWABLES
PORTFOLIO STANDARD COMPLIANCE PERIOD 1 PROCUREMENT QUANTITY
REQUIREMENT SHORTFALL UNTIL COMPLIANCE PERIOD 2**

Liberty Power Holdings LLC (“Liberty Power”) hereby respectfully requests that the California Public Utilities Commission (“Commission”) defer Liberty Power’s shortfall in meeting its compliance period 1 (2011-2013) renewables portfolio standard (“RPS”) procurement quantity requirement (“PQR”) until compliance period 2, effectively allowing Liberty Power to make up its procurement shortfall in compliance period 2. Liberty Power notes that the Commission has yet to adopt enforcement rules, RPS noncompliance penalties, or processes for applying for an RPS procurement waiver.¹ Accordingly, rather than imposing a new and untested RPS noncompliance penalty, the Commission should instead adopt an alternate approach and allow retail sellers to defer any compliance period 1 procurement shortfall and make up the shortfall in compliance period 2. This will ensure that California’s overall RPS procurement goals are still satisfied without subjecting retail sellers to an enforcement process and noncompliance penalties that have yet to be adopted despite the fact that compliance period 1 has already ended.

¹ D.12-06-038, p. 3: “In subsequent decisions, the Commission will complete the enforcement rules, including details of the process for seeking reduction or waiver of RPS compliance obligations and the potential imposition of penalties for noncompliance with RPS obligations.”

Liberty Power intended to satisfy its RPS procurement obligations for compliance period 1, but staff turnover, misunderstandings, miscommunication, and other factors resulted in Liberty Power failing to meet its PQR. In making procurement decisions, Liberty Power has to consider product availability and cost viability as it strives to procure cost-effective products for its customers. For compliance period 1, Liberty Power sought to procure each category of portfolio content category (“PCC”) 1, 2 and 3 products to offer its customers the best possible price while still seeking to meet the Commission’s requirements. Although Liberty Power was in negotiations for PCC 2 products that would have allowed Liberty Power to meet its RPS procurement obligations, Liberty Power ultimately determined that the products offered were unit contingent and unlikely to deliver. Given the late timing in learning of the risk of procuring PCC 2 products, and without knowing how the Commission will enforce the RPS program or penalize retail sellers for noncompliance, Liberty Power failed to secure sufficient products to meet its RPS PQR. Additionally, one of Liberty Power’s counterparty’s for PCC 3 products failed to deliver 750 RECs from a 1,000 REC contract, resulting in Liberty Power being 750 megawatt hours (“MWh”) shorter in reaching its procurement targets.

Liberty Power will strive to meet all future RPS procurement obligations and believes that the Commission should allow Liberty Power to make up its procurement shortfall instead of imposing any noncompliance penalty. While true that Section 399.15(a) of the Public Utilities Code does not require deficits from one compliance period to be added to future compliance periods, the Commission has the authority to allow retail sellers to make up past deficits in lieu of imposing a noncompliance penalty. This is particularly true in this instance, as the Commission has yet to adopt the enforcement process for the RPS program. Retail sellers still have no certainty regarding how noncompliance with the RPS program will be handled, nor how

they may seek to avoid noncompliance penalties in the event procurement targets are not met. Accordingly, the Commission should allow Liberty Power to make up its PQR shortfall from compliance period 1 in compliance period 2.

Dated: August 1, 2014

Respectfully submitted,

/s/

Garson Knapp
Liberty Power Holdings LLC
1901 W. Cypress Creek Rd, Suite 600
Fort Lauderdale, FL 33309
Phone: (954) 267-5422
Facsimile: (954) 252-4177
E-mail: gknapp@libertypowercorp.com