IBERDROLA RENEWABLES

California Energy Commission
DOCKETED
13-RPS-01
TN # 70348
APR. 16 2013

April 16, 2013

California Energy Commission
DOCKETS UNIT, MS-4
Docket No. 13-RPS-01
1516 Ninth Street
Sacramento, CA 95814-5512

Re: PROPOSED REGULATIONS: Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Utilities [Publication # CEC-300-2013-002-SD]

Iberdrola Renewables ("Iberdrola") respectfully offers the following comments pertaining to the California Energy Commission's ("Commission" or "CEC") Proposed Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Utilities (POUs) released by the CEC on March 1, 2013. Iberdrola commends the CEC for establishing thorough and thoughtful dialogue around both the Draft RPS Seventh Edition Guidebook as well as the Proposed POU RPS Regulations that are the subject of the comments below.

Iberdrola is the second largest owner and operator of renewable generation in the U.S. with over 5.5 GW of owned or controlled renewable generating capacity. This portfolio includes approximately 540 MW of operating wind projects in California, including the 189 MW Manzana wind farm which entered commercial service in 2012. Iberdrola also generates and transmits renewable electricity, and provides firming and shaping services, to California load serving entities ("LSE"s) from various resources in the western United States.

GENERAL

In general, Iberdrola would like to continue to impress upon the CEC the importance of maximizing coordination, clarity and consistency between the CEC's RPS POU Regulations (Regulations), the CEC's RPS Guidebook (Guidebook) and the CPUC's RPS rules implementing SB 1X 2 (Chapter 1, Statutes of 2011). Failing to do so poses a

significant risk of unintended consequences in terms of market confusion, delays and—ultimately—increased costs and reduced environmental benefits for consumers. Iberdrola recommends drawing a clear distinction between the Guidebook and the Regulations to avoid unnecessary overlap, confusion and conflicting interpretations.

On a related note, Iberdrola cannot overemphasize the need for clear and concise rules—up front wherever possible. The CEC has done a remarkable job preparing rules stemming from highly complex legislation; however, Iberdrola strongly recommends two specific revisions for inclusion in the final Regulations. Also note that some of the below comments imperatively reference the Guidebook as well given the cross reference between the Guidebook and Regulations as currently crafted.

SPECIFIC ISSUES

1. **Clarify eligibility of affiliate transactions for Portfolio Content Category 1 and 2** (pp. 6-8 of Proposed Regulations): As Iberdrola has noted in previous comments, we request clarification that transactions between a project owner and one of its affiliates is allowed. The Proposed Regulations regarding Portfolio Content Category 1 (PCC1), similar to the Draft Guidebook, prohibit any "resale of the electricity back to the facility." (Section 3203(a)(1)). And the Proposed Regulations regarding Portfolio Content Category 2 (PCC2) includes: "and may not be sold back to that resource." (Section 3203(b)(2)(E)). Iberdrola requests that the CEC clearly confirm that affiliate transactions are allowed under the CEC rules—more specifically, that an entity may purchase electricity from a project owned by an affiliate and by doing so, does *not* violate the regulation that states "...may not resell the underlying electricity from the electricity product back to the eligible renewable energy resource from which the electricity product was procured" for PCC1 or "...and may not be sold back to that resource" for PCC2. This clarification allows an entity that is an affiliate of the project owner to sell a PCC1 and/or PCC2 from such project. This is critical from Iberdrola's point of view in order to assure the market that this common and frequent transaction remains allowable under SB1X 2. In addition, the Draft Guidebook refers directly to the Draft Enforcement Procedures for the RPS for POUs as it relates to the PCC2 product.

   Iberdrola offers the following proposed edits to clarify the PCC1 Regulations in the first sentence of Section 3203(a)(1): (***bold** is proposed language*)

   "Portfolio Content Category 1 electricity products must be procured bundled to be classified as Portfolio Content Category 1, and the POU must not resell the underlying electricity from the electricity product back to the eligible renewable energy resource from which the electricity product was procured.

An entity that is selling Portfolio Content Category 1 product to a POU may purchase the bundled electricity products on behalf of the POU from an eligible renewable energy resource owned by an affiliate of such seller."

For consistency with CPUC RPS rules, Iberdrola recommends the Regulations contain the following language in Section 3203(2)(E) for PCC2: (***bold** is proposed language*)

"(E) The electricity from the eligible renewable energy resource must be available to be procured by the POU and may not be sold back to that resource. **Such procurement may be made by the POU or by an entity providing shaping and firming services to the POU. The entity providing shaping and firming services may procure electricity from an eligible renewable energy resource that is owned by one of its affiliates."**

Please see Attachment A for a simple diagram outlining a PCC2 deal structure that Iberdrola believes is consistent with the PCC2 requirements given our interpretation for the allowance of a sale between affiliates.

2. **Properly align REC vintage with compliance period** (pp. 5-6 of Proposed Regulations): Section 3202(d) of the draft Regulations states that "A POU may not use a REC to meet its RPS procurement requirements for a compliance period that precedes the date of generation of the electricity associated with that REC. For example, a POU may not retire a REC associated with electricity generated in April 2014 to meet its RPS procurement requirements for the 2011-2013 compliance period." Iberdrola agrees with this statement as far as it goes but wishes to clarify that, for PCC 3 compliance, an entity should be allowed to procure a REC after it has been created provided the vintage of the REC is for the applicable compliance period. For example, a POU, in an effort to "true up" its compliance requirements between the end of the first compliance period and the issuance of its compliance report, should be able to purchase RECs with a 2013 vintage in early 2014 and apply the RECs to the 2011-2013 compliance period. For PCC 3 products, the transaction date is not the vital component of a purchase but rather the vintage of the REC is the key component. Iberdrola proposes adding the following sentence to the end of Section 3203(d): "Within its permitted PCC 3 product limits and prior to submission of its compliance report a POU may, however, obtain and retire in 2014 a REC generated during 2011-2013 to meet it 2011-2013 compliance requirement."

Conclusions

Iberdrola strongly urges the Commission to adopt these proposed revisions. Again, we appreciate the opportunity to comment and remain available to assist the Commission in any way possible.

Very truly yours,

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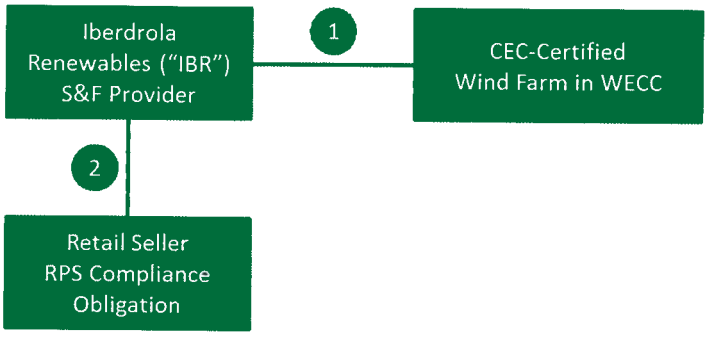
ATTACHMENT A: PCC2 Structured Transaction



Iberdrola and Retail Seller enter into a single contract that includes the following components:

1) **<u>CEC Certified Energy & REC Purchase</u>**
   - On behalf of the Retail Seller, Iberdrola makes simultaneous purchase of energy & associated RECs from Wind Farm (owned by "Project LLC," an affiliate of Iberdrola's)—Iberdrola is the "agent" for Retail Seller
   - Eligible RECs must have vintage within the same calendar year that substitute energy is delivered

2) **<u>Firming and Shaping Agreement</u>**
   - Iberdrola delivers "substitute energy" (that is incremental to Retail Seller's portfolio) in an amount equal to or greater than the bundled energy & REC volume (excess substitute energy is *not* RPS eligible)
   - Substitute energy is sourced anywhere in the WECC and scheduled into a CA balancing authority