# COMMENTS OF NOBLE AMERICAS ENERGY SOLUTIONS LLC ON THE POWER SOURCE DISCLOSURE PROGRAM PRE-RULEMAKING DRAFT REGULATIONS

Noble Americas Energy Solutions LLC ("Noble Solutions") hereby offers its comments to the POWER SOURCE DISCLOSURE PROGRAM PRE-RULEMAKING DRAFT REGULATIONS (CEC-300-2015-004-SD), dated May 2015, and the related Workshop convened on May 28, 2015.

**Section 1393(a)(1)**

There appears to be a faulty citation to the Public Utilities Code in this section.

**Section 1394(a)(1)**

During the May 28 workshop, CEC Staff represented that the due date for the report specified in this section will be changed to June 1. Noble Solutions assumes that the next version of the proposed changes will reflect this revised date.

**Section 1394(b)**

This sub-section is captioned "Agreed-Upon Procedures," but Noble Solutions is unaware of any meeting, formal or informal, in which these procedures were agreed to by the entities upon whom the burdens of compliance fall. Whether or not there has been actual manifestation of agreement to the procedures set forth in this sub-section, Noble Solutions wishes to register its objection to the audit requirements specified in this sub-section.

There is no reason put forth about why an audit requirement should be added to the reporting requirements for Power Source Disclosures. There is certainly no audit requirement in the statute. Nor does it even remotely make sense to impose the additional cost on retail sellers of hiring auditors. There are explicit attestation requirements (Section 1394(a)(1)(C)) and explicit authority for the Commission to verify all claims related to Power Source Disclosure reports (Section 1394(c)). The data underlying Power Source Disclosure reporting are from the same transactions, and sometimes the very same data, that are submitted to the CPUC to verify RPS compliance and to the CARB to verify GHG compliance. All of the data showing renewable energy transactions of whatever character are based on RECs verified by WREGIS. The RPS and GHG regulatory schemes, both of

which were enacted after the original Power Source Disclosure requirements were established in 1997, are comprehensive and detailed, yet neither have an annual audit requirement. For an annual audit requirement to be imposed on what is essentially a consumer disclosure statement—not a comprehensive compliance regime—just doesn't make sense.

Nor does it make sense that it is selectively applied. Section 1394(b)(2) exempts public agencies from the audit requirement, subject only to an attestation that is not substantively different than the attestation required of all retail suppliers set forth in Section 1394(a)(1)(C).

And there are defects in the drafting of Section 1394(b) as well. For an audit requirement that focuses on "specified purchases," it is curious that this term is not defined in Section 1391 of the proposed regulation. The detailed specifications in Appendix B are of little use when the crucial term is not defined.

**Recommendation**

The annual audit requirement should be eliminated and Appendix B should be stricken in its entirety. The Commission does not need to foster a cottage industry in Power Source Disclosure audits, nor outsource its regulatory oversight to third parties. There are adequate tools available for

the Commission to verify the Power Source Disclosure reports. If periodic audits are deemed essential, they should be required no more frequently than every three years. And regulatory mandates should not be euphemistically characterized as agreed-upon policies when they are not.

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