



California Energy Commission
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California Energy Commission
DOCKETS UNIT
1516 Ninth Street
Sacramento, CA 95814-5512

Re: RPS GUIDEBOOK – SEVENTH EDITION, STAFF DRAFT GUIDEBOOK [Publication # CEC-300-2013-005-ED7-SD]

Iberdrola Renewables (“Iberdrola”) is pleased to offer comments below pertaining to the California Energy Commission’s (CEC’s) Staff Draft 7th Edition RPS Guidebook (“Draft Guidebook”). Iberdrola reiterates our appreciation for the CEC staff’s diligent efforts to reach out to stakeholders to understand the intricacies of the California and western electricity market as it pertains to the new RPS framework brought about by SB 1X-2 (Chapter 1, Statutes of 2011). The degree of clarity and certainty of the CEC’s rules around eligibility, certification, verification and reporting will play a direct role in the efficiency and robustness of the California and connected western electricity market.

Iberdrola is the second largest owner and operator of renewable generation in the U.S. with over 5.2 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.

Iberdrola offers the following specific comments regarding the Draft Guidebook and also in response to the related March 14, 2013 Workshop. In general, Iberdrola finds that staff has done a good job outlining the verification rules, reporting forms and timelines related to RPS implementation. However, Iberdrola believes the rules can be improved with some further clarification and revision. We hope that the CEC will take these suggestions into consideration to ensure an efficient, liquid and competitive market for the benefit of market participants and consumers alike.

Clarity, Certainty, Consistency

Iberdrola offers these “three C’s” as a proposed theme to guide further development and refinement of the Draft Guidebook as well as other RPS implementation rules. In general, the CEC should endeavor to establish RPS rules that (1) are as consistent as possible with those of the CPUC for retail sellers; (2) are as clear and specific as possible; and (3) contain the highest degree of certainty in a timely manner. Along these lines, Iberdrola offers the following specific comments and suggestions:

Transactions and Compliance:

1. REC Vintage compliance qualification -- Regarding Section V(C)(3) of the Guidebook, Iberdrola recommends that, for Product Content Category (PCC) 3 transactions, entities should be allowed to procure RPS Renewable Energy Credit (REC) vintages after the REC has been generated and still allow that REC to count toward procurement for the compliance period associated with the respective REC vintage period. For example, an entity should be allowed to procure a 2013 vintage REC in March 2014 and have that REC count toward the 2013 compliance period (i.e., compliance period 1). This will allow for a more liquid REC market and still meet the spirit of the Portfolio Balancing Requirement (PBR).

2. Clarify allowance of affiliate transactions – The Draft Guidebook rules for both PCC1 and PCC2 prohibit any “resale of the electricity back to the facility.” Iberdrola also notes that the Draft Guidebook ties directly to the Draft Enforcement Procedures for the RPS for POUs as it relates to PCC2. The rules and the Guidebook revisions do not explicitly define “facility” so the range of entities to which power may not be resold is unclear. These rules could be interpreted to prohibit Iberdrola (and others) from utilizing a transaction with an affiliated entity which performs certain trading activities on our behalf. Iberdrola respectfully requests that the CEC *definitively* confirm that affiliate transactions of this nature are not precluded under the CEC rules. The CPUC addressed this matter in their RPS PCC rules by including a footnote in the section that discusses “no selling energy back to the generator.”¹ Specifically, the footnote states: “The buyer is likely to be, but is not necessarily, the retail seller ultimately claiming the firmed and shaped procurement for RPS compliance. It may also be the entity providing firming and shaping services.” In many cases, the firming and shaping services provider is acting as an agent for the LSE and thus

¹ See CPUC’s *Decision Implementing Portfolio Content Categories for the Renewable Portfolio Standard Program* [R 11-05-005, Page 47, Footnote 80].

should be allowed to perform these services in clear compliance with the Guidebook.

As mentioned above, Iberdrola notes that in the proposed POU RPS Enforcement Regulations, the word “facility” is not defined, but “eligible renewable energy resource” is defined. To be consistent across the documents, CEC might consider making an editorial change to the Guidebook to use the word “resource” in lieu of “facility.” Iberdrola’s interpretation of the Draft Guidebook is that an “eligible renewable energy resource” (i.e., a project LLC) would be allowed to sell the electricity (and RECs) to an affiliated entity. This type of sale is done to transfer the electricity and RECs to an affiliate entity, which--utilizing transmission rights, firming and shaping expertise--contracts with a POU (or any retail seller). If Iberdrola has interpreted this correctly, making the editorial switch from “facility” to “eligible renewable energy resource” in the Guidebook may effectively take care of the affiliate transaction concern raised in previous paragraph. Nevertheless, a specific clarification on this point would be the preferred resolution.

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.

3. Confirm ability to procure “fixed volume” contracts – Sections VI(C)(1) and VI(C)(1)(3) contain language that *appear* to limit RPS contracts to either the full output of a facility or in the case of multiple offtakers, a percentage of the facility output. Iberdrola submits that the Draft Guidebook should clarify that contracts whereby a set quantity of product is sold is also an acceptable contractual arrangement. A common contract structure that we have seen in the market has the Seller delivering a set quantity—for example, 100,000 MWh of PCC2 product—for a set term. The Seller may utilize more than one eligible renewable energy resource to meet this firm commitment and it will not know prior to deliveries how the contractual obligations will be met on an hourly basis. The Seller will often manage its delivery obligations on an hour-by-hour basis, which means that the Seller may use 100% of the output from an eligible renewable energy resource in one hour to meet the delivery obligation, 25% of the output in the next hour, and so on. In Section VI(C)(1), we believe the fourth bullet should be edited as follows:

- The contracted MWh amount; ~~specify if it includes the full output or a percentage of the full output.~~

In Section VI(C)(1)(3), the Annual Hourly Comparison Spreadsheet should include the contract volume and the “Amount (Percent Share) of Facility Output Procured” and “Eligible PCC 1 Volume Procured (MWh)” items should be only required when applicable.

We agree that the after-the-fact verification in the Annual Hourly Comparison Spreadsheet should take into account multiple sales from a single eligible renewable energy resource, but it needs to be modified to allow contract structures with fixed volume contracts.

4. PCC compliance confirmation – While up-front guidance relative to PCC confirmation would be ideal, Iberdrola strongly agrees with the CEC’s intention to confirm the PCC classification for contracts when the POU submits its annual procurement data (with satisfactory documentation, of course), thus allowing the POU to feel confident with its RPS position.

Documentation and Reporting:

1. Guidebook Appendices -- The CEC should complete and publish the currently missing appendices to the Guidebook and allow for public comment and feedback before final adoption.

2. Static Reporting Form – The CEC should complete the details required on the Static Reporting Form (referenced on Slide 30 of the March 14, 2013 CEC Workshop staff presentation) and allow for public comment and feedback before final adoption.

3. POU “scheduling agreement” documentation – Section VI(C)(1)(3) outlines suggested documentation for POU RPS reports. First, Iberdrola would like to point out that the scheduling terms are most likely to be embedded in the actual RPS contracts and don’t customarily exist as stand-alone documents. Second, the information listed in VI(C)(3)(i) referring to the supporting documentation for Static Information and compliance reports should be more specific to provide guidance to both POUs and market participants. For example, the language states that the supporting documentation “may include, but is not limited to, the following:” This leaves a situation where not only is it not clear what information is essential, but it also neglects to depict a clear picture for buyers and sellers as to what specific information the CEC desires to achieve compliance. Finally, Iberdrola submits that much of the information listed as possible documentation (albeit seemingly optional), including the items relating to transmission, scheduling and broker agreements are far beyond what the CEC will need to determine compliance. Particularly with respect to transmission, for example, Iberdrola reiterates from prior comments that *firm transmission is not required to deliver energy to a California Balancing Authority (“CBA”), nor will it help to inform the reporting and verification process. Verification that incremental energy flowed into the state of California is reflected on the e-Tag, which offers prima facie proof of the transmission that was acquired and used. The relevant information is the scheduled energy that was delivered to a CBA and the e-Tag data will provide this information.*

4. Annual Hourly Comparison Spreadsheet – In Section VI(C)(3)(ii), Iberdrola is unclear about how to interpret “Total MWh Sold from Eligible PCC1 Procurement (MWh).” We submit that it might be helpful, particularly since all the information in this spreadsheet is mandatory, to elaborate slightly on what is meant by each of the spreadsheet categories that are not patently obvious.

5. Additional supporting documentation/clarity and confidentiality – In a number of places in the Draft Guidebook, CEC notes that additional supporting documentation may be specified by staff. To the extent that staff can elaborate in the Guidebook on what *specific* information might be required, that would be very helpful. Also, in order to ensure a robust and competitive market, Iberdrola contends that it is critical that the CEC confirm—up-front—that certain types of information will be held confidential. For example, any price and bid information must not be disclosed. We note that the Administration section provides a procedure by which an entity may essentially “apply” to keep information confidential under the Public Records Act or other law. It is our view, however, that the Public Records Act does not necessarily contain exceptions for commercial information to be withheld from the public. Therefore, Iberdrola recommends that the Guidebook affirm either that commercially sensitive information will be held confidential, or that entities can redact such information from their reports without fear of compromising their RPS compliance status.

6. Contractual requirements for POUs with PCC2 claims –Regarding Section VI(C)(2)(1) (around 4th paragraph under Subsection 2), Iberdrola recommends confirming what facility identification (ID) number is required from the POU. For example, is the facility ID associated with the entity providing RECs, the entity providing substitute energy, or both? The Draft Guidebook language is unclear in this regard.

7. Clarify RPS compliance determination process – Section V(C)(D)(3) states that CEC will provide “tables to retail sellers showing the procurement amounts as eligible and disallowed, as well as for which claims are disallowed.” Iberdrola would appreciate more detail in the rules specifying what CEC staff will be reviewing as part of this compliance determination process.

Conclusions

In sum, Iberdrola urges the Energy Commission to take the time to provide a bit more detail to market participants regarding the information specified above. Having a fully fleshed out and understood set of rules prior to “going live” with the Seventh Edition RPS Guidebook will both make it easier for market participants to transact during this relatively uncertain time as well as help to avoid some unintended consequences of not having enough certainty and confidence in these very critical RPS implementation rules. Again, we appreciate the opportunity to comment and remain available to assist the Commission in any way possible.

Very truly yours,

Kevin A. Lynch

Vice President, External Affairs

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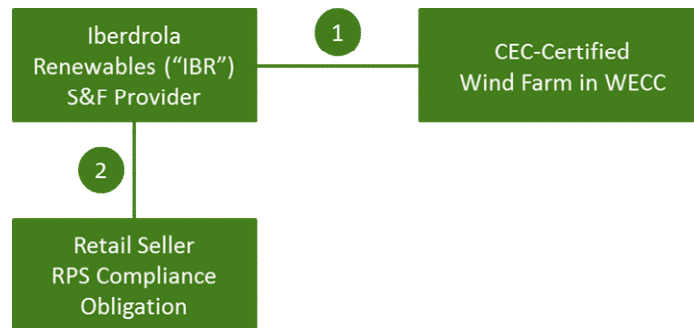
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ATTACHMENT A: PCC2 Structured Transaction



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

1) CEC Certified Energy & REC Purchase

- On behalf of the Retail Seller, IBR makes simultaneous purchase of energy & associated RECs from Wind Farm (owned by "Project LLC," an affiliate of Iberdrola's)—IBR is the "agent" for Retail Seller
- Eligible RECs must have vintage within the same calendar year that substitute energy is delivered

2) Firming and Shaping Agreement

- IBR delivers incremental energy to Retail Seller in an amount equal to or greater than the bundled energy & REC volume (excess incremental energy is *not* RPS eligible)
- Incremental energy is sourced anywhere in the WECC and scheduled into a CA balancing authority