INDEPENDENT
ENERGY
PRODUCERS
ASSOCIATION

July 8, 2011

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 03-RPS-1078
1516 Ninth Street
Sacramento, CA 95814-5512

RE: CEC Staff Workshop on 33% Renewable Portfolio Standard Regulations for Publicly Owned Electric Utilities

The Independent Energy Producers Association (IEP) appreciates the opportunity to comment on the California Energy Commission staff workshop on the 33 Percent Renewable Portfolio Standard Regulations for Publicly Owned Electric Utilities, convened June 17, 2011. Senate Bill X1-2 (Simitian), signed into law on April 12, 2011, increases California's Renewable Portfolio Standard (RPS) target to 33% by 2020 for both retail sellers and Publicly Owned Utilities (POU). While POUs and retail sellers are regulated separately, it will be important for the CEC and the CPUC to coordinate on the implementation details of the RPS program and avoid duplicative efforts where appropriate. With this general goal of coordination in mind, IEP's specific comments on the 33% RPS workshop relate to the following:

- The RPS Eligibility Guidebook needs to be modified to reflect the recent legislation and to ensure that 2011 commercial transactions can access federal tax incentives.
- In revising the RPS Eligibility Guidebook, the CEC should match the CPUC "Track 1" schedule for RPS Implementation.
- Specific guidebook changes that need to be addressed promptly include (1) the treatment of unbundled RECs, including RECs associated with power from eligible renewable resources serving onsite load; and (2) revision of the "delivery standards" to match the new legislation.

I. Modify the RPS Guidebook to Reflect New Legislation and Ensure Access to Federal Tax Incentives. IEP asks that the CEC work diligently to modify the RPS guidebooks to reflect the recent legislation and to ensure that 2011 commercial transactions can occur in timely manner to access federal tax incentives. Eligibility for federal payments in lieu of tax credits for renewable generation (ARRA Section 1603) must be established by the end of this year by the physical initiation of project construction or expenditure of at least five percent of facility costs. California electric ratepayers will benefit from lower-priced renewable electricity if renewable project developers are able to qualify for these payments before they expire. IEP has asked the CPUC to work diligently to ensure rules are established in time to allow projects to begin construction this year. Similarly, the Commission must not allow Guidebook revisions to be an impediment to developers seeking to qualify for these incentives

II. **The Schedule to Revise the RPS Eligibility Guidebook Should Mirror the CPUC's "Track 1" Schedule for RPS Implementation.** IEP, along with many other parties, has requested that the CPUC address "high priority" issues related to RPS Implementation by September 2011. These high priority issues include (1) product definition, and (2) targets and compliance obligations. Where other important RPS implementation issues exist, we believe they can be resolved as track II issues early in 2012.

In revising the RPS eligibility guidebook, IEP asks that the CEC follow the CPUC schedule for its "track 1" issues and act quickly to revise key aspects of the RPS guidebook that impact commercial transactions. It is our understanding that the CEC can update the guidebook without going through the Office of Administrative Law. Thus the guidebook modification process should run parallel with the CPUC "track 1" schedule and be adopted by the Energy Commission, at the latest, by the end of 2011.

III. **Recommended Changes to the Guidebook.** Regarding certification of resources and product eligibility there are two critical areas that need the CEC's prompt attention in the guidebook, <u>in coordination with the CPUC</u>. First, the CEC must address the treatment of unbundled Renewable Energy Credits (RECs), including RECs associated with power from eligible renewable resources serving onsite load. These resources that operate behind the meter, generating RECs, need to be given appropriate credit for the energy that they create. The current guidebook has outdated standards for the eligibility of tradable renewable energy credits, which is an issue that needs to be revisited when the guidebook is revised.

Second, the CEC must address the revision of "delivery standards" to match the new legislation. Each of these changes must be worked on collaboratively by the CEC and the CPUC to ensure consistency in RPS implementation.

IV. **Conclusion.** As noted above, IEP's concerns are generally focused around revising key aspects of the RPS Eligibility Guidebook that impact commercial transactions today. Furthermore, updates to the guidebook are necessary to ensure that the process for certifying resources as eligible for California's renewable portfolio standard match the stipulations of the recently passed 33% RPS legislation.

IEP thanks the CEC for the opportunity to comment on the CEC staff workshop on the 33 percent RPS Regulations.

Respectfully submitted,

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