

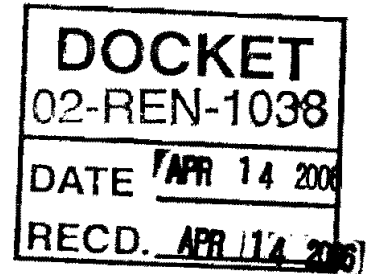
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April 14, 2006

James D. Squeri



California Energy Commission  
Dockets Office, MS-4  
1516 Ninth Street  
Sacramento, CA 95814-5512

Re: Docket No. 03-RPS-1078 and 02-RPS-1038

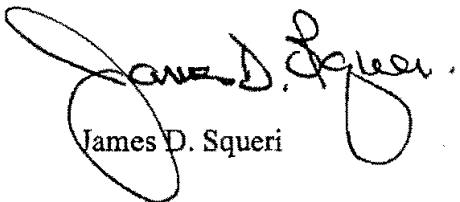
Dear Docket Office:

Attached please find the Comments of Powerex Corp. on Proposed Changes to the Renewables Portfolio Standard Guidelines.

Very truly yours,

GOODIN, MACBRIDE,  
SQUERI, RITCHIE & DAY, LLP

By

  
James D. Squeri

Enclosure

2879/001/X77001.v1

CALIFORNIA ENERGY COMMISSION

Implementation of Renewables	) Docket No. 03-RPS-1078
Portfolio Standard Legislation	) RPS Proceeding
(Public Utilities Code Sections 381,	)
383.5, 399.11 through 399.15, and 445;	)
[SB 1038], [SB 1078])	)
	)
and	)
	)
Implementation of Renewables	) Docket No. 02-REN-1038
Investment Plan Legislation	) Renewable Energy Program
(Public Utilities Code Sections 381,	)
383.5, and 445; [SB 1038])	)
	)

**COMMENTS OF POWEREX CORP.  
ON  
PROPOSED CHANGES TO THE RENEWABLES PORTFOLIO STANDARD**

**I. Introduction**

In its workshop on April 17, 2006, the California Energy Commission's Renewable Committee ( Committee) will solicit public comments on its proposed changes to the Renewables Portfolio Standard Eligibility Guidebook (the Eligibility Guidebook), the New Renewables Facilities Program Guidebook, and the Overall Program Guidebook for the Renewable Energy Program. The Committee has also invited interested parties to submit written comments on the proposed changes.

Powerex is submitting these comments on the Eligibility Guidebook for the Committee's consideration. Powerex is the marketing subsidiary of British Columbia Hydro and Power Authority (BC Hydro). Powerex sells power at wholesale in the United States pursuant to market-based rate authority granted by the Federal Energy Regulatory Commission, including supply from competitively-priced qualifying renewable (small hydro, biomass and landfill gas)

generation facilities. Powerex wishes to support and participate in California's Renewables Portfolio Standard Program (RPS Program) and appreciates the opportunity to comment on the proposed changes to the Eligibility Guidebook.

## **II. Comments on the Proposed Changes to the RPS Eligibility Guidebook**

Among other things, the Committee is proposing certain changes to the delivery requirements for out-of-state facilities. Powerex, however, is unclear as to the purpose or intent of some of those proposed revisions. One of the delivery requirements, set forth at page 20 of the Guidebook – "Eligibility of Out-of-State Facilities – Delivery Requirements," is that a facility must either engage in an interchange transaction with the CA ISO to deliver the facility's generation to the market hub or substation in the CA ISO control area "or engage in an interchange transaction with another control area operator to deliver the facility's generation to an in-state location that satisfies applicable CPUC rules for delivery location."

Powerex is unsure why the quoted clause was added to the section defining delivery requirements and believes it creates some uncertainty. As a result, Powerex suggests that it would be useful if the Committee would provide clarification in this regard, including some elaboration concerning the purpose and effect of the proposed revision.

In view of this uncertainty about the nature and scope of delivery requirements for eligible out-of-state facilities, Powerex would also like to address another ambiguity that continues to exist with respect to delivery requirements as currently set forth in the Guidebook. As we stated in our previous comments, Powerex is concerned that the language in the Eligibility Guidebook may inadvertently restrict some out-of-state generators from participating in California's RPS Program. In our view, the language in the Eligibility Guidebook contemplates a standard model or vision of how transactions will occur under the RPS Program, but does not

recognize that there may be different types of qualifying transactions than those contemplated under the standard model. Specifically, the Guidebook appears to primarily focus on direct transactions between the owner/operator of an RPS-eligible facility and retail sellers of electricity who purchase the output from the RPS-eligible facility. The Guidebook, however, does not appear to contemplate, much less accommodate, transactions in which a third-party has contracted for the supply generated by an RPS-eligible facility and, in turn, contracts with a retail seller of electricity to provide supply from its portfolio of supply backed by RPS-eligible facilities.

For example, the Eligibility Guidebook clearly contemplates that only a facility, or a retail seller that is purchasing the output from that facility, will be interested in certifying the facility as renewable or otherwise participating in the RPS process. This model or approach does not take into account that a facility may have contracted to sell all of its output to a third party, and that the third party may be contractually entitled to apply to certify the facility on its behalf; register the facility with the North American Electric Reliability Council (NERC); etc.

In British Columbia, many renewable facilities have entered into long term contracts to sell their energy and the associated environmental attributes to BC Hydro. Powerex has the rights to market the excess capability of the BC Hydro system and the environmental attributes of these renewable facilities in excess of BC Hydro's domestic needs. The energy transactions from these facilities are not scheduled or tagged within the British Columbia control area. This is consistent with the manner in which intra-control area transactions are handled by other control areas within the Western Electricity Coordinating Council (WECC) and within the CAISO control area. The NERC tagging requirement is applicable to interchange transactions which by definition are energy schedules between control areas. In our view, the Eligibility

Guidebook should allow NERC tags with a source being the control area where the renewable facility resides instead of the source being the facility. This would allow renewable energy suppliers such as Powerex that have rights to system-backed renewable generation to compete to provide renewable energy to California utilities. Powerex believes the Eligibility Guidebook should be revised to reflect that the source on a NERC transaction tag can be the control area where the generating facility is located. In addition, we believe that, to verify deliveries from out-of-state facilities, the Energy Commission should compare the monthly generation data from the facility with the monthly NERC tag data scheduled from the source control area.

Powerex also believes that the Eligibility Guidebook should be revised throughout, as appropriate, to include references to third parties that have a contractual right to the energy and environmental attributes of a facility

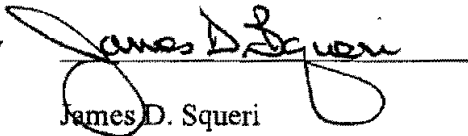
### **III Conclusion**

As stated above, Powerex is concerned that the language in the Eligibility Guidebook may inadvertently preclude system-backed, out-of-state renewable facilities from participating in California's RPS Program. Powerex believes the Eligibility Guidebook should be revised to reflect the fact that third parties that have the contractual rights to the output of renewable facilities may wish to participate in the RPS program. By ensuring the Eligibility Guidebook includes these types of arrangements, the Committee will enable more attractively-priced renewable generation to be available to consumers in California.

Powerex thanks you for the opportunity to comment.

Respectfully submitted this 14th day of April, 2006 at San Francisco, California.

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