California Energy Commission
Dockets Office, MS-4
Re: Docket No. 02-REN-1038
1516 Ninth Street
Sacramento, CA 95814-5512

Global Ampersand LLC

Comments from Global Ampersand LLC regarding: Guideline Revisions for the Existing Renewable Facilities Program

DOCKET

DATE JUN 16 2008

RECD. JUN 17 2008

prepared by Global Ampersand LLC

June 16, 2008

Thank you for providing Global Ampersand, LLC the opportunity to comment on the proposed Guideline Revisions for the Existing Renewable Facilities Program ("ERFP"). CEC staff and industry participants have been discussing four distinct approaches to distributing funds. Of these, only Option 1 (proposed by CEC staff) and Option 2 (proposed by the California Biomass Energy Alliance - "CBEA") are true alternatives. Option 3 is the "EARS" matrix developed earlier in the year by CEC staff; while, in our opinion, the EARS matrix represented a reasonable and workable solution, it appears CEC staff have been directed to develop a yet simpler approach. Option 4 is a return to the approach taken prior to passage of SB 1250, and as such, is not a viable alternative.

Global Ampersand is leading a project to refurbish two 12.5 MW gross biomass facilities in California: El Nido and Chowchilla II. At this point, Chowchilla II is online in start up mode at about half power, working out kinks leading up to the start of our PPA test. El Nido is expected to be generating in start up mode by early July. We expect financial close on our tax equity, which will take out our construction loan, around mid July, coinciding with COD for both plants. Our comments follow below:

1. Subsidy payments from the Existing Renewable Facility Program constitute a key revenue stream for financing purposes. As mentioned above, the tax equity investment is necessary to retire our construction loan. If the construction loan is not retired as planned, our project will be in default under the construction loan, and outcomes will be highly uncertain, but include the possibility of a distress sale or collateral liquidation. The Base Case financial model supporting our tax equity transaction makes assumptions about ERFP subsidies that reflect outcomes to our

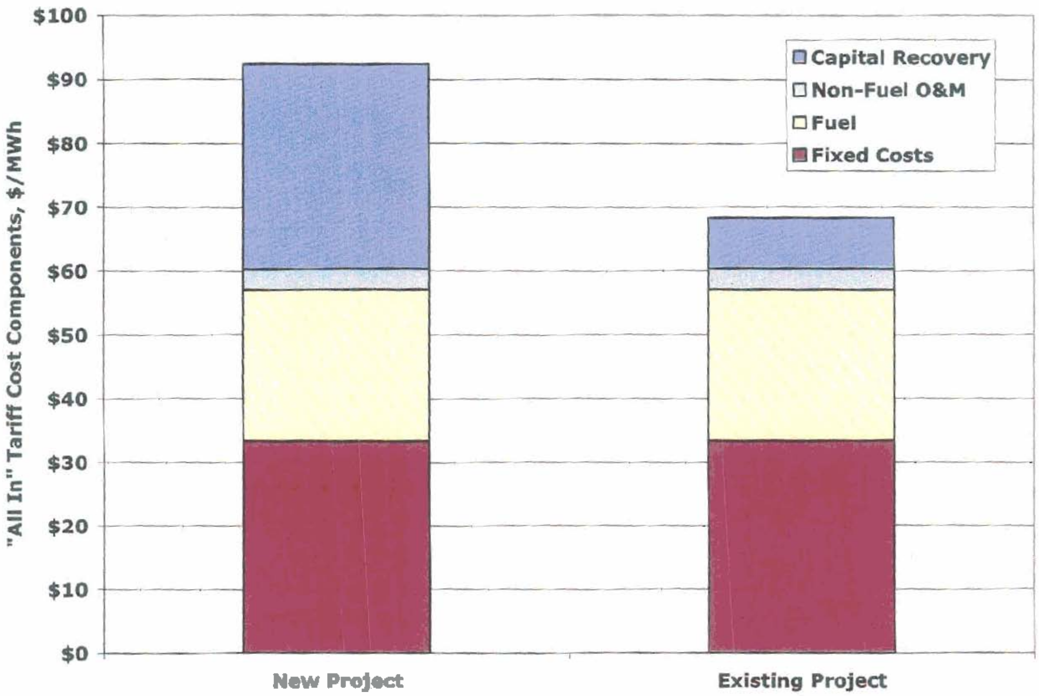
project under the EARS Matrix. Our project is far behind schedule and far over budget, for reasons beyond our control, and indeed, related in part to continuing uncertainty over ERFP rules. It is critical for our project to at least maintain expected Base Case ERFP subsidies.

2. Outcomes under the Option 2 approach proposed by the "CBEA" appear to result in dramatically lower subsidies to our project (according to CBEA's modeling, which has been shared with industry participants), which may imperil financial close and completion of our project. According to the CBEA's analysis of Option 2, our project would receive less on a $/MWh basis under the proposal than was expected under program rules prior to SB 1250, less than our (unused) 2007 award, less than under the EARS matrix, and less than under Option 1. In other words, Option 2 represents the worst outcome we have seen so far. At the level of basic fairness, it does not seem right to reduce our subsidy as Option 2 would. Delay to COD of our plants, originally expected online in May 2007, has been a serious downside event for us. This is especially true with regard to the ERFP, since the expiration of the program in 2011 means that at any given award level, each day of delay to coming online implies a permanent loss of program funding. Conversely, at any given funding level, delays to our project represent upside to other program participants, who can now share "the pie" among fewer mouths. Reducing funding awards to our project at this point would rub salt in our wounds.

3. Our project has not used any ERFP funds to date. One of the criteria for evaluation of awards mentioned in SB 1250 is "the cumulative amount of funds the facility has received previously from the commission and other state sources". This criterion bears directly on the issue of whether an award "will make the facility competitive and self-sustaining within the 2007-2011 investment cycle." It seems clear that the intent is to wean off the program those facilities that have received much funding over the years, not the other way around. While we do not believe the Commission needs to use this or other specific criteria (aside from energy price under PPAs) to determine awards, as we have argued in past submissions to the CEC, we object to this criterion being ignored while certain other (unknown) criteria are not. For example, the CBEA's analysis of Option 1 and Option 2 shows our project receiving significantly lower $/MW awards than other projects, yet we would appear to qualify for the full capped award under both. Unless other, unspecified, criteria are being employed, this sort of inequality of outcomes is not possible. (Note that the discrepancy holds up on a $/MWh basis as well, and does not appear to be related to modeling of our plants as only available for six months in 2008).

4. One of the goals of the ERFP program is to increase renewable generation in the near term. Our project is fundamentally different than others in the program in that ours is involves two newly refurbished power plants. Total project investment just prior to financial close with our tax equity investor will be approximately $42 million, a large investment that we think constitutes a major portion of total investment in the existing California biomass industry over the past several years (excluding maintenance). Required returns on this capital are a much larger component of our "all in" revenue requirement than for other plants in the program whose original

investments have been largely amortized, as depicted in the chart below. The chart compares the "all in" or monomic revenues required to cover all project costs (fixed costs, fuel costs, non-fuel O&M, and capital recovery). For our project, capital recovery comes to over $30/MWh (Excel "PMT" function at $42 million, 10% interest, and 20 year useful life. These values are indicative). For a hypothetical existing plant with the same original investment but only five years of useful life remaining, capital recovery comes to less than $10/MWh. We appreciate that the goal of increasing biomass generation may conflict with other program goals, especially given the recent run up in diesel and wood fuel prices, but again, if criteria <u>other than</u> a project's PPA energy price are used to determine awards, we are convinced that one of those criteria should be the amount of funds program participants have received to date (as a proxy measure of capital recovery needs).



5. The CBEA and others have argued forcefully for increased subsidy parity for program participants. Global Ampersand agrees in principal, and has stated as much through public comment and private communications with CEC staff. Option 2, however, appears to result in a "some are more equal than others" set of outcomes that, for unknown reasons, leaves our project with much lower outcomes than a number of other plants. Given that our project has never used program funds to date, that our plants represent a major new investment in the California biomass industry, and that our project is at a critical juncture, Option 2 as we understand it, is not an acceptable outcome.

Global Ampersand LLC
717 Atlantic Ave, Suite 1A
Boston, MA 02111
www.ampersandenergy.com

contact:
Eric Shumway/Ben Grunfeld
(617) 933 7204
eric@ampersandenergy.com

6. Global Ampersand supports "Option 1". We do recognize, however, that a spirit of compromise needs to be brought to bear in order for reasonable program rules to be finalized. Accordingly, we would support a modified Option 1 that reduced payments to our project to no less than that expected under the EARS matrix.

7. The two options use the approximate $6 million in "rollover funds" differently. Option 1 would use about half of the rollover in 2008, with the remainder presumed used in 2009, while Option 2 would use basically all rollover funds in 2008. We note that the Option 2 approach penalizes our project (and others) for being offline for part of 2007. At a more practical level, higher retroactive funding for the first half of 2008 does not accomplish program goals, since market participants have already made the decision to generate or not. We support the CEC's approach to use of rollover funds, where such funds are spread across this year, next year, and perhaps even 2010.

In summary, we support Option 1, and are strongly opposed to Option 2, as we understand it. This said, we recognize the need for compromise, and are open to awards to our project below those of Option 1 as long as modified awards do not fall below those suggested by the EARS Matrix. As always, we appreciate the efforts of CEC staff to negotiate the conflicting objectives of program participants, and to accommodate the unclear and difficult-to-implement guidance of the new legislation.

Sincerely,

Eric Shumway
Chief Operating Officer
Global Ampersand LLC

Global Ampersand LLC
717 Atlantic Ave, Suite 1A
Boston, MA 02111
www.ampersandenergy.com

contact:
Eric Shumway/Ben Grunfeld
(617) 933 7204
eric@ampersandenergy.com