

February 16, 2010

California Energy Commission
Docket No. 02-REN-1038 and Docket No. 03-RPS-1078
Docket Unit, MS-4
1516 Ninth Street
Sacramento, CA 95814-5504

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Re: *Draft 2006 RPS Verification Report*

Dear Commissioners:

Thank you for the opportunity to submit these comments, addressing the issues presented by the staff of the California Energy Commission's ("CEC") Renewables Portfolio Standard 2006 Procurement Verification Draft Staff Report ("Draft Report"), which was made available for comment on January 28, 2010. **We commend the Draft Report for its recommendations that would effectively prevent the double counting of renewable energy, and we strongly urge adoption of the Draft Report.** These comments pertain to the RPS Procurement from "Unbundled" Energy Contracts, such as from Mountain View 1 and II Facilities ("Mountain View"), as described in Attachment A of the Draft Report.

The Renewable Energy Markets Association (REMA) represents the collective interests of both for-profit and nonprofit organizations that sell or promote renewable energy products through voluntary markets, including renewable electricity and renewable energy certificates (RECs), to individuals, companies and institutions throughout North America.

For the reasons articulated below, **REMA commends the CEC Draft Report's recommendation to not allow Southern California Edison Company (SCE) to claim procurement from the Mountain View I and Mountain View II wind facilities towards its RPS targets.**

- **The voluntary market purchasers of the RECs from Mountain View did their due diligence, and SCE did not.** For the years 2004-2006, the CEC has determined that approximately 80% of the RECs generated from Mountain View were claimed by the voluntary market. Since these were Green-e certified RECs, they underwent considerable scrutiny, including annual verification process audit. The documents, submitted at the Staff Workshop on RPS Procurement Verification Data Review on March 26, 2009 by 3Degrees Inc., provide evidence that a letter was submitted each year notifying the CEC of these voluntary market transactions.
- The CEC points out in the Draft Report's Attachment A that **the DWR contract under which the energy was procured by SCE provides that all rights and interest in the**

associated RECs remain with the owner of the facilities, not with SCE. In cases where the contracts for energy are clear in specifying that the disposition of the renewable energy attributes do not convey to the buyer of the electricity, that is indisputable evidence that the energy is not RPS-eligible. This is further solidified when those same renewable energy attributes are specifically bargained for by another party, and then publicly reported as such.

- If the CEC were to allow SCE to count the procurement as RPS-eligible, it would be a **sanctioning of double-counting that is prohibited by California law.**¹ The policies are clear. The CEC should respect the legitimate transfer of RECs that was documented in the contracts and confirmed by Green-e Energy verification rather than waiving its own policies and harming voluntary REC consumers and RPS goals in the process.
- **If SCE is allowed to make RPS-eligibility claims, then all parties involved in the sale or purchase of the associated RECs will be harmed.** In this case, the CEC would be taking what was rightfully purchased by thousands of California consumers. Granting renewable energy claims to one party that did not bargain for them by definition deprives the rightful buyer the benefit of the bargain for which they have paid.
- **Allowing SCE to make RPS-eligibility claims would set a terrible precedent for state and national renewable energy policy.** Such a ruling would undermine the legitimacy of the voluntary and compliance REC markets and set a bad precedent not only for California but for all U.S. REC markets. While we recognize that there are unique conditions that led to the reporting error, other policymakers might not understand the subtlety of this case and instead walk away with the headline “double counting allowed in California.”

Thank you for the opportunity to submit these comments.

Respectfully Submitted,



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The views expressed by REMA in this regulatory filing do not necessarily represent the views of each individual member company.

¹ SB 107 states: “A renewable energy credit shall be counted only once for compliance with the renewables portfolio standard of this state or any other state, or for verifying retail product claims in this state or any other State”.
http://www.energy.ca.gov/portfolio/documents/sb_107_bill_20060926_chaptered.pdf