

April 29, 2011

California Energy Commission
Docket Unit, MS-4
1516 Ninth Street
Sacramento, CA 95814-5504

RE: Renewables Portfolio Standard 2007 Procurement Verification Draft Staff Report (Docket No. 02-REN-1038 and Docket No. 03-RPS-1078)

Southern California Edison Company (SCE) appreciates the opportunity to comment on the California Energy Commission's (CEC's) Renewables Portfolio Standard (RPS) 2007 Procurement Verification Draft Staff Report (2007 Draft Staff Report). The 2007 Draft Staff Report correctly verifies most of SCE's 2007 RPS procurement claims as eligible to count towards the RPS. However, CEC staff identifies a portion of the energy generated from the Colmac Energy Mecca Biomass Facility (Colmac) as ineligible under the 2007 RPS requirements, because the facility used 13.5 percent non-renewable fuel in 2007.¹

SCE disputes the staff's conclusion based on the RPS-eligibility criteria set under the CEC's RPS Eligibility Guidebook. The current RPS Eligibility Guidebook states that renewable facilities that commenced commercial operations before January 1, 2002, were certified and operational as a renewable qualifying small power production facility (QF) pursuant to the federal Public Utility Regulatory Policies Act before January 1, 2002, and currently are certified by the Federal Energy Regulatory Commission as a QF, may use up to 25 percent non-renewable fuel, and still count all their output as RPS-eligible.² Older RPS Eligibility Guidebooks in effect during the 2007 time period at issue similarly provided that facilities that were operational before 2002 could use up

¹ 2007 Draft Staff Report at 17-19.

² RPS Eligibility Guidebook, CEC-300-2010-007-CMF, at 31 (Fourth Edition, adopted December 15, 2010). This same language was included in the RPS Eligibility Guidebook adopted in December 2007. RPS Eligibility Guidebook, CEC-300-2007-006-ED3-CMF, at 19 (Third Edition, adopted December 19, 2007).

to 25 percent non-renewable fuel annually and count all electricity generated under the RPS.³ Colmac meets all of these criteria, therefore, all of its generation should count as RPS-eligible for 2007.

CEC staff's proposed disallowance of the 13.5 percent fossil fuel generation from Colmac for 2007 is based on the de minimis threshold for funding under the Existing Renewable Facilities Program (ERFP), which limits the use of non-renewable fuel to 5 percent. However, the de minimis threshold for ERFP funding should have no bearing on 2007 RPS eligibility claims.

Although the RPS Eligibility Guidebook adopted in March 2007 stated that "[d]e minimis for purposes of existing facilities seeking RPS eligibility and funding under the Energy Commission's Existing Renewable Facilities program is 5 percent of all fuels used and measured on an annual energy basis,"⁴ that language does not preclude existing facilities that exceed 5 percent non-renewable fuel, but are under 25 percent non-renewable fuel, from qualifying for RPS eligibility, even if they cannot receive ERFP funding.⁵

Furthermore, the CEC originally set the de minimis threshold for EFRP funding at 25 percent non-renewable fuel, only lowering the standard to 5 percent under revised guidelines adopted in March 2007.⁶ Colmac began the year well within the effective threshold of 25 percent and, allowing for an inevitable lag between adoption and implementation, reasonably complied with the mid-year change to a 5 percent EFRP standard. The CEC should acknowledge the operational difficulties brought by regulatory changes and recognize efforts at Colmac to meet EFRP standards as soon as possible. Although SCE does not believe the de minimis threshold

³ RPS Eligibility Guidebook, CEC-300-2006-007-F, at 3-4, 16 (adopted April 26, 2006); RPS Eligibility Guidebook, CEC-300-2007-006-CMF, at 23-24 (Second Edition, adopted March 14, 2007).

⁴ RPS Eligibility Guidebook, CEC-300-2007-006-CMF, at 21 (Second Edition, adopted March 14, 2007) (emphasis added).

⁵ It was not until 2010 that the CEC clarified that the "de minimis amount of nonrenewable energy resource eligible for the RPS for facilities eligible for or receiving funding under the Energy Commission's Existing Renewable Facilities Program is 5 percent of all energy inputs used and measured on an annual energy input basis, as long as the facility remains eligible for the Existing Renewable Facilities Program." RPS Eligibility Guidebook, CEC-300-2010-007-CMF, at 31 (Fourth Edition, adopted December 15, 2010).

⁶ Existing Renewable Facilities Program Guidebook, CEC-300-2007-005-CMF (Fourth Edition, adopted March 14, 2007).

for the EFRP funding should be applied to RPS eligibility – two fundamentally separate standards – it also asks that staff consider Colmac’s best efforts to comply with the changing standards of various renewable energy programs in 2007.

Accordingly, SCE respectfully requests that the 2007 Draft Staff Report be revised to verify all 2007 generation from Colmac as RPS-eligible.

Sincerely,

/s/ Manuel Alvarez

Manuel Alvarez