



California Energy Commission

**DOCKETED**

**13-RPS-01**

TN # 70580

MAY 03 2013

California Energy Commission  
DOCKETS UNIT, MS-4  
Docket No. 13-RPS-01  
1516 Ninth Street  
Sacramento, CA 95814-5512

Re: PROPOSED REGULATIONS: Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Utilities [Publication # CEC-300-2013-002-SD]

Iberdrola Renewables, LLC (“Iberdrola”) respectfully offers the following comments pertaining to the California Energy Commission’s (“Commission” or “CEC”) Proposed Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Utilities (“POUs”) -- as amended and released by the CEC on April 22, 2013.

Iberdrola is the second largest owner and operator of renewable generation in the U.S. with over 5.5 GW of owned or controlled renewable generating capacity. This portfolio includes approximately 540 MW of operating wind projects in California, including the 189 MW Manzana wind farm which entered commercial service in 2012. Iberdrola also generates and transmits renewable electricity, and provides firming and shaping services, to California load serving entities (“LSE”s) including POUs from various resources in the western United States.

### **Reporting Flexibility:**

SB 1x 2 (Chapter 1, Statutes of 2011) represents a significant change to California RPS law. Iberdrola urges the CEC to provide staff with flexibility to address minor/non-controversial matters to accommodate the dynamic nature of the market. For example, staff should be able to classify market transactions that fit within the RPS law but whose structures may not be reflected exactly in the CEC reporting forms. Staff should have the flexibility to adjust the documentation and reporting forms through transparent discussions with affected POUs and other stakeholders—without having to go through a RPS Guidebook revision process.

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## Transactions Involving Renewable Generators and Their Affiliates:

Iberdrola requests the simple clarification suggested below to confirm that affiliate transactions do not constitute a violation of the “no resale back to the generator” language reflected in Portfolio Content Category (“PCC”) rules for PCC1 and PCC2.

As Iberdrola has noted previously in workshops and comments, the Proposed Regulations (pp. 6-8) may be interpreted to disallow frequently used and normal business transaction structures. Regarding PCC1 [Section 3203(a)(1)], the Proposed Regulations prohibit any “resale of the electricity back to the facility.” Similarly, for PCC2 [Section 3203(b)(2)(E)], the Proposed Regulations includes: “and may not be sold back to that resource.” Iberdrola requests that the CEC clarify that an entity may purchase bundled energy and RECs from an eligible renewable energy resource (“ERR”) owned by an affiliate and such purchase, made on behalf of the POU, does not violate the sections noted above for PCC1 and PCC2. This structure is commonly used by an entity that is providing PCC1 energy scheduled from an out-of-state Eligible Renewable Energy Resource (“ERR”) or an entity that is providing firming and shaping services to a POU for a PCC2 product. The POU will transact with the entity for a PCC1 and/or PCC2 product, and the entity will have scheduling expertise as well as transmission capacity to make the energy deliveries to a California Balancing Authority Area.

In its counterpart regulations, the California Public Utilities Commission (“CPUC”) makes clear that transactions structured in this manner do not violate the sell-back prohibition. For policy, commercial, and consistency reasons, the CEC should do the same.<sup>1</sup>

Regarding PCC1, Iberdrola offers the following proposed edits to the first sentence of Section 3203(a)(1): ***bold is proposed*** language]

“Portfolio Content Category 1 electricity products must be procured bundled to be classified as Portfolio Content Category 1, and the POU must not resell the underlying electricity from the electricity product back to the eligible renewable energy resource from which the electricity product was procured. **An entity that is selling a Portfolio Content Category 1 product to a POU may purchase the bundled electricity product on behalf of the POU from an eligible renewable energy resource owned by an affiliate of the seller.**”

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<sup>1</sup> See CPUC’s *Decision Implementing Portfolio Content Categories for the Renewable Portfolio Standard Program* [R 11-05-005, Page 47, Footnote 80]

Regarding PCC2, Iberdrola recommends the following edits to Section 3203(2)(E):  
(**bold is proposed** language]

“(E) The electricity from the eligible renewable energy resource must be available to be procured by the POU and may not be sold back to that resource. **Such procurement may be made by the POU or by an entity providing shaping and firming (“matching”) services to the POU. The entity providing shaping and firming services may procure electricity from an eligible renewable energy resource that is owned by one of its affiliates.**”

Please see Attachment A for a simple diagram outlining a PCC2 deal structure that Iberdrola believes is consistent with the PCC2 requirements given our interpretation for the allowance of a sale between affiliates.

Thank you for considering our comments, and Iberdrola remains available to assist in any way possible.

Very truly yours,

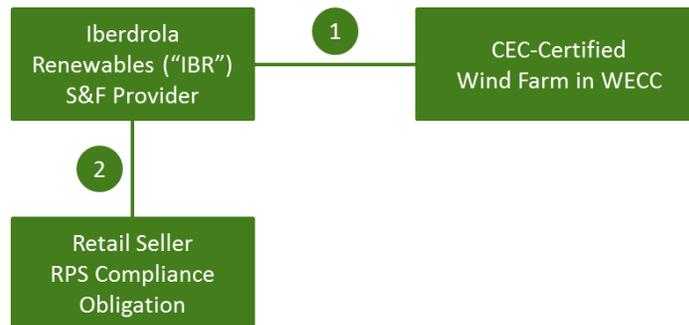
A handwritten signature in blue ink, appearing to read 'K. Lynch', with a stylized flourish at the end.

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## ATTACHMENT A: PCC2 Structured Transaction



Iberdrola and Retail Seller enter into a single contract that includes the following components:

### **1) CEC Certified Energy & REC Purchase**

- On behalf of the Retail Seller, Iberdrola makes simultaneous purchase of energy & associated RECs from Wind Farm (owned by "Project LLC," an affiliate of Iberdrola's)—Iberdrola is the "agent" for Retail Seller (which is the POU in this case)
- Eligible RECs must have vintage within the same calendar year that substitute energy is delivered

### **2) Firming and Shaping Agreement**

- Iberdrola delivers "substitute energy" (that is incremental to Retail Seller's portfolio) in an amount equal to or greater than the bundled energy & REC volume (excess substitute energy is *not* RPS eligible)
- Substitute energy is sourced anywhere in the WECC and scheduled into a CA balancing authority