

In the matter of:

Developing Regulations and guidelines for the 33% Renewables Portfolio Standard	)	Docket No. 11-RPS-01	)	California Energy Commission <b>DOCKETED</b> <b>11-RPS-01</b> TN 72919 APR 17 2014
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### **Comments of NRG Solar LLC in Support of Process to Extend and Waive Deadlines for Renewables Portfolio Standard Certification**

**NRG Solar LLC<sup>1</sup> supports adoption by the California Energy Commission (CEC or Commission) at its April 22, 2014 Business Meeting (Item 11) of staff's recommendation for establishment of a process that would allow the Executive Director to extend and waive application deadlines in the *Renewables Portfolio Standard Eligibility Guidebook, Seventh Edition*(Guidebook 7) for California's Renewables Portfolio Standard (RPS).<sup>2</sup>**

#### **I. Establishing a process to allow waiver and extension for good cause is necessary to avoid unintended consequences.**

As indicated in the Notice, Guidebook 7 does not allow for any waivers or extension of deadlines which means that if a renewable facility misses that date, its eligibility is determined by the month in which the application was filed. This occurs regardless of whether

1. Precertification from the CEC had been issued.
2. The facility's generation that occurred was eligible under Guidebook 7 criteria.
3. Good cause existed for missing the deadline for filing for final certification.

Consequently, as the Notice describes, the generation during this period may not be compensated at all or at the same rate as if it had met the deadline for eligibility. Some of the stated purposes of the deadline were to "...ensure the Energy Commission has the most up-to-date information on RPS certified facilities... and to guard against fraud..."<sup>3</sup> for use of fossil fuels or non-renewable resources. Additionally, the CEC wanted to obtain full information about a project which a pre-certification might not contain. A missed deadline is a procedural matter that will not change the actual fuel content of the generation that has occurred and the Commission can still achieve its purposes if there is an extension or waiver.

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<sup>1</sup> NRG Solar LLC is part of NRG Energy, Inc., the largest independent generator in the United States. In California NRG Energy owns fossil fuel and renewable facilities as well as district heating and eVgo, an electric vehicle charging company. NRG Solar currently owns over 1200 MWs of solar facilities, mostly located in California.

<sup>2</sup> *Notice to Consider Process to Extend and Waive Deadline for Renewables Portfolio Standard Certification*, dated April 8, 2014(Notice)

<sup>3</sup> Notice, p. 3

For projects which missed this deadline through circumstances that constitute good cause, this potential loss of revenue is a disproportionate penalty weighed against the purposes stated above. Large amounts of compensation may be lost for generation that would have clearly qualified for RPS eligibility, but for the deadline requirement. Therefore, it is appropriate and necessary for the Commission to adopt an extension and waiver process.

**II. The specific criteria and process set forth to grant an extension and waiver appropriate should be applied using a reasonableness standard to evaluate a showing of good cause.**

NRG Solar concurs in the criteria and process to grant a waiver to establish a standard for evaluation and determination of good cause. These provisions will help the Commission to adhere to the objectives for RPS eligibility by ensuring that eligible facilities are not unduly penalized. At the same time, the protocols will ensure that facilities that do not meet the RPS eligibility criteria are treated accordingly. NRG Solar recommends that the Commission apply a reasonableness standard in reviewing the applications.

**III. Conclusion**

Therefore, for the reasons stated above, NRG Solar requests that the Commission adopt the Staff's Recommendation at its April 22, 2014 Business Meeting.

Respectfully submitted, April 17<sup>th</sup>, 2014 by



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