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Dave Mehl, Manager
Energy Section
Air Resources Board
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Gary Collord
Energy Section
Air Resources Board
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RE: Comments on March 11, 2010, Renewable Electricity Standard Preliminary Draft Regulation

Dear Mr. Mehl and Mr. Collord,

First Solar is pleased to have the opportunity to provide these comments on the Air Resources Board's (ARB's) Renewable Electricity Standard (RES) Preliminary Draft Regulation. First Solar is a leading photovoltaic (PV) company with one of the largest manufacturing operations in the world and one of the largest solar project development pipelines in the United States. As a provider of a sustainable alternative to conventional energy sources, First Solar supports ARB's continued progress toward increasing California's reliance on renewable resources through the RES.

The Preliminary Draft takes positive steps from the concept outline toward a final policy. Importantly, the Draft adheres to a "percentage of retail sales" approach, rather than designing a program based on subjective greenhouse gas reduction values. In addition, the Draft eliminates the concept of reducing the RES obligation to reflect progress toward other Scoping Plan measures, such as distributed generation and low emission vehicle goals. With these boundaries refined, First Solar encourages ARB to take two further steps to strengthen the RES:

- Integrate the RES with the Renewable Portfolio Standard (RPS) regulations, adopting the California Public Utilities Commission's (CPUC's) regulations requiring "delivery" of renewable resources and placing limits on the use of renewable energy credits (RECs) for compliance.
- Explore and clarify the integration of CPUC RPS regulations and ARB's RES regulations.

Taking these steps will encourage the development of new renewable resources, support California's economy and provide much-needed regulatory certainty to drive project finance.

HARMONIZE RPS AND RES PROVISIONS REGARDING "DELIVERY" REQUIREMENTS AND REC USAGE.

The Preliminary Draft contemplates eliminating the "delivery" requirement present in the state's RPS program. The Draft thus proposes to include as eligible resources "*out-of-state facilities that meet the requirements of the RPS program excluding its delivery requirement.*" In addition, ARB's draft contemplates the possibility of allowing the unlimited use of unbundled and undelivered RECs for RES compliance. If these two deviations from today's RPS program were adopted, a utility could procure unbundled RECs or bundled electricity from a renewable generator anywhere within the WECC without limitation.

First Solar encourages ARB to harmonize the RPS and the RES regulations by incorporating existing RPS features into ARB's final regulation. Both the Legislature and the CPUC have gone to great lengths over many years to consider and define a workable and balanced RPS framework. Most recently, in D.10-03-021, the CPUC clarified the application of the delivery requirement and placed explicit limits on the use of RECs. Relying on these newly adopted regulations would ensure consistency of regulations for investor-owned utilities and consistency between the programs for the investor-owned and publicly owned utilities. This consistency would eliminate confusion and bring regulatory stability, thereby encouraging continued investment in California renewable projects. There is simply no need for ARB to "reinvent the wheel" in addressing the delivery requirement or REC usage limits.

ENSURE RPS AND RES COMPATIBILITY

The draft leaves in question precisely how the RPS and RES will interface. The Q&A document states ARB's intent to continue "*the same administrative roles for the CEC and CPUC*" and "*all basic monitoring and reporting procedures.*" In addition, because the RPS statute requires that the IOUs follow the RPS regulations adopted by the CPUC, the IOUs will, from a practical standpoint, follow CPUC regulations up to 20%, whether for RES or RPS compliance. Beyond these general principles, however, the question of program integration lies unexplored.

As with eligibility requirements, First Solar encourages ARB to maximize consistency between RPS and RES features to increase regulatory clarity and certainty. Even with comparable features, however, the regulations could benefit from clarification on a variety of issues. For example, will the IOUs continue to use the same procurement process used to fulfill their RPS requirements, including the "least cost best fit" analysis? Will ARB penalties apply to IOUs failing to meet their 20% RES requirements? The final regulation will benefit from greater clarification of the interaction of the two programs.

First Solar appreciates the opportunity to provide these comments and welcomes any questions. Thank you for your consideration.

Sincerely,



Bryan Crabb
Director, State Government Affairs