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Dave Mehl, Manager
Energy Section
California Air Resources Board
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Gary Collord
Energy Section
California Air Resources Board
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RE: Comments On Draft Analyses For The California Renewable Electricity Standard

Dear Mr. Mehl and Mr. Collord,

First Solar is pleased to see the ongoing commitment of the California Air Resources Board (CARB) to renewable energy and appreciates the opportunity to comment on the draft Renewable Electricity Standard (“RES”) analyses. First Solar is the world’s leading photovoltaic (PV) manufacturer with one of the largest solar project development pipelines in the Western United States. By enabling clean, renewable electricity at lower costs, First Solar is providing a sustainable alternative to conventional energy sources that physically support the CARB’s efforts to provide a high level of air quality for California while also helping the state meet its RPS requirements.

Within California, First Solar has been able to deliver the largest thin-film solar solution in the United States to-date in Blythe, CA and is in the process of developing more than 1GW of projects in California via the Topaz, Desert Sun and Stateline projects. Going forward, First Solar is concerned about the potential for key policy choices in designing the RES to undermine the development of new solar resources, particularly California-based resources. To address these concerns, we offer three recommendations:

- CARB should adopt limits on the use of renewable energy credits (RECs) by load serving entities (LSEs) for compliance with the RES.
- Limits on the use of RECs should be harmonized with the rules adopted by the California Public Utilities Commission (CPUC) for the 20% Renewable Portfolio Standard (RPS) program.
- CARB should not undermine renewable resource development and Scoping Plan GHG reduction goals by reducing the 33% RES obligation to reflect progress in other Scoping Plan measures.

First Solar knows well that the success of new renewable generation projects is affected by financing and access to capital, environmental permitting, site development and transmission capacity expansion approvals. Since many of these factors are particularly challenging in California, building projects in California is time consuming and can be expensive. In addition, companies like First Solar are dependent on negotiating contracts with investor-owned utilities (IOUs) and publicly-owned utilities (POUs) whose investments in renewables are largely driven by RPS requirements.

While RECs will serve the intended objective of increasing LSE compliance flexibility with an RPS/RES, the REC market carries the potential to undermine resource development and the broader purposes of renewable resource policy.

- The possibility exists that interest in RECs could dampen LSE's pursuit of new renewable generation that will serve their load, not just compliance purposes. Recent submissions of the utilities' 2010 RPS plans support the expectation that the utilities will shift their focus in the short-run to RECs, although the extent of their likely reliance is not clear.¹
- It is also possible that the use of RECs, depending upon the delivery requirement and REC limits, will tend to favor resources by technology (e.g., wind versus solar) or by location (e.g., out-of-state versus in-state).
- Finally, the REC market could undermine investment in solar projects that have multiple benefits to California. These additional benefits include reduction of criteria pollutants, a diversification of our energy portfolio, peak power generation and job creation.

For all of these reasons, First Solar supports placing a limit on an LSE's use of RECs for RES compliance, ranging from 20-30% of the LSE's compliance obligation. This gives utilities flexibility to meet their RES compliance, but limits the negative impact of an over-reliance on RECs. The extent of the limit will depend on other important design features. If, for example, CARB limits RES eligibility for bundled transactions based on whether the energy from the resources is actually delivered to California (a feature of the current RPS program), then a higher limit might be required to provide the LSEs adequate compliance flexibility. If there are no delivery limits on bundled contract eligibility, then a lower REC limit would better balance the need for flexibility with the concern over the direction of resource development. In addition, CARB must harmonize the RES regulations with the 20% RPS regulations to avoid market distortions and conflicting program objectives.

Beyond the question of REC limits, First Solar has concerns with developing a market structure that has significantly different rules for IOUs and POUs. Unlimited use of unbundled RECs will be inconsistent with recently adopted CPUC policy and frustrate California's policy priorities. Since IOUs are subject to the CPUC policy on use of RECs and POUs are not, were CARB to vary from the CPUC ruling it would create two sets of rules for RECs; one for IOUs and one for POUs. This would cause confusion in the marketplace and could serve as a deterrent to continued investment in California renewable projects.

¹ See, e.g., PG&E RPS 2010 Renewable Energy Procurement Plan (Draft), at 37-38 (“To encourage more market participation and allow more timely responses from TREC providers once TRECs are available for RPS compliance, TRECs for RPS compliance are included in this 2010 RPS Plan in principle and will become effective after TRECs are approved for RPS compliance.”); see also SCE 2010 RPS Procurement Plan (draft), at 33 (“As an integral part of approving this 2010 RPS Procurement Plan, SCE requests that the Commission approve SCE's ability to enter into unbundled REC transactions as part of its procurement authority immediately upon issuance of a Commission decision authorizing unbundled RECs.”)

Finally, First Solar would also like to express concern regarding the manner in which CARB has proposed to harmonize its Scoping Plan objectives for the RES. The 33% RES Concept Outline, as proposed, would offset an LSE's RES compliance obligation to the extent that the LSE engaged in other AB 32 activities, including procurement from combined heat and power (CHP), support for distributed generation and sales of electricity as transportation fuel. While each of these measures carries its own value, attempting to harmonize them within the RES will actually undermine AB 32 and the Scoping Plan and shrink the 33% RES obligation. By reducing the RES obligation to reflect progress in other areas, CARB would essentially collapse the measures and reduce the GHG reductions that would be achieved. To maintain the state's focus on the benefits of renewable generation and to avoid undermining the Scoping Plan, First Solar opposes the proposal to reduce the RES obligation to reflect other Scoping Plan measures.

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

Sincerely,



Maja Wessels
Executive Vice President, Global Public Affairs
First Solar Inc.