Comments of Iberdrola Renewables
On CARB's Cap-and-Trade Regulation

Iberdrola Renewables appreciates the opportunity to provide comments on the California Air Resources Board ("CARB") Reporting Regulation. Iberdrola Renewables is a non-transmission owning independent power producer engaged in the development and operation of wind, solar, biomass and thermal energy facilities, and in providing other energy services. Iberdrola Renewables, with its affiliates and subsidiaries, is the second largest wind energy generator in the United States, with more than 5,800 megawatts of operating wind energy generating capacity. Iberdrola Renewables supports the overall objective of California's cap-and trade program and would appreciate the opportunity to work with CARB staff to address the issues raised below.

Evidence for RPS Adjustment

Iberdrola Renewables sells wind energy to numerous customers under long-term contracts and imports this energy into California on the customers' behalf. Under certain contracts Iberdrola delivers renewable energy to counterparties that may or may not be sourced directly from the wind facility under contract. For megawatt-hours both directly and not directly delivered by the wind facility under contract, the customer receives RECs from the contracted wind resource. The energy delivered under these contracts that is not directly delivered from the wind facility qualifies for the RPS Adjustment under CARB's reporting regulation.

The Cap-and-Trade Regulation in section 95852(b)(4) states:

RPS adjustment. Electricity procured from an eligible renewable energy resource reported pursuant to MRR must meet the following conditions to be included in the calculation of the RPS adjustment:

(A) The electricity importer must have:
   1. Ownership or contract rights to procure the electricity and the associated RECs generated by the eligible renewable energy resource; or
   2. A contract with an entity subject to the California RPS that has ownership or contract rights to the electricity and associated RECs generated by the eligible renewable energy resource, as verified pursuant to MRR.

(B) The RECs associated with the electricity claimed for the RPS adjustment must be placed in the retirement subaccount of the entity subject to the California RPS, and party to the contract in 95852(b)(4)(A), in the accounting system established by the CEC pursuant to PUC 399.25, and designated as retired for the purpose of compliance with the California RPS program within 45 days

of the reporting deadline specified in section 95111(g) of MRR for the year for which the RPS adjustment is claimed.

(C) The quantity of emissions included in the RPS adjustment is calculated as the product of the default emission factor for unspecified sources, pursuant to MRR, and the reported electricity generated (MWh) that meets the requirements of this section, 95852(b)(4).

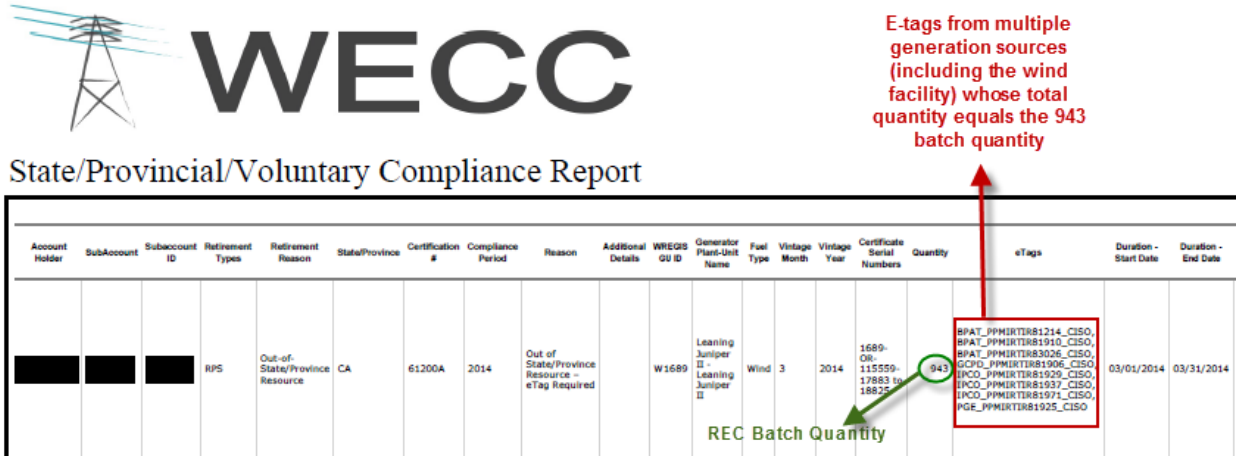
(D) No RPS adjustment may be claimed for an eligible renewable energy resource when its electricity is directly delivered.

(E) No RPS adjustment may be claimed for electricity generated by an eligible renewable energy resource in a jurisdiction where a GHG emissions trading system has been approved for linkage by the Board pursuant to subarticle 12.

(F) Only RECs representing electricity generated after 12/31/2012 are eligible to be used toward the RPS Adjustment

For the contracts referenced above, Iberdrola appropriately claimed eligible deliveries on its 2014 report as eligible for RPS Adjustment according to the regulations. Iberdrola removed all energy quantities associated with directly delivered energy from the total eligible quantity of RPS Adjustment (with evidence of all REC serial numbers associated with these transactions that had been transferred to customers and retired), and reporting the quantity of directly delivered energy as directly delivered and not eligible for the RPS Adjustment. In the final review of its report, however, Iberdrola's verifier refused to accept the company's evidence associated with its RPS Adjustment given a random sampling of e-tags included on the WREGIS report included some e-tags associated with energy that had been directly delivered by the renewable facility.

As stated above, Iberdrola identified such directly delivered imports and removed such imports from the RPS Adjustment quantity, reporting such energy as directly delivered. Further, it is not possible to match each individual e-tag with an individual REC serial number nor cleanly separate REC serial numbers for energy that has been directly delivered due to WREGIS system limitations, including REC serial number creation, reporting in WREGIS and the e-tag matching functionality in WREGIS. Additionally, WREGIS Certificates are *monthly* instruments, created for each generation month based on the actual generation from the asset for such month and uploaded to WREGIS. NERC e-tags are *hourly* instruments created daily. Certain serial number strings on the WREGIS retirement report will inevitably include e-tags related to energy directly delivered from the renewable resource. This shouldn't be an issue given an importer's obligation to identify such directly delivered imports and remove them from the RPS Adjustment. The screenshot below from a redacted WREGIS report demonstrates this matching and resulting limitation.



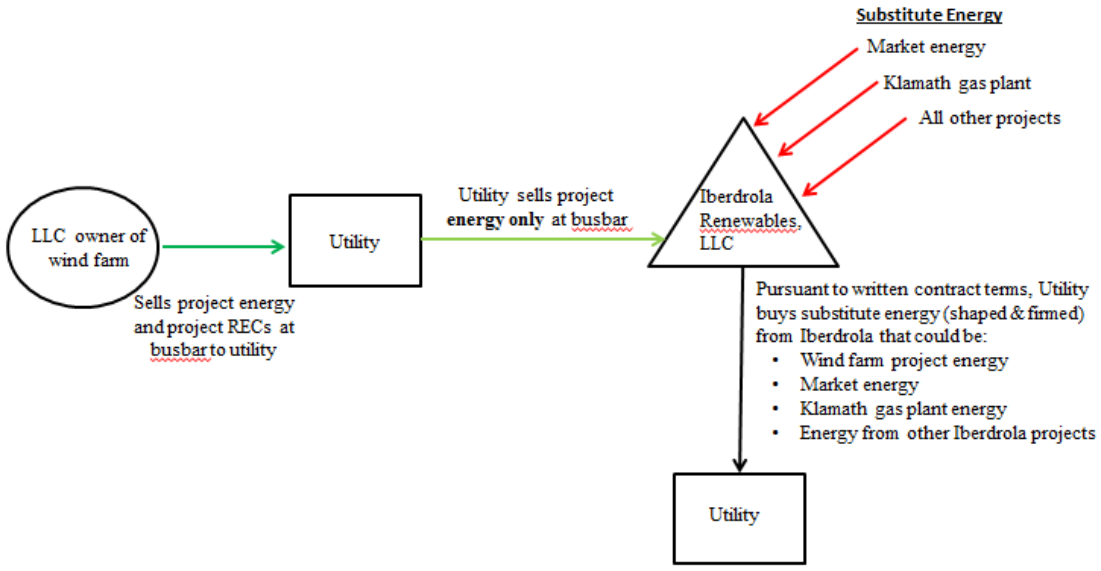
Once the compliance entity receives the monthly batches of RECs from Iberdrola, they need to "match" the RECs to e-tags associated with the contract deliveries in WREGIS in order to use such RECs for RPS compliance. The compliance entity works to match e-tags in quantities of megawatt hours that equate to the number of RECs in a batch.

As demonstrated, requiring an exact match of REC serial numbers to megawatt quantities claimed for RPS Adjustment is not possible given e-tags sourced from the renewable resource will inevitably be batched with other generation sources, and such matching must be based on the monthly WREGIS vintage, as opposed to the NERC e-tag hour-by-hour, basis. All megawatt hours associated with directly delivered energy were reported as Specified Imports on Iberdrola's report and removed from the eligible quantities of megawatt hours for the RPS Adjustment to ensure no double counting or otherwise inaccurate claims for emissions associated with imported energy. Iberdrola maintains full documentation of all imported megawatt hours under these transactions which clearly identifies quantities associated with the directly delivered energy and the remaining quantity claimed under the RPS Adjustment. WREGIS reports with sufficient REC serial numbers to cover *both* the directly imported quantities and the RPS Adjustment provides clear evidence which should be sufficient, despite the impossibility of tying hourly NERC e-tags to WREGIS monthly individual REC serial numbers.

Iberdrola finds no requirement in the Mandatory Reporting regulations for matching of e-tags to RECs to take the RPS Adjustment. §95111(g)(M) refers to "serial numbers of the RECs" and makes no mention of e-tags. §95852(b)(4), the RPS Adjustment provision, also makes no mention of e-tags. In Section 4.3.11 of its "Electric Power Entity Reporting Requirements Frequently Asked Questions" guidance issued April 22, 2015, the CARB stated "RECs associated with the RPS adjustment should be reported in the REC serial tab, and should match the total number of MWh listed in the RPS." As demonstrated above, it is not possible to cleanly separate REC serial numbers for directly delivered energy and assigning portions of batched REC serial number strings to the RPS Adjustment to match the total number of megawatt-hours may result in directly delivered e-tags appearing to be attached to RPS Adjustment REC serial numbers. Iberdrola respectfully requests the CARB remedy this issue and provide additional, clarifying guidance to enable entities to accurately report their imported emissions in compliance with the California Cap and Trade Regulation.

Asset-Controlling Supplier (ACS) Power Requirement Inconsistency

Iberdrola Renewables has certain contracts which transfer the environmental attributes from all energy from a specific renewable resource to a given counterparty. Some of these contracts include a "shaping and firming" component which can result in energy being delivered to a counterparty from an alternate source, but with a corresponding amount of REC serial numbers. These transactions are similar to the contracts discussed above, but the counterparty is the importing entity and is the last PSE on the e-tag when the energy crosses the California geographical border, not Iberdrola Renewables. A diagram of this contractual structure follows where the "Utility" represents Iberdrola's counterparty:



As shown, under these contracts Iberdrola Renewables buys back only the project energy – without the environmental attributes – from the counterparty and delivers a flat block of energy to the counterparty at a specified delivery point. The energy for each of those flat block deliveries can come from the market, any other project owned or sponsored by Iberdrola, or the project itself. These contracts specifically provide that Iberdrola can deliver the flat block from any of these three different sources; Iberdrola makes no warranty whatsoever that the flat block is project energy; in fact the parties to the contract have agreed quite the contrary. Therefore, none of these direct deliveries are pursuant to transactions in which the requirement set forth in Section 91114(a)(4) that "seller warrants the sale of specified source electricity from the source through the market path" is met and accordingly, pursuant to §95111(a)(4), this energy cannot be imported electricity from specified sources. The matching of energy from a project to a specific delivery is essentially random on an individual pre-schedule basis. Iberdrola Renewables understood from CARB workshops on both Asset Controlling Supplier (ACS) and specified source rules that "getting matched up on ICE" was insufficient to permit a buyer to claim a specified source. Accordingly, Iberdrola Renewables understood the specified source warranty in the regulation as implementing CARB's rule to prevent this.

Iberdrola Renewables made this argument to the CARB staff to support its inclusion of any energy directly delivered from these renewable resources as "Unspecified" given Iberdrola does not own any

environmental attributes to the associated energy and does not warrant the sale from a specified source. The CARB rejected Iberdrola's argument and required Iberdrola to report all direct deliveries as "Specified". The CARB staff determined that despite the contracting structure, since Iberdrola controlled the special purpose wind farms that were different corporate entities from Iberdrola, Iberdrola was deemed the Generation Providing Entity (GPE) and was required to report all deliveries from its owned wind resources as "Specified". This determination seemed to focus on the corporate structure to apply to a GPE rule that seems designed to prevent a source that was above the unspecified source from using contracting structures to avoid reporting what would in such a case be an artificially lowered unspecified source factor for high emitting resources to force Iberdrola to take the benefit of being a low emitting resource away from Iberdrola's customers. This created a significant commercial disruption given Iberdrola's counterparties had paid for all RECs associated with the renewable facility, rightfully owned the environmental attributes, and were expecting to be able to utilize all REC serial numbers to support their own RPS Adjustment. Last-minute commercial agreements had to be negotiated to enable Iberdrola to remedy the commercial disruption and make its counterparties whole.

Iberdrola is confused by the position taken by the CARB on this matter. The situation described above is carbon neutral and does not permit double counting. If Iberdrola had not been required to report the deliveries as "Specified," and instead reported the imports as unspecified at the unspecified emission factor, the counterparties would have utilized those same REC serial numbers to support their RPS Adjustment, Iberdrola would have purchased allowances for the unspecified source imports, and no change to the overall reported emissions would have occurred.

Iberdrola cannot reconcile the CARB's determination on this issue with CARB's existing rules related to ACS energy. In its "Staff Report: Initial Statement of Reasons for Rulemaking; Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions" guidance issued in September 2013, the CARB determined ACS power could be marketed as "Specified" or "Unspecified" based on the ACS entity's arbitrary determination of which power they were selling (i.e. if a counterparty did not agree to pay a premium for the power, it was deemed unspecified with the default carbon emissions rate even though the ACS power they were sourcing from had a near-zero emission rate). This determination is contrary to the application of GPE requirements on Iberdrola. Iberdrola's understanding that the RPS Adjustment could be taken by the buyer of the RECs if Iberdrola reported the imported energy as unspecified would result in accurate net reporting, even if CARB disagreed with which entity was assigned the emissions. Iberdrola believes its understanding is also consistent with the purpose of the program itself "cap and trade," allowing entities in the system to determine which will pay for the emissions, so long as the overall cap is in place.

Iberdrola pointed out to CARB staff that it was at worst, seeking to take on for itself a compliance obligation, that was increased by exactly the same amount by which its customers were benefited through the RPS Adjustment. CARB staff replied that it would not be proper for Iberdrola to overcomply, because the Mandatory Reporting Regulations were concerned with "accuracy." In contrast, to such "accuracy," however, the current CARB rules for ACS power result in considerable quantities of ACS-sourced power being reported as "Unspecified" with a .428 metric tons per megawatt-hour of carbon allocation. For Iberdrola alone, this resulted in significant quantities (more than 35% of its total Unspecified Imports) of clean, ACS-sourced power being reported with a considerable carbon

imputation. If the CARB were truly focused on accuracy, *all* ACS-source power would be reported at the near-zero carbon emission factor to properly reflect the carbon profile of the megawatts delivered into California. Inadvertently being "matched up on ICE" applies to California imports for Iberdrola, because Iberdrola owns wind farms, but a requirement of forethought and intentionality for a seller warranty applies to ACS power. This is not consistent, it is not fair, and it is not "accurate."

Iberdrola Renewables requests the CARB revisit their regulations to ensure consistency by either allowing entities who have sold all environmental attributes to counterparties to claim the resulting "null" power as "Unspecified", avoiding the considerable commercial disruption and creating no change to the overall reported emissions, or, alternatively, rectify its determination on ACS power to stop requiring clean, near-zero emission energy imported into California to wear a false carbon emission profile.

Iberdrola Renewables appreciates the opportunity to comment on California Air Resources Board Reporting Regulation and looks forward to engaging with CARB staff to implement improved regulations which are consistent, accurate and workable for reporting entities.