

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Continue  
Implementation and Administration, and  
Consider Further Development, of California  
Renewables Portfolio Standard Program.

Rulemaking 18-07-003  
(Filed July 12, 2018)

**COMMENTS OF THE  
CALIFORNIA WIND ENERGY ASSOCIATION  
ON PROPOSED DECISION ON ENFORCEMENT OF  
CALIFORNIA RENEWABLES PORTFOLIO STANDARD PROGRAM RULES**

Nancy Rader  
Executive Director  
California Wind Energy Association  
1700 Shattuck Ave., #17  
Berkeley, CA 94709  
Telephone: 510-845-5077 x1  
E-mail: nrader@calwea.org

***On behalf of the California Wind  
Energy Association***

July 22, 2019

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Continue Implementation and Administration, and Consider Further Development, of California Renewables Portfolio Standard Program.

Rulemaking 18-07-003  
(Filed July 12, 2018)

**COMMENTS OF THE  
CALIFORNIA WIND ENERGY ASSOCIATION  
ON PROPOSED DECISION ON ENFORCEMENT OF  
CALIFORNIA RENEWABLES PORTFOLIO STANDARD PROGRAM RULES**

**I. INTRODUCTION**

In accordance with Rule 14.3 of the Commission’s Rules of Practice and Procedure, the California Wind Energy Association (“CalWEA”) submits these opening comments on the July 2, 2019, Proposed Decision of Administrative Law Judge Thomas on Enforcement of California Renewables Portfolio Standard Program Rules (“Proposed Decision” or “PD”).

**II. COMMENTS**

CalWEA supports the Proposed Decision to uphold Energy Division’s original determination to impose full noncompliance penalties under the Renewables Portfolio Standard (“RPS”) program on Liberty Power Holdings, LLC and Gexa Energy, California LLC for the first compliance period (2011-2013). We agree with the Proposed Decision that these load-serving entities (“LSEs”) did not meet their burden of showing entitlement to a waiver under the clear grounds for a waiver set forth under statute and Commission decisions. As noted in the PD, the conditions justifying a waiver must be beyond the control of the retail seller and must prevent compliance, and the retail seller must take all reasonable actions under its control to achieve full compliance. The PD amply explains why the LSEs’ excuses do not satisfy these conditions.

In enforcing the clear compliance rules that have been established for the RPS program, the Proposed Decision will set an important precedent that will encourage all LSEs to take RPS program requirements seriously and to take whatever actions are necessary to ensure full compliance (or be prepared to suffer the consequences). Enforcing RPS noncompliance penalties is particularly important given the proliferation of LSEs that has occurred in recent years – LSEs over which the Commission has relatively limited oversight regarding ongoing RPS compliance activities in comparison to the investor-owned utilities. In the future, we encourage the Commission to complete the compliance process on a far more expedited timeline than is reflected in the more than five years that will have elapsed between the end of first compliance period and the decision that will be made in this case. More timely decisions will continue to send signals to LSEs regarding the consequences of failing to fully comply with the RPS program.

### **III. CONCLUSION**

For the reasons above, CalWEA urges the Commission to swiftly adopt the Proposed Decision.

Respectfully submitted,

/s/ Nancy Rader  
Nancy Rader  
Executive Director  
California Wind Energy Association  
1700 Shattuck Ave., #17  
Berkeley CA 94709  
Telephone: (510) 845-5077 x1  
Email: nrader@calwea.org

***On behalf of the California Wind Energy Association***

July 22, 2019

## VERIFICATION

I, Nancy Rader, am the Executive Director of the California Wind Energy Association. I am authorized to make this Verification on its behalf. I declare under penalty of perjury that the statements in the foregoing copy of “Comments of the California Wind Energy Association on Proposed Decision on Enforcement of California Renewables Portfolio Standard Program Rules” are true of my own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 22, 2019, at Berkeley, California.

*/s/ Nancy Rader* \_\_\_\_\_  
Nancy Rader  
Executive Director  
California Wind Energy Association