

## DOCKETED

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CALIFORNIA ENERGY COMMISSION

STAFF WORKSHOP

In the Matter of:	) Docket No.
	) 14-OIR-01
	)
	)
Modification of Regulations	) Staff Workshop to
Governing the	) receive public comments
Power Source Disclosure Program	) on the proposed
_____	) modifications to the
	) regulations

CALIFORNIA ENERGY COMMISSION

THE WARREN-ALQUIST STATE ENERGY BUILDING

FIRST FLOOR, ART ROSENFELD HEARING ROOM

(HEARING ROOM A)

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, JANUARY 6, 2016

9:30 A.M.

Reported By: Peter Petty

## APPEARANCES

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Jordan Scavo, Renewable Energy Office CEC

Caryn Holmes, Legal Counsel CEC

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Public Comment (\* Via telephone and/or WebEx)

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## 1 P R O C E E D I N G S

2 JANUARY 6, 2016

9:37 A.M.

3 MR. CHOU: Good morning everyone, we will go  
4 ahead and get started.

5 So, good morning and welcome to the Energy  
6 Commission. My name is Kevin Chou. I am the lead staff  
7 for the Power Source Disclosure Program. I am joined here  
8 by a small crowd today, so I appreciate all of you for  
9 coming out, going through the bad weather. Joined by  
10 staff, Jordan Scavo, and we also have Caryn Holmes who is  
11 our Staff Counsel. She's right there.

12 So we'll start by going over the agenda today.  
13 And we'll start with some housekeeping. We will talk about  
14 the purpose of today's workshop, the background on the  
15 regulations, and our proposed changes and next steps.

16 Just to start with housekeeping, there are a  
17 bunch of handouts as you were coming in, so hopefully you  
18 all got those. The restrooms are right here on the first  
19 floor. They're just right out that way. We also have a  
20 snack bar that is on the second floor, up the stairs. In  
21 case of any emergencies just follow the appropriate staff  
22 members and we'll direct you to where you need to be.

23 This workshop today is being recorded on WebEx,  
24 so we have some folks who are joining us online. And this  
25 presentation will be available later on, on the

1 Commission's website.

2           For those of you that are in the room, we do have  
3 blue cards, so please go ahead and fill those out and we  
4 will be calling you, actually. We'll have microphones  
5 since we don't have a podium, so we'll just go in order and  
6 we'll hand them to you in the order that you've turned  
7 those in.

8           If you have comments via WebEx, go ahead and you  
9 can raise your hand and Jordan will unmute you. Also if  
10 you have comments over the phone, once we've finished we  
11 will unmute all the lines and we'll take any other  
12 additional comments over the phone. And for written  
13 comments, go ahead and submit those according to the  
14 directions that is in our notice.

15           So the purpose of today's workshop, we are going  
16 to be continuing to discuss the rulemaking process in our  
17 proposed changes to the Power Source Disclosure Program.  
18 We definitely want to encourage and facilitate public  
19 participation. And also, we definitely want to hear your  
20 comments on our Revised Draft Regulations.

21           So before we jump into -- excuse me -- go ahead  
22 and we'll get into the regulations background. Senate Bill  
23 1305, the Energy Commission adopted the regulations in  
24 1998, and it required all electricity providers to disclose  
25 quarterly and annual fuel mix information in the form of a

1 Power Content Label. And that, of course, which identifies  
2 the fuel mix and technology types of a retail supplier's  
3 source of power. And it, at the time, included Net System  
4 Power as the source of California's power mix.

5 Assembly Bill 162 was signed in by Governor  
6 Schwarzenegger in October of 2009. It removed the Net  
7 System Power Disclosure and replaced it with California  
8 Total System Power. And it also added the definition of  
9 "unspecified sources of power."

10 The reporting requirements have now been changed  
11 from quarterly to annually. And as we go into -- these are  
12 some of the milestones that we've gone through. So in the  
13 pre-rulemaking phase we initiated -- we had an order  
14 instituting rulemaking that was adopted on October 8th of  
15 2014. Our draft regulations were posted to the Energy  
16 Commission's website on May 15th of 2015. And we had a  
17 staff workshop that was held on the 28th of May and we had  
18 ten written comments that were received.

19 The formal APA rulemaking phase, we initiated  
20 that last month on December 18th. The Office of  
21 Administrative Law had published our Notice of Proposed  
22 Action in the Regulatory Notice Register. And those  
23 rulemaking documents are posted on our website and those  
24 are currently available.

25 So we have the NOPA, which is the notice of our

1 staff workshop today, and the hearing and the adoption  
2 hearing. Public commenting instructions and the  
3 availability of documents are in there. The Initial  
4 Statement of Reasons, this includes the rationale for all  
5 of our proposed modifications to the regulations in this  
6 rulemaking.

7           During the formal rulemaking phase all oral and  
8 written comments are going to be recorded and are kept in  
9 the rulemaking file, and the adoption for these regulations  
10 are estimated for March of 2016. And of course, once those  
11 are complete the package will be submitted to OAL for their  
12 approval.

13           Of course, copies of the rulemaking documents are  
14 available on the Commission's website at the link in front  
15 of you. And also, you may request copies from staff as  
16 well.

17           So before we get into the proposed changes I just  
18 wanted to highlight that we have copies of express terms  
19 that were highlighted and the highlights represent changes  
20 that were statutorily required. So we won't be addressing  
21 any changes on any topics on unbundled RECs or greenhouse  
22 gas submissions. And that is due to pending legislation  
23 from AB 1110. So if you did file or if you did comment on  
24 RECs or any of those topics of that nature we definitely --  
25 we still have them. And we will take them into



1 consideration when that time arrives.

2           So with that being said we'll one, be able to  
3 utilize our time today by just focusing on comments that  
4 are within the scope of today's workshop.

5           So we'll start by addressing major changes in  
6 Section 1391, "Definitions." We've eliminated Section  
7 1391(a)(1) and (2), any -- the term "claims of unspecified"  
8 -- "claims of specific power." And those were eliminated  
9 by 162.

10           We've added a definition "balancing authority"  
11 and that was added to bring the regulations in line with  
12 the contemporary usage of terms.

13           And we've revised the definition of "eligible  
14 renewable" as required by 162, so that it is in alignment  
15 with the Renewables Portfolio Standard Program. And this  
16 is a status-conferred situation, so that in case if there  
17 are -- in which any changes that are made, they will be  
18 applied towards the Power Source Disclosure Program.

19           We've added a definition, new definition, "non-  
20 California eligible renewable." And this addresses an  
21 issue where retail suppliers cannot identify facilities  
22 that aren't California RPS eligible, but can be eligible  
23 for a different RPS program. And it also allows multi-  
24 jurisdictional retailers to disclose resources that are  
25 still eligible in an RPS program that's outside of

1 California.

2           And Public Utilities Code Section 398.4 gives the  
3 Energy Commission other discretion to add any additional  
4 categories. And that is currently in our list of fuel mix  
5 resources in Section 1393(d)(1)(F).

6           We've updated the definition of "system operator"  
7 and this was for clarity as Public Utilities Code 398.3  
8 makes a reference to this term.

9           We've added the definition of "total California  
10 system electricity." This is statutorily required. We've  
11 also added a definition of "unspecified sources of power."  
12 This is also a statutorily required definition.

13           We've added the definition of "WREGIS  
14 certificate" as obviously WREGIS certificates can be used  
15 by retail suppliers to identify and establish their fuel  
16 type characteristics.

17           Some minor changes that were made, we've updated  
18 some acronyms for the Western Electricity Coordinating  
19 Council. Section 1391(m) we've updated a reference to  
20 statutory code. Throughout the express terms we've updated  
21 -- we've struck out the term "suppliers" and added  
22 "providers," just so that the terms are more in alignment.

23           And in 1391(t) we've made a change to a reference  
24 to the Cal-ISO.

25           Section 1392, Generation Disclosure, we again

1 have changed all references to "system operator: and we've  
2 replaced that with "balancing authority" to bring the  
3 regulations in line with contemporary usage of terms.

4 In 1392(b)(3)(C)(1)(a) we have made some changes  
5 in the naming of fuel types, as well as (b)(3)(C)(1)(c)  
6 "small hydroelectric" has been replaced by "eligible  
7 hydroelectric. And these were all enacted by 162.

8 And finally we've added the category of non-  
9 California eligible renewable.

10 Some minor changes, we have revised -- we've  
11 replaced "subsection" with "subdivision" just to bring the  
12 regulations in line with the contemporary usage of terms.  
13 And this has been done throughout the entire express terms.

14 In the Section 1393 Retail Disclosure to  
15 Consumers -- major changes -- this entire section we've  
16 pretty much gutted and we've proposed to replace the entire  
17 section. Most of the statutory changes affect retail  
18 supplier disclosure to consumers, so we've made a  
19 determination that an entire replacement would just be  
20 simpler and streamlined for folks to understand.

21 We also have provided guidance on pump storage  
22 and also the non-California eligible renewable resources  
23 are addressed in this section.

24 We've added some definitions in Section  
25 1393(a)(1)(2) and (4) and those were required by Public

1 Utility Codes 398.4(b) (c) and (h).

2 1393(b) is related to the requirement to disclose  
3 fuel mix to consumers and that is, of course, required by  
4 Public Utilities Code 398.4(a).

5 And then Section 1393(c) (1) and (2), this  
6 subdivision identifies timing requirements of marketing and  
7 annual disclosures.

8 Section 1393(d), this identifies the specific  
9 fuel mix information that retail suppliers must disclose.  
10 And that is required by PUC 398.4(g) and (h).

11 And, there was a section that -- excuse me --  
12 there were retail sellers that had some questions and  
13 concerns on how pump storage facilities may affect their  
14 calculations of their large hydroelectric generation.  
15 There are some cases where pumping water may require more  
16 electricity than it generates, so a proposed change that we  
17 have come up with is to have this generation to be reported  
18 as zero kilowatt hours if the facility consumes more than  
19 it generates. And this should address it, so that the  
20 changes -- excuse me -- so that these calculations are not  
21 distorted in their fuel mix.

22 In Section 1393(d) (1) (F) the category of "Non-  
23 California eligible renewable" was added and we've  
24 mentioned that from 1391. And adding this addresses an  
25 issue on whether or not calculations should be based on

1 resources that are used to supply California customers.

2 And in 1393(d) (3) our fuel mix calculations are  
3 based on the net purchases of all specific and unspecified  
4 purchases of power that's acquired from the previous  
5 calendar year. And, of course, that is required,  
6 statutorily required.

7 1393(e) (1) and (2), this section establishes the  
8 formatting requirements for the Power Content Label. And  
9 in 1393(e) (3) we've put this together stipulating the  
10 mandatory use of a Power Content Label Template that is  
11 provided by the Energy Commission. And that is on our  
12 website and it does include guidance on how a retail seller  
13 is to fill it out.

14 So I just wanted to show some examples of some of  
15 the variances of the Power Content Labels that we've  
16 received throughout the years. And this is -- if you see  
17 your label on here it's not to call anyone out, but we just  
18 want to give some examples to show the variance that we  
19 have here. So there's a lot of fonts and coloring and  
20 different very unique ways of how a label is constructed.

21 So our goal is to -- really we want to be able to  
22 take the opportunity to examine how we can bring the labels  
23 to be as consistent as possible, so here we have proposed  
24 this is our current revised Power Content Label Template.  
25 And definitely we appreciate all the efforts that you all

1 went through to get them as uniform as possible. So I know  
2 staff has reached out to a lot of you all and again we do  
3 appreciate you guys for your cooperation. So this is the  
4 goal right here that we are shooting to aim for.

5           And moving on to Section 1394, this is related to  
6 the Annual Submission of Reports to the Energy Commission,  
7 so major changes. We've changed the annual report due date  
8 from March 1st to June 1st. Of course, the statute gives  
9 us the authority to select an appropriate date. As many of  
10 you know, the June 1st due date is currently in practice.

11           In Section 1394(a)(1)(B) we have language that's  
12 changed to allow a retail supplier to provide either a hard  
13 copy or an electronic copy of the annual report to the  
14 Commission. And this, of course, would provide reporting  
15 flexibility.

16           And in 1394(a)(2)(A)(1), we have replaced the  
17 term "Energy Commission certificates" with "WREGIS  
18 certificates" as obviously with the implementation of the  
19 WREGIS tracking system covering the WECC region. We have  
20 also EIA, WREGIS and FERC IDs that can be used and included  
21 as well in reporting. And this is already in practice.

22           1394(a)(2)(A)(2) we added this subdivision to  
23 clearly define gross generation, net generation, and resold  
24 or consumed electricity must be reported separately.

25           1394(a)(2)(A)(3) we have changed the Annual

1 Report due date for a power pool from March 1st to June  
2 1st. This, of course, is the June 1st due date that again  
3 is already in practice.

4 1394(a)(2)(A)(3)(a) and (b), the requirement to,  
5 of course, submit Energy Commission certificates was  
6 replaced with the term WREGIS certificates.

7 Section 1394(a)(2)(B), of course the term  
8 "unspecified sources of power" has replaced "kilowatt hours  
9 sold" for each product from sources other than specific  
10 purchases. This was made to reflect AB 162.

11 And in 1394(a)(2)(C) we have changed language to  
12 clarify statutory requirements.

13 In 1394(a)(2)(D) the submission -- this is  
14 regarding the submission on Power Content Labels. And, of  
15 course, changes were made to reflect statutes.

16 In 1394(b)(1) the reporting due date for annual  
17 audits was changed from June 1st to October 1st. And this  
18 is to provide retail suppliers with ample time between  
19 their annual report submission and the due date for the  
20 audit. Of course, the October 1st due date is currently in  
21 practice. And there's some language pertaining to  
22 quarterly Power Content Labels. We've eliminated that.

23 In 1394(c) this language allows the Energy  
24 Commission to investigate any electricity transactions  
25 reported by the retail seller. And that is a statutory

1 requirement.

2           Some minor changes, we've gotten rid of retail  
3 supplier identification numbers. Those numbers are no  
4 longer used by the Energy Commission. We did a little bit  
5 of cleanup with the annual reporting schedules just to  
6 streamline them and to accurately reflect reporting  
7 information.

8           The term "claims of specific purchases" was  
9 eliminated, because obviously the statute requires all  
10 retail suppliers to disclose their specific purchases.

11           Appendix A for Power Content Labels, we've  
12 eliminated this entire subdivision. That appendix had  
13 examples of Power Content Labels, obviously we've taken all  
14 that away as we have a template that is currently online  
15 and we have a template that is proposed.

16           Appendix B, the Energy Commission Certificate  
17 Program, this entire subdivision has been eliminated as  
18 obviously this is an obsolete program that the Energy  
19 Commission no longer uses. With the implementation of  
20 WREGIS this is how we provide renewable generation tracking  
21 throughout the entire WECC.

22           In Appendix C, our Agreed-Upon Procedures, the  
23 major changes include this appendix being renamed to  
24 Appendix A as it is the only appendix here.

25           Subdivision (b), this language reflects the new



1 date for the Annual Report as discussed in 1394(a)(1).

2 In Subdivision (c)(1) we've changed language to  
3 reflect the updating reporting schedules. And in (c)(1)(A)  
4 this references again to the Energy Commission Certificate  
5 Program. We've eliminated that. We have added in lieu a  
6 facility and pool numbers provided by various regional and  
7 federal agencies that a retail supplier can include in  
8 their report for Schedule 1, must be agreed upon.

9 Subdivisions (c)(2)(A) and (B), and this section  
10 here will require that the auditor -- to agree the total  
11 retail sales information use creates Schedule 1 with the  
12 information that is on the actual schedule.

13 And Subdivision (c)(3)(A), this has been  
14 eliminated as it pertains to quarterly and promotional  
15 disclosures.

16 Subdivision (c)(3)(C), this has also been  
17 eliminated as project fuel mixes are no longer required.

18 And in Subdivision (c)(4)(A)(1) and  
19 (c)(4)(A)(2)(a) references to the Energy Commission  
20 Certificate Program are deleted. This is the same  
21 information that I mentioned earlier, facility and pool  
22 numbers from various region agencies must be agreed upon.

23 Some minor changes, non-substantive grammatical  
24 changes, and again we've made some changes to references to  
25 the reporting schedules.

1           Next steps, February 5th, 2016 is the due date  
2 for written comments. And please see the notice for  
3 further instructions. And in March 2016 is when the  
4 regulations are to be considered for adoption here at the  
5 Commission's Business Meeting. And in summer of 2016 the  
6 Office of Administrative Law will file regulations with the  
7 Secretary of State. And the regulations can be effective  
8 upon filing.

9           And last, but not least some contact information  
10 for Jordan and myself are here in case if you have further  
11 questions and comments.

12           So with that, I think we can go ahead and move on  
13 to comments. If there are any -- if anyone wishes to  
14 comment please go ahead and fill out a blue card and Jordan  
15 will be here to collect it.

16           MR. LESLIE: Thank you. I'll sit down if that's  
17 all right. Is this on?

18           MR. CHOU: Perfectly fine.

19           MR. LESLIE: Thank you. My name is John Leslie  
20 and I'm here today representing Shell Energy North America.

21           Shell Energy is a retail supplier as defined in  
22 the rules. It is an energy service provider in California.  
23 It is also a marketer of electric power supplies. And I  
24 say that, because it goes to the first major point that I'd  
25 like to address with respect to the regulations.

1           Some supplies are retail suppliers and that's all  
2 they do is buy power and sell it to retail customers.  
3 There are other suppliers that purchase power, resell some  
4 of the power to other entities that will then sell power to  
5 retail customers, but then also sell power to their own  
6 retail customers.

7           So Shell Energy is in the category of that type  
8 of marketer that is both a wholesale supplier and a retail  
9 supplier. And as we reviewed the proposed modifications to  
10 the regulations, we were concerned that some of the  
11 language would suggest that a retail supplier has to  
12 disclose all of its purchases, not just those purchases  
13 that are sold in that particular year to their retail  
14 customers, which creates a couple of issues.

15           One is that the Energy Commission does not have  
16 authority over purchases and sales made on a wholesale  
17 basis by a retail supplier. And also, it creates a  
18 situation where disclosure of an entity's purchases would  
19 not match the sales that it makes to its retail customers.

20           So that's sort of the broad comment that I make  
21 with respect to that particular issue, that there is  
22 language in the proposed regulations that's good, that  
23 refers to supplies that are sold to retail customers. And  
24 that's what should be reported. But there are other  
25 sections of the proposed regulations that say that you have

1 to report purchases that were acquired by a retail  
2 supplier, without limiting it to those that were sold to  
3 retail customers.

4           There's another issue here too. And that is for  
5 renewable supplies, as you know, for RECs to be retired you  
6 can retire those RECs up to three years after the energy is  
7 generated. So it may be that purchases that are made in a  
8 particular year may not be applied for RPS compliance, may  
9 not be applied to their retail customers until sometime  
10 thereafter.

11           Then there's the additional issue of pre-2011  
12 contracts, where you have RECs that are available for use  
13 at any time in the future. So again, if you're reporting  
14 the purchases that you made in a particular year, you may  
15 or may not be using those purchases to make sales to your  
16 retail customers in that same year.

17           So again, the general comment here is that the  
18 language in several spots in the regulations -- if you  
19 could look at that language -- and we have some written  
20 comments that reflect this, but to look at the language to  
21 be sure that when you ask for information about purchases  
22 by retail suppliers that it refers to purchases that are  
23 used for sales to retail customers in that particular year,  
24 in this case the previous calendar year.

25           So we'd ask that you take a look at that

1 particular issue.

2           The second issue, just in Section 1393(e) you  
3 generally describe the requirements for the Power Content  
4 Label. And the Power Content Label is required for each  
5 electricity product.

6           Well, a retail supplier may have just one  
7 electricity product that it's offering to customers, or it  
8 may have more than one product. And it appears that the  
9 Power Content Label is required for each specific  
10 electricity product that is offered.

11           We want to make sure the regulations are clear  
12 that the Power Content Label is only required for  
13 electricity products that are offered to the public  
14 generally. And in a situation though where a retail  
15 supplier may enter into an arrangement with an individual  
16 retail customer where the mix of supplies may be different  
17 from what is otherwise being offered, that that situation  
18 does not require a Power Content Label, because that's a  
19 one-off individually negotiated arrangement.

20           And what we believe, and what appears to be  
21 correct, is that the Power Content Label should only apply  
22 to those electricity products that are being offered  
23 generally by the retail supplier. So that's our second  
24 comment.

25           Our third comment is more just an observation,

1 and trying to understand a little bit better with respect  
2 to the issue of non-California eligible renewable supplies.  
3 And having read the Statement of Reasons, we understand why  
4 you put that in there, that there may be retail suppliers  
5 that serve customers in California, and in addition in  
6 other states. And there may be supplies that are in their  
7 broad portfolio that include supplies that may be eligible  
8 under, say the Oregon Program, but not necessarily  
9 California.

10           And we understand that. But again, there is this  
11 issue of -- for example Shell Energy -- if it's not using  
12 supplies that may be eligible in Oregon, for sales to  
13 retail customers in California, there should be no reason  
14 for Shell Energy to have to report non-California eligible  
15 renewable supplies in its Power Content Label for  
16 California customers.

17           Again, it is only those supplies that are being  
18 used, to be sold to retail customers in California, in that  
19 previous year. So again, it would be helpful to have some  
20 clarification around that issue.

21           The next issue is -- and I'm sorry, I don't have  
22 -- the definition of specific purchases. I believe it's  
23 1391? Well, whatever it is, it includes a reference to  
24 facilities that are owned or controlled by the retail  
25 supplier. And I think there needs to be a clarification

1 here that owned or controlled is a financial concept. That  
2 there is financial ownership or control of the facilities.  
3 Not that an entity that is classified as a retail supplier  
4 might be the scheduling coordinator, so have some  
5 operational control over the facility.

6 Again, we believe that the intent is that  
7 ownership and control, or control means financial ownership  
8 or control. It does not mean where an entity is simply a  
9 scheduling coordinator under the terms of the ISO Tariff,  
10 so again if you could take a look at that. And perhaps  
11 clarify the definition in that regard.

12 The final comment that we'd like to make has to  
13 do with the modification respecting the reporting of WREGIS  
14 certificate numbers.

15 That, although it seems like a simple addition to  
16 the regulations -- and I know you refer to it as such in  
17 the Statement of Reasons -- it actually creates quite a  
18 burden, and makes it a much more voluminous submission that  
19 has to be made by a retail supplier.

20 It's one thing to report the certificates,  
21 themselves, but to have to report the certificate numbers  
22 for each REC that is relied upon in sales to retail  
23 suppliers, it would multiply that by many times. And we  
24 view the Power Content Label, and the power source  
25 disclosure requirement, as something that is disclosing to

1 consumers, sort of educating consumers as to what your fuel  
2 mix is as a supplier.

3           This is not a validation process. The validation  
4 process is through the RPS Compliance Reporting and the  
5 reports that are submitted to the PUC and also to the  
6 Energy Commission. It seems redundant and certainly  
7 burdensome to require retail suppliers to provide the  
8 WREGIS certificate numbers with respect to all the RECs  
9 that are used to supply retail customers in the reporting  
10 year.

11           So we'd ask you to take a look at that and  
12 eliminate that requirement from that portion of the  
13 reporting obligation.

14           I think those are the comments. Thank you very  
15 much.

16           MR. CHOU: Thank you very much.

17           Go ahead, please.

18           MR. BENGTTSSON: Thanks very much, Nathan  
19 Bengtsson, with PG&E.

20           Well first of all we'd just like to thank staff  
21 for moving forward. Obviously this is a really important  
22 rulemaking, because the PCL is such an important tool for  
23 consumers to make energy choices here in California.

24           And I also want to say that the express terms do  
25 contain, what we view to be some administrative



1 improvements, and we thank you for attention to our  
2 comments and the comments of other stakeholders in making  
3 those. But I just do want to say overall we are concerned  
4 that this version of the reg leaves some key questions  
5 about the PCL open and also adds some maybe unnecessary  
6 complexity.

7 And I was fighting through the rain to get here  
8 on time, so I apologize that I missed the beginning. But I  
9 hear that you already began to address the problem of  
10 unbundled RECs? Apparently, that's going to be taken care  
11 of through the AB 1110 proceeding, But it still bears  
12 mentioning that that's a big concern and that when  
13 consumers are looking at the PCL, they really should be  
14 able to compare, make sort of an apples-to-apples  
15 comparison where everyone is following the same  
16 requirements. And that's an important thing, because this  
17 is about clarity and understanding for the consumer.

18 I also just want to note that in terms of added  
19 complexity this question of the new category on the Power  
20 Content Label, the non-California renewable category that  
21 was mentioned by the gentleman from Shell? Again, the  
22 purpose of the PCL is to provide clarity to the consumer.  
23 And this, I think, raises more questions than it answers.  
24 And I understand your reasoning behind it, but at the end  
25 of the day from the consumer's prospective they're left

1 thinking "What is this? Is this different from -- how is  
2 this different from a California renewable? Is it better  
3 or worse? Is my provider better or worse because they have  
4 more in this category or not?"

5 And I think if it's going to be included, we need  
6 to think about how to make this understandable and  
7 accessible. I think, for now, we would prefer that it  
8 wasn't just because it is such a can of worms.

9 And additionally there's two administrative  
10 elements that we want to address. I'll mention now, we'll  
11 address in detail in our written comments.

12 The first is the issue of the WREGIS  
13 certificates. Our comments are much like those that were  
14 already made. Adding the serial numbers will increase the  
15 burden of the actual work there without necessarily adding  
16 a lot of useful information.

17 And the second issue is the exemption for some  
18 load-serving entities from audit. You know, in the  
19 interest once again, of the consumer being able to compare  
20 apples-to-apples, and there being accountability and  
21 uniformity, that we think that the audit requirement should  
22 apply to all load-serving entities, not just some.

23 And we'll submit written comments, so that you  
24 have our ideas in detail. Thank you.

25 MR. CHOU: Thank you. Do we have another speaker

1 up?

2 MR. GIBSON: Yes, good morning. My name is Jed  
3 Gibson from Ellison Schneider & Harris. We represent a  
4 number of retail suppliers.

5 First of all, I'd just like to thank you guys for  
6 the hard work. We support a lot of the revisions to the  
7 regulations. Some of our clients have expressed some  
8 concerns with respect to the auditing requirement, however.

9 As I understand it the Energy Commission already  
10 verifies some of the information that is to be audited.  
11 And I also notice that there is a change from the last  
12 draft of the regulations where now everybody is audited,  
13 not just those that make specific purchases. So I was  
14 hoping you could provide a bit more of a rationale as to  
15 why that change was made. And just kind of more fully  
16 describe the auditing purpose, as some of the information  
17 is already verified by the Energy Commission.

18 MR. CHOU: Can you, explain a little bit more in  
19 detail of -- which information are you saying that is  
20 verified by the Commission?

21 MR. GIBSON: So, retail sales numbers are  
22 verified by the Energy Commission. Lots of renewables  
23 purchase numbers are verified by the Energy Commission, so  
24 I guess I'm unclear why some of that information needs to  
25 be audited.

1           MR. CHOU: I think that goes back to the Appendix  
2 for our Agreed-Upon Procedures. And that is something that  
3 was established personally prior to my time being here.  
4 But according to those standards there is obviously strict  
5 criteria on there that, you know, would obviously require  
6 that any party that has any type of a purchase that it  
7 would need to be audited.

8           Do you want to...?

9           MR. SCAVO: My name's Jordan Scavo. Auditing is  
10 a good accounting practice. Very often the entities that  
11 do conduct audits catch mistakes that were created during  
12 their initial Annual Report generation.

13           Also, power source disclosure doesn't necessarily  
14 line up well with some of the other areas in which we do  
15 some level of verification -- RPS for example. RPS checks  
16 for REC retirements, but we're talking about purchases in  
17 power source disclosure. And those are two different  
18 things. And those take place over different schedules.

19           Does that lend some clarity to this?

20           MR. GIBSON: Yeah, that's helpful.

21           And then there was a revision in the latest draft  
22 that was circulated that wasn't discussed in the initial  
23 statement of reasons where it eliminated the language in  
24 that auditing Section 1394(b)(1). So it now basically  
25 reads that regardless of whether specific purchases were

1 made you still need to submit the audit. Can you elaborate  
2 on why that revision was made?

3 MR. SCAVO: Can you restate that?

4 MR. GIBSON: Yeah. So in 1394(b)(1) there was  
5 language that was removed that referenced retail suppliers  
6 that made a claim of specific purchases. So as I interpret  
7 that, that would require even if you don't make a specific  
8 purchase you still need to submit an audit.

9 MR. SCAVO: That's a change that reflects the  
10 broader changes that were brought about by AB 162. So AB  
11 162 removed this idea, or this concept of claims of  
12 specific purchases. That might not make sense to some of  
13 you, because it is a concept that in practice we haven't  
14 used in power source for a number of years. AB 162 was  
15 passed more than half a decade ago and we've kind of  
16 informally implemented some of these changes that were  
17 brought about by that law.

18 So a claim of specific purchase was this idea  
19 that a retail supplier would make a claim that they bought  
20 specific purchases of electricity that were renewable.  
21 AB 162 got rid of that and now every purchase is just a  
22 specific purchase or it's unspecified sources of power. So  
23 AB 162 got rid of the option for a retail supplier to not  
24 purchase any renewables and not make any claims that they  
25 had done so.

1           Does that make sense? So every retail supplier  
2 now is designated as a reporting entity that needs to  
3 report all their purchases, specific and unspecified.

4           MR. GIBSON: So given the new compliance period  
5 spanning three years, you could hypothetically have no  
6 renewable procurement in one year, and you could have all  
7 of your procurement from unspecified sources. So with that  
8 you would still need to submit an audit for that?

9           MR. SCAVO: Yeah. The way it is written you  
10 would need to.

11           MR. GIBSON: Okay. Thank you.

12           MS. HOLMES: I just wanted to say that -- with  
13 some institutional knowledge here -- originally people, all  
14 retail suppliers, had the option of disclosing a default  
15 number that the Commission adopted. And so there was no  
16 purpose in requiring an audit for that, because we'd  
17 already adopted the number. It was our number. And so  
18 whenever they'd disclosed something different that was what  
19 was called "a claim of specific purchases."

20           So the theory was that we would know if it was  
21 our number that was disclosed. We had already checked  
22 that. If it's a different number that you're giving us,  
23 then we want an audit for that for the reasons that Jordan  
24 explained.

25           And I mean we've touched on this a little bit.

1 There is this potential disconnect between the three-year  
2 compliance window under RPS and the fact that for the Power  
3 Source Disclosure Program it's done on an annual basis.  
4 And that's one of the things that we're hoping to address  
5 in the future. We're not addressing that in this  
6 rulemaking.

7           So you do end up with situations, as you point  
8 out, where in one year you end up disclosing all  
9 unspecified purchases and you have an audit of that.  
10 Presumably, an audit of that is a very simple thing to  
11 conduct.

12           MR. GIBSON: Okay. Thank you.

13           MR. CHOU: Thank you.

14           Go ahead Scott.

15           MR. TOMASHEFSKY: Scott Tomashefsky, NCPA. And I  
16 will echo the efforts, at least in terms of dealing with  
17 these regulations, since we were the fortunate group to  
18 help sponsor AB 162. So we've been in the trenches with  
19 you since day one. I do think that the regulations are  
20 definitely in a better state than they were last summer.

21           I was looking at one section though, and we've  
22 talked about this before, with respect to the annual  
23 disclosure and how to disclose. And there's a little bit  
24 of I guess an evolution of technology, which has made this  
25 a little bit problematic to deal with, because before it

1 was always U.S. mail. And now we've gone to electronic  
2 means. And we've gone well beyond electronic mail, where  
3 you have other forms of media available to make that  
4 information available to consumers. And what this does, at  
5 least in its current format, is it still requires the  
6 customer to basically take some action in terms of, "We're  
7 okay with you sending it to us by email."

8 I would almost suggest that you would want to  
9 soften that to some extent that -- to provide some  
10 electronic means to let the retail supplier figure out the  
11 best way to communicate with its customers, to ensure that  
12 that information is actually provided to them. And give  
13 the supplier the flexibility to figure out how to best make  
14 that happen.

15 We talked about the idea of the easiest thing is  
16 to just post it on the website. You can actually make a  
17 reference point on a utility bill and say "annual." You  
18 know, your Power Content Label is available. It's like  
19 your monthly note on your bill and you're done. And then  
20 everybody has access to it and so if they want to take care  
21 of it they can.

22 What this suggests is that if a customer says no,  
23 you really haven't reduced the burden at all, because now  
24 you've actually increased it. Because some customers are  
25 going to get it electronically and then some customers are



1 not, so the benefit really doesn't accrue to anyone in that  
2 case. You're still having to deal with whether you're  
3 doing a bill stuffer, if you will.

4           So what I would suggest is to soften that to  
5 provide the basis for some sort of communication, whether  
6 it be by electronic mail or through some sort of electronic  
7 transmittal with the flexibility being provided to the  
8 utility to figure out what works best in that arrangement.  
9 And if there's some concerns about that, you'll hear about  
10 it from consumers. So just having the regulations be  
11 flexible enough to allow that would be preferable.

12           I also did want to footnote, I think the notion  
13 of the WREGIS certificates and the comments that John and  
14 others have made, makes a lot of sense. And going into  
15 context for how the Power Content Label is used and how it  
16 pairs up to the RPS program.

17           We've talked about that in a number of different  
18 forums over the several years. And it's been a struggle to  
19 try and figure out how to best make those things actually  
20 synchronize. And you actually get to the point where it's  
21 impossible, given the way they're designed, to have them  
22 synchronize, which forces us to explain to customers and  
23 our counsels and our boards why these two numbers are  
24 different. And we take our best shot at doing that, but  
25 reconciling it is just absolutely impossible.

1           So to then turn around and require certain  
2     validations that are part of an RPS program and bringing it  
3     into something that's really just to disclose a resource  
4     mix is a little bit more burdensome then you probably want  
5     to go down, in terms of a path.

6           So that's it. Thank you.

7           MR. CHOU: Thanks.

8           Do we have any other commenters in the room?

9           MR. TUTT: Hello.

10          MR. CHOU: Good morning.

11          MR. TUTT: This is Tim Tutt from SMUD. I was  
12     just hoping to get a little more explanation of how exactly  
13     or what exactly you're doing in terms of pumped hydro  
14     disclosure. Is that on the label somehow, how does that  
15     work?

16          MR. CHOU: So the pumped hydro reference, that  
17     goes back to reporting, so this was raised by another  
18     stakeholder. There are some instances where their net  
19     generation ended up being a negative amount. And that, in  
20     turn, may inadvertently distort their total purchases. So  
21     as a result we've decided that they could -- rather than  
22     having them report a negative net generation then we would  
23     just rather have them report it as zero. So then it will  
24     not distort the overall numbers.

25          MR. TUTT: Okay. I guess I'm still confused

1 about that, but we can talk offline about what that means.

2 MR. CHOU: And Jordan wants to chime in on that.

3 MR. SCAVO: Yeah, I might be able to explain that  
4 in a little more detail.

5 So as some of you or many of you probably know,  
6 the way the pumped hydro works is that there's two  
7 reservoirs: an upper reservoir and a lower reservoir. You  
8 use electricity to pump water from the lower reservoir to  
9 the upper reservoir. And then later run the water through  
10 the pumps from the upper reservoir back down to the lower  
11 reservoir and that produces electricity once again.

12 That process loses energy. It's a conversion  
13 process and any conversion of electricity or energy is a  
14 loss. So in theory, a pumped hydro facility would always  
15 produce negative net generation. In some instances it  
16 doesn't and that's because there are extra sources of water  
17 that feed into an upper reservoir. An example of that  
18 would be Castaic.

19 So the issue was raised that for just a standard  
20 straight up pumped storage unit, or a facility, negative  
21 net generation was distorting the fuel mix. Because the  
22 way that we calculate the fuel mixes is that if there's a  
23 difference between retail sales and purchases, that that  
24 difference is applied or is subtracted proportionally  
25 against non-renewables. So you'd have a distortion there

1 to where it would make it look like you'd actually produced  
2 less hydro than a LSE actually had.

3           So the idea was to come up with a fix of this  
4 where it wouldn't change the numbers for hydro. If you've  
5 got negative net generation it's reported as zero and then  
6 hydro has no distortion. If there's positive generation  
7 they can still report that, because that actually is hydro  
8 generation coming from other sources of water being fed to  
9 the upper reservoir.

10           Does that make sense?

11           MR. TUTT: Yeah, I think so.

12           MR. SCAVO: Okay.

13           MR. TUTT: I guess the other comment I'd make is  
14 we certainly -- I mean I do think that the auditing  
15 provisions predated a lot of other verification that's  
16 happening at the CEC. And you might want to think about  
17 that.

18           But at the very least we would continue to want  
19 the provision that allows a public agency, when they adopt  
20 the Power Content Label in a public meeting, to not have to  
21 go through the audit proceedings. I mean, SMUD does the  
22 audit proceedings any way, but the provision makes sense to  
23 us that that public process should -- anyway for small  
24 utilities and so on let there be an out for that  
25 requirement.

1 MR. GONCALVES: Hi, Tony Goncalves with SMUD.  
2 And I had a question regarding some of the timing and the  
3 dates in the regulations.

4 You have the Power Source Disclosure due June  
5 1st. And that the Power Content Labels are supposed to go  
6 out to customers during the first billing cycle of the  
7 third quarter, which puts it at around July timeframe. And  
8 it's my understanding that you use some of the reporting  
9 numbers to come up with the California power mix.

10 I was just curious on the timing issue and  
11 whether you're going to be able to have that draft -- the  
12 Power Content Label and the template with all the numbers  
13 in there -- with sufficient time for us to be able to put  
14 our numbers in there, have them internally reviewed,  
15 whatever process we need to go through, and then get them  
16 out by that first reporting cycle or first billing cycle of  
17 the third quarter?

18 MR. CHOU: It's something that we've definitely  
19 put into consideration. And obviously it's a multi-  
20 divisional effort to get all that information compiled, so  
21 we will do our best just so that it's seamless.

22 Of course, you know, we're obviously going to run  
23 into unexpected issues from time to time, but we will work  
24 as diligently as possible to get that information ready.  
25 So everyone can have that data, so they can go ahead and

1 they can produce their Power Content Labels.

2 MR. GONCALVES: And the only -- the last comment  
3 is if you don't think you're going to be able to get that  
4 within that time-frame to maybe reconsider some of the  
5 language in the regulations to allow a little bit more  
6 time.

7 MR. CHOU: Sure.

8 MR. SCAVO: I might add that really briefly, that  
9 those deadlines were written by AB 162. So we're required  
10 to build those in.

11 Also, my read of that -- the language says it is  
12 the first full billing cycle in the third quarter -- so my  
13 read of that is that would either be July 31st billing date  
14 or going through August. That's still not a lot of time,  
15 but it's probably not a July date.

16 MR. TOMASHEFSKY: Okay. The issue is really --  
17 the issue is the benefit that you get out of it, because  
18 the label itself has its greatest value when it has the  
19 current California mix in there. And so the notion of  
20 October gave you plenty of time to provide that  
21 information. Then you end up having all the various  
22 utilities incorporate that into their labels.

23 They may have a public process to just basically  
24 approve that as well. So there may be a consent item at a  
25 council meeting to approve the label and have it

1 distributed. So the extra time is needed for procedural  
2 reasons not only within this building, but also with many  
3 of the utilities that are operating as departments in  
4 cities.

5 So it's not a magical thing that happens as far  
6 as you get the data and it's put out there and it's done.  
7 You know, there is an approval process that goes on  
8 internally in a lot of cities. So just kind of keep that  
9 in mind.

10 MR. CHOU: Do we have anyone else?

11 MR. LESLIE: John Leslie again for Shell Energy.  
12 And I just wanted to comment briefly on the statement that  
13 was made by Carolyn -- is that right -- Caryn?

14 MS. HOLMES: Caryn.

15 MR. LESLIE: Caryn, indicating that the three-  
16 year RPS compliance period is not being addressed in this  
17 process.

18 And I just want to highlight the concern that in  
19 the three year compliance period an LSE, a retail supplier,  
20 can be over or under its RPS obligation in any particular  
21 year. And may frontload its renewable procurement or  
22 backload it or do it any number of ways, which is why it's  
23 so important for your regulations to reflect for the  
24 particular year, the previous calendar year, those  
25 resources that are used for sale to retail customers.

1           Because as is noted with respect to this three-  
2 year compliance period renewable procurement could vary  
3 over the course of the three-year compliance period. And  
4 so you want to make sure that you're matching the term  
5 purchases, or what's been acquired in a given year, with  
6 what is sold in that year. So the language should be  
7 adjusted to reflect the resources that are used for sale to  
8 retail customers in that particular year.

9           So I just wanted to reiterate that in light of  
10 that comment. Thank you.

11           MR. CHOU: Thank you.

12           Jordan?

13           MR. SCAVO: There's a comment from the WebEx  
14 folks asking that people please speak up. And obviously  
15 I'm guilty of that myself.

16           MR. TUTT: Tim Tutt from SMUD again, and I  
17 apologize, I was fighting the weather and came in a bit  
18 late as well.

19           On the unbundled RECs question, I hear you  
20 mentioned that you would take care of that in another  
21 proceeding associated with AB 1110. Is that correct; some  
22 other proceeding?

23           MR. CHOU: We will address it in a future  
24 rulemaking. Unbundled RECS will not be addressed in this  
25 particular proceeding.



1 MR. TUTT: Okay. I just wanted to clarify that,  
2 because it's my understanding -- and I might be wrong -- is  
3 that 1110 is not current law. There's no proceeding  
4 addressing that right at the moment.

5 MR. HENDRY: Hi, James Hendry, San Francisco PUC.  
6 I'm sorry for coming late. I got tied up in traffic.

7 But I do want to follow on the issue of unbundled  
8 Renewable Energy Credits and how they're counted in the  
9 Power Source Disclosure. And if you'd maybe comment very  
10 briefly on what your thinking is on that, and then I may  
11 have a couple of comments to follow up, if that's possible?

12 MR. CHOU: Well, I did make a slight mention that  
13 unbundled RECs would not be addressed in this particular  
14 rulemaking. But if you had commented on them in our first  
15 go around, from our first workshop, then we will still  
16 consider those comments and we'll address them when the  
17 appropriate time comes.

18 MR. HENDRY: Well then if so, for this coming  
19 year for reporting, assuming this gets adopted you would  
20 report the unbundled RECs on your Power Source Disclosure  
21 Form for this year or not?

22 MR. CHOU: Yes, you still would.

23 MR. HENDRY: So you could report unbundled RECs  
24 for this year on the -- for this coming year on the Power  
25 Source Disclosure Form that is (indiscernible) --

1 MR. CHOU: Right, for the upcoming 2015 reporting  
2 year.

3 MR. HENDRY: Because that's really not quite  
4 clear from the regulations as we've read them. And that's  
5 one of the concerns we had had concerns about.

6 MR. TUTT: I'm sorry, I guess I -- this is Tim  
7 Tutt again from SMUD.

8 I didn't quite understand that exchange -- the  
9 provision for reporting unbundled RECs this year -- you  
10 would report those under the fuel types that they represent  
11 as opposed to a separate category on the label?

12 MR. CHOU: Um-hmm, that's correct.

13 MR. TUTT: Okay.

14 MR. CHOU: I believe there's a commenter in the  
15 back of the room.

16 MS. GOODMAN: Hi. I'm Inger Goodman with  
17 Commerce Energy. And we're an electric retailer and we  
18 sell to residential customers in California.

19 And unlike the utility we're not able to send out  
20 a Power Content Label with the customer bill invoice,  
21 because billing is being done by the utility. So I'm a  
22 little bit concerned over the timeline for that reason. We  
23 require at least three weeks to mail out the Power Content  
24 Label to our customers. And we really appreciate it if it  
25 would be possible to share this information with our

1 customers via email or by electronic means on the website,  
2 as earlier mentioned.

3 We would definitely support that.

4 MR. CHOU: Okay. Thank you.

5 MR. PAPPAS: John Pappas from PG&E, so on the  
6 matter of unbundled RECs so you indicate for 2015 that  
7 nothing will have changed. And that folks who want to  
8 report those RECs would just apply the technology  
9 associated with the underlying power.

10 So the question I have is since there's no energy  
11 associated with the REC, you know, as part of your delivery  
12 to the retail customer it seems like you would have to  
13 deduct energy from some other category. And I'm wondering  
14 does the CEC have any guidance on that?

15 I think there's probably a range of ways that  
16 folks are doing it. And I'm curious whether there's going  
17 to be any guidance for 2015 or is it going to be just  
18 however any entity decides they want to handle that  
19 situation?

20 MR. SCAVO: So we opted not to include or rather  
21 not to address unbundled RECs for this rulemaking, because  
22 the idea was these regulations are years out of date.  
23 We're going to just push the AB 162 changes through and do  
24 some relatively light housekeeping, updating of the regs.

25 Unbundled RECs is a topic that we want to or we might

1 look at in the future. And part of that is built into  
2 seeing what happens with AB 1110, because that would  
3 contain pretty substantive changes to Power Source  
4 Disclosure.

5 As they stand now we offer the same informal  
6 guidance for what to do for unbundled RECs and we have made  
7 that guidance clear in the reporting forms. What we'd like  
8 to see folks do is report them as the electricity type from  
9 which they are associated. And on the reporting form there  
10 is a section where they can note that these are unbundled  
11 RECs that produces a disparity between purchases and retail  
12 sales.

13 And built into Schedule 2 of the reporting form  
14 is a formula that proportionally reduces non-renewables.  
15 So you'll start with a certain number that's higher for  
16 purchases, but the formula reduces down each of the non-  
17 renewables. So that your purchases and your sales will  
18 match and that's what it does.

19 MR. PAPPAS: Okay. Thank you

20 MR. HENDRY: On the Table 2 issue, on the  
21 proportionality? If your goal is to be 100 percent RPS  
22 eligible for your resources, the proportionality table then  
23 would not do it, because no matter what -- it would  
24 continuously offset no matter how many renewable intricates  
25 or RPS eligible (indiscernible) you would never get to 100

1 percent RPS.

2           So the alternative, I guess, would be to specify  
3 that the underlying energy that is being sold then as  
4 unspecified power, which is also what it would be. And  
5 Table 2 is listed as being an optional table, not a  
6 mandatory table, I believe.

7           MR. SCAVO: Can you explain that again, please?

8           MR. HENDRY: Well, to use the example he had,  
9 assuming you are 100 percent renewable and 10 percent of  
10 that is associated with energy that you've bought,  
11 Renewable Energy Credits for -- what you're saying is then  
12 you would -- and you went out and did that, because you  
13 wanted to be 100 percent RPS eligible

14           But the way you're saying it would be reported  
15 then is it would be reported as you're 100 percent RPS  
16 eligible, this 10 unspecified power. And so you would then  
17 be 98 percent or 97 percent or whatever the math comes out  
18 to be, so you can never -- if your goal is to achieve 100  
19 percent RPS eligible portfolio, under Table 2 you could  
20 never achieve that, no matter how many Renewable Energy  
21 Credits you went out and kept buying. It would be a  
22 progressive zero, you know, a flattened out (indiscernible)  
23 curve.

24           And I think Table 2 is also listed as being an  
25 optional proportional table. It's not really required to

1 be used if you don't want to, if I'm not mistaken.

2 MR. SCAVO: I believe the way the regs are  
3 written Schedule 2 is required. Schedule 1 and 2 are  
4 required for standard retail suppliers.

5 Also, I'm not sure -- perhaps I misunderstand  
6 what you're saying about your first point though. Because  
7 if you're saying that it's impossible to hit 100 percent if  
8 you're using RECs and have unspecified sources of power,  
9 for example, then I don't think that's true, because the  
10 point of that formula is that it will reduce things down,  
11 so these two numbers match.

12 So if you bought an extra 100,000 kilowatts of  
13 just RECs and you buy 100,000 kilowatts of unspecified  
14 sources of power, just unspecified sources of power would  
15 be reduced, and it'll be reduced to zero.

16 MR. HENDRY: Okay. If that works out, though  
17 that's the way we've interpreted it. And so I just wanted  
18 to confirm that. Okay. Great, thanks.

19 MR. SCAVO: Also if folks could please identify  
20 themselves when they take the mic.

21 MR. PAPPAS: This is John Pappas again, from PG&E  
22 -- just a follow up question on the previous response.

23 So with this proposed new non-California  
24 renewable category, which Nathan commented earlier that we  
25 actually don't agree with and like to see it -- probably

1 not there -- but let's say that it does move forward? So  
2 for this particular scenario where -- so I have a couple of  
3 questions on that -- can the unbundled RECs, do they have  
4 to be RPS eligible; in other words California RPS eligible?  
5 Or can the unbundled RECs be from this non-California  
6 category? So that's one question.

7 And then the second is that when you're doing the  
8 reduction, if you do have unbundled RECs let's say they're  
9 just from the California RPS, and then they reduce all the  
10 other categories. Would the non-California renewable also  
11 be reduced or is that somehow exempt from that? That's it.

12 MR. CHOU: John, I'll take a stab at your first  
13 question. The RECs do need to be California RPS eligible.  
14 And you do bring up a good point for the non-California RPS  
15 eligible category. It's something that we will definitely  
16 have to consider.

17 I think, Jordan, you wanted to add something to  
18 that?

19 MR. SCAVO: Yeah. I think the way they're  
20 written now it would get reduced along with the other non-  
21 renewable categories.

22 MR. PAPPAS: Okay. Thank you.

23 MR. CHOU: Any more commenters in the room? If  
24 there are not then we will check to see if there are  
25 commenters on WebEx.

1 Oh, sorry, one more in the room.

2 MR. HENDRY: James Hendry with the San Francisco  
3 Public Utilities Commission. I just wanted to confirm that  
4 the ability for POU's to attest through their governing  
5 boards remains. And I was reading through it and that only  
6 applies if the POU's offering a single product.

7 So if a POU was offering, say a single product  
8 and then they say a green premium product, the way the  
9 regulation is written it appears that they can't self-  
10 certify. And in that case they have to go to the  
11 independent audit. And I was wondering if that's  
12 intentional or is that something that could be considered?

13 So if you're -- we don't, but if you're a POU  
14 that offers say, you know, a regular product and a super  
15 green product -- at least the way I read the regulations --  
16 then you'd have to out and have it be independently audited  
17 rather than having the self-attestation, which a POU can do  
18 if it only offers a single product.

19 MR. CHOU: Right. So if the POU has one  
20 particular product then they can go ahead and they can  
21 attest. If there are multiple then they would need to go  
22 out and go through a third-party audit.

23 MR. HENDRY: What is the reasoning or rational  
24 for that?

25 MR. SCAVO: That actually is part of the existing



1 regs. That's not a change that we made.

2 MS. HOLMES: Caryn Holmes, I'm with the Legal  
3 Office.

4 The historical reason for -- the reason, since I  
5 was here when those regs were adopted, is that again in  
6 terms of tracking through the transactions we wanted to be  
7 able to make sure that we didn't have anomalies or that  
8 there were not anomalies where two sets of -- a single  
9 purchase got attributed to two separate products that a  
10 municipal utility might be offering. So it was a way of  
11 ensuring that the accounting was clean.

12 It's less of an issue if there's just one  
13 product. More of an issue if there's more than one.

14 MR. HENDRY: Thank you.

15 MR. CHOU: Okay. With that I think we'll go  
16 ahead and check WebEx to see if we have some commenters.

17 We're going to go ahead and unmute all the lines,  
18 so if you do have a comment go ahead and you may speak. So  
19 we have all the lines currently unmuted, so if there's  
20 something that anyone wants to add?

21 MS. WINNEY: Kevin?

22 MR. CHOU: Yes?

23 MS. WINNEY: This is Debi Winney calling  
24 from PacifiCorp.

25 MR. CHOU: Hello.

1 MS. WINNEY: Hello?

2 MR. CHOU: I'm sorry, could you --

3 MS. WINNEY: Hi. Oh, hi Kevin. This is Debi  
4 Winney from PacifiCorp.

5 MR. CHOU: Okay.

6 MS. WINNEY: And I just had a question as I was  
7 going through some of this material earlier and looking at  
8 how we would report our fuel mix as a multijurisdictional  
9 utility. Are you going to be sending out any kind of a  
10 template or any kind of a sample for how these reports are  
11 submitted?

12 MR. CHOU: The only template that we currently  
13 have available is what's posted online. I think in your  
14 particular case we can reconvene offline and we can provide  
15 some individual guidance. Yeah.

16 MS. WINNEY: Okay. Fantastic, thank you.

17 MR. CHOU: Great.

18 Jim, go ahead in the room.

19 MR. HENDRY: So James Hendry again in San  
20 Francisco. I had a question on the definition of  
21 electricity product, which is defined differently in the  
22 Power Source Disclosure Form than it is in the RPS Rules  
23 for Publicly Owned Utilities. And since it's the same term  
24 and it's appearing in two different regulations it might be  
25 preferable either change the name or have them have

1 consistent definitions. I'm not quite sure which is the  
2 best approach to that, but...

3 MR. CHOU: I'm sorry, were you referring to the  
4 eligible renewable definition?

5 MR. HENDRY: The definition of electricity  
6 product.

7 MR. CHOU: Electricity product, okay.

8 MR. HENDRY: It's in the Power Source Disclosure,  
9 but is also in the Standard RPS Compliance Rules for the  
10 POUs. And there's two different definitions for the same  
11 term.

12 MR. CHOU: Okay. We'll look into it, thank you.

13 MR. CHOU: Last call for any commenters on the  
14 phone or in the room.

15 MR. PAPPAS: This is John Pappas. I do have  
16 another question back on the REC topic.

17 So for the 2015 Report again, and I know that  
18 there's limited guidance on that. But is it your  
19 understanding that a REC, for it to be reported that it  
20 needs to be purchased in 2015 or does it need to be retired  
21 in 2015? Or purchased and retired or what's the -- what's  
22 your understanding on that or your guidance?

23 MR. CHOU: This is definitely a bit of a  
24 convoluted issue. And as far as my understanding it would  
25 make the most sense for it to be purchased within the

1 calendar year.

2 MR. PAPPAS: Not retired?

3 MR. CHOU: Not retired.

4 MR. PAPPAS: Well, as the RPS it's different, how  
5 that is. I just want to know for this particular report --

6 MR. CHOU: Correct.

7 MR. PAPPAS: -- since it's possible somebody  
8 might report RECs. You know, what does it mean to have  
9 RECs in your Power Content Label?

10 MR. CHOU: Sure.

11 MR. PAPPAS: They had just purchased?

12 MR. CHOU: Yes, for purposes of this program,  
13 purchased within the calendar year.

14 MR. PAPPAS: But if they were purchased the year  
15 before and retired this year those would not count?

16 MR. CHOU: That's right.

17 MR. HENDRY: James Hendry again. I'm wondering  
18 how that's consistent though where the legislation that  
19 says it's used to serve retail loads. So if you're using  
20 it to sort of retail load in the year it should -- there's  
21 no distinction between purchasing or retiring. The  
22 definition in the statute is, is it used to serve retail  
23 load. So apparently if you're using it to reserve retail  
24 load for that year it would seem that would be the criteria  
25 you should look at?

1           MR. SCAVO:  If I could jump in for just second on  
2 that specific topic and possibly several more going  
3 forward?

4           These are the reasons why we pushed back dealing  
5 with the issue of RECs and unbundled RECs.  That it's  
6 complicated and it's messy and there's lots of ways to  
7 think about it.  And a lot of them produce a lot of  
8 confusion, especially because they don't line up with RPS.

9           We can keep talking about RECs, but we're not  
10 going to fix it in 15-day language.  That is something that  
11 we do want to address, but once we started to really dig  
12 our teeth into this we saw that this was something that was  
13 going to require a lot of work and thought and  
14 collaboration.  It's not something that we can put a quick  
15 fix on, I think.

16          MR. LESLIE:  John Leslie again, for Shell Energy.  
17 And I apologize for beating this horse, but this is the  
18 point that I was trying to raise earlier.  That it's  
19 important to reconcile what we're using for sale to our  
20 retail customers in a given year with what we're reporting.  
21 And so it may be that RECs are purchased in one year, but  
22 used for retail load in another year.  And I think what you  
23 really want is what is the year in which they're sold or  
24 used for the retail customers?

25          So you said it should be the year that the RECs

1 are purchased. It really, I think, should be the year in  
2 which they are retired for use for their retail load; that  
3 way you get the apples-to-apples comparison. Otherwise  
4 you're going to have RECs over a long period of time and  
5 even longer, because you do have the PCC 0 category of  
6 contracts prior to 2011 where you have RECs that may have  
7 been purchased, contracts that may have been entered into,,  
8 you know, several -- six, seven years ago. For which RECs  
9 are still available today.

10 Well, you want to report those RECs yeah, in the  
11 year in which they're being used.

12 MS. GOULD: Sorry, this is Angie Gould, with the  
13 California Energy Commission staff.

14 And just to clarify, would you then want bundled  
15 REC and electricity purchases? Would you want that REC to  
16 have to be retired in order to be reported as an eligible  
17 renewable? Because you could potentially not retire that  
18 REC, you could sell it off to someone else.

19 MR. LESLIE: (Indiscernible)

20 MS. GOULD: Or it could be a Bucket 3 REC that  
21 you could sell off to another party that they could then  
22 claim. So would you want all RECs to be required to be  
23 retired in order to be listed as that eligible fuel type or  
24 RPS eligible? Or would it only be unbundled RECs?

25 MR. LESLIE: Sorry, I think -- yeah, I mean

1 you're right. You can purchase RECs. You can purchased  
2 bundled energy in one year and then sell it off to someone  
3 else. That's another concern. That if you report the RECs  
4 in the year that you purchased them and then you sell them  
5 off, then you're really not using them for your retail  
6 load. So you really want to only report for that year,  
7 those RECs that have been retired for your own retail load  
8 in that year.

9 And so that way any RECs that you have sold,  
10 resold to others, you're not going to be reporting in this  
11 report, because you're not using it for your retail  
12 customers.

13 MS. GOULD: Sorry, and this is Angie Gould again.  
14 Just a clarifying question, so if an entity purchased say  
15 wind power and the bundled REC, but didn't retire the REC  
16 within that year, how would you suggest reporting that  
17 electricity purchase? The actual megawatt hours of  
18 electricity. Would you not report that electricity at all  
19 or would you report that as unspecified power and then when  
20 you retire a REC...?

21 (Colloquy off mic.)

22 MR. LESLIE: Yeah, so and I think -- this is John  
23 Leslie again. I think what you want in that circumstance,  
24 if you purchase wind power in one year and you don't retire  
25 the REC in that year, that you would not report the REC in

1 that year. Would you report it as unspecified power? No,  
2 you didn't sell it, so no you wouldn't report either the  
3 generation or the REC in that year. You'd wait until the  
4 year that you used it.

5 MS. GOULD: Sorry, Angie Gould again, California  
6 Energy Commission. Yeah, just it gets really, really messy  
7 when we try too much to tie the Power Source Disclosure to  
8 the RPS, because they just don't match terribly well. And  
9 we try to reconcile them, but it just gets so complicated.

10 So we've tried to -- I mean, AB 162 did tie it  
11 somewhat with requiring it to be from RPS-eligible  
12 facilities in order to say eligible RPS -- or sorry -- or  
13 eligible renewable, but where the attempt is to keep Power  
14 Source Disclosure its own separate thing. And that's why  
15 we're trying to keep it as purchases. Because when you try  
16 to marry it too much with the RPS it just gets really,  
17 really complicated, and yeah because the retirement year  
18 won't match the purchase year.

19 MS. STEIN: I can appreciate that. I'm just  
20 curious then about the wholesale -- I'm sorry, Dona Stein,  
21 Shell Energy.

22 I'm just curious then how do you look at the  
23 wholesale versus retail, because we're reporting as a  
24 retail seller in the Power Content Label. And if we're  
25 talking about everything we've purchased for renewables



1 that's not the same thing as what we're going to sell to  
2 our retail customers. So how do we address that?

3 MS. GOULD: Well I believe -- and Kevin and  
4 Jordan, correct me if I'm wrong -- but I believe that sales  
5 to other parties get netted out and they don't get included  
6 in the Power Content Label?

7 MR. CHOU: Right, they do.

8 MS. GOULD: And sorry, I think Tim has something  
9 he wants to say?

10 MR. TUTT: Hi, Tim Tutt from SMUD. And I want to  
11 go -- state support for not including -- not trying to  
12 force the Power Content Label to match the RPS. It does  
13 get really messy. It's not just the retirement of the REC,  
14 because as we all know retirement is different than use  
15 under the RPS. So you'd only have PCC 0 RECs, but you'd  
16 have PCC 1, 2 and 3 RECs, that once you've retired them,  
17 they can be used in any year in the future. And that's  
18 just going to get way too complicated in terms of trying to  
19 do an annual disclosure and match that use.

20 It has to be based on the procurement, not on  
21 when the REC is retired or actually used for compliance in  
22 the RPS.

23 MR. HENDRY: This is James Hendry, San Francisco  
24 PUC again. I think AB 162 did two things though. It one,  
25 tried to as Angie said, conform the definitions of eligible

1 renewables back to the RPS rules. But it also said that  
2 the RPS -- the Power Source Disclosure would serve as sort  
3 of the meeting of the POU's reporting obligations for the  
4 RPS in 2009. And this was prior to the subsequent  
5 reporting requirements in 2011 with SBX 1 2.

6 But in AB 162 there's still the statement that's  
7 still in law, that the Power Source Disclosure Form for  
8 POU's kind of represents a reporting obligation consistent  
9 with the RPS Rules. So I think it goes beyond just mention  
10 of eligible hydro electric, but then it also tries to merge  
11 the two together. And I realize that's difficult, but I do  
12 think there's a concern in AB 162, of legislative intent,  
13 that the two should be tried to merge together where  
14 possible.

15 MS. HOLMES: I'm not going to tell you, you're  
16 wrong. But what I'm going to point out is that there's  
17 also statutory provisions that make it quite clear that the  
18 Power Source Disclosure Label is based on annual purchases  
19 for the previous year. So that's the challenge. And that  
20 may have been the intent, but if it was the intent they  
21 could have made it a whole lot clearer by changing that  
22 statutory section as well.

23 So that's -- and I think that this was the  
24 conversation we hoping not to get bogged down in. And  
25 we're pleased to hear what people have to say. We've heard

1 it individually, we've seen it in prior filed comments.  
2 And our direction from the Commissioners is that we're  
3 going to deal with the 162 cleanup to the extent that we  
4 can in this rulemaking. And hope to initiate a new  
5 proceeding to deal with these more intractable issues or  
6 more difficult issues, hopefully later this year.

7 MR. LESLIE: John Leslie for Shell Energy. And I  
8 appreciate the Energy Commission's attempt to kind of put  
9 in separate boxes dealing with the AB 162 issues and  
10 integration with RPS.

11 From our standpoint we go back to the statute in  
12 381.1(b), which says that --

13 MS. STEIN: (Indiscernible)

14 MR. LESLIE: This is Public Utilities Code  
15 381.1(b).

16 MS. STEIN: Okay. Just to be clear it's not part  
17 of (indiscernible)

18 MR. LESLIE: Well, but what it says here is that  
19 the purpose is establish a program under which entities  
20 offering electric services in California disclose blah-  
21 blah-blah-blah information on the sources of energy that  
22 are used to provide electric services. So in other words,  
23 it's the sources of energy that are used to sell power to  
24 retail customers. Not all purchases of energy by a retail  
25 supplier.

1           And that's what we're trying to get at here.  
2   It's what supplies are being used in the reporting year to  
3   serve a retail supplier's customers. And we want to  
4   distinguish that from purchases that are made for resale to  
5   others, purchases that are made that may be used in some  
6   other year, and we're trying to -- so that it is an apples-  
7   to-apples comparison of the supply side and the sale side.

8           That's what we're trying to achieve and we're  
9   hoping that the Energy Commission agrees.

10           MR. SCAVO: I think I might respond just quickly  
11   that I understand what you're saying. It would be helpful  
12   if we probably had a longer discussion about this over the  
13   phone or email. I'd like to see how it is that you can  
14   identify which of your purchases are strictly wholesale and  
15   which ones are retail. And that might give us some more  
16   clarity on the situation.

17           MR. LESLIE: That would be fine.

18           MR. CHOU: Thank you all.

19           Are there any more last minute comments? The  
20   phones are unmuted.

21           MS. WINNEY: Hi, this is Debi Winney from  
22   PacifiCorp again. And I just had a clarifying question.

23           So as the statutes are currently written, as  
24   they're currently proposed, if there's a purchase of energy  
25   within an associated REC and the REC is sold then how would

1 that be reported? How would that energy be reported as  
2 currently proposed?

3 MR. CHOU: As currently proposed then that would  
4 essentially be a generic purchase, because you've  
5 essentially removed the REC from the bundled purchase. So  
6 currently as it is then that would be a generic purchase.

7 MS. WINNEY: But if we have a separate program  
8 where we're not purchasing --

9 MR. SCAVO: Debi?

10 MS. WINNEY: -- yes?

11 MR. SCAVO: I'm sorry, I muted you, so we missed  
12 the first half of that.

13 MS. WINNEY: Oh. Oh no, that's okay. So and  
14 then in a separate program such as the Blue Sky Program  
15 would that be reported separately where we are purchasing  
16 only the RECs? If we were purchasing only the RECs would  
17 that be reported separately as a different product?

18 MR. SCAVO: The Blue Sky Program is that program  
19 we discussed in Oregon or in Washington?

20 MS. WINNEY: That's the ones that we currently  
21 report. That's the only thing we currently report, which  
22 is the voluntary Blue Sky Program.

23 MR. SCAVO: Okay.

24 MS. WINNEY: That would be reported as two  
25 separate mixes; is that correct?

1           MR. SCAVO: I think that's kind of at your  
2 discretion. If you want to report that as a separate  
3 product you can, otherwise you can report that as one  
4 integrated product.

5           MS. WINNEY: Okay. Great, thank you. Okay, that  
6 answered my question. Thank you.

7           MR. CHOU: Thanks, Debby.

8           MS. WINNEY: Uh-huh.

9           MR. CHOU: I think with that then we can go ahead  
10 and we can conclude our workshop for today. I appreciate  
11 all of you that are here in person today for all your  
12 comments and for those of you participating online.

13           I just wanted to give another reminder that all  
14 written comments are due February 5th. And we look forward  
15 to receiving them and that is it.

16           (Whereupon, at 11:13 a.m., the workshop  
17 was adjourned)

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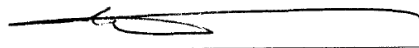
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