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## **On Proposed Modifications to the Power Source Disclosure Regulations**

*Additional submitted attachment is included below.*

**BEFORE THE CALIFORNIA ENERGY COMMISSION**

**In the matter of:  
Rulemaking to Consider Modifications  
to the Electricity Generation Source  
Disclosure Regulations**

**Docket No. 14-OIR-01**

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**NORTHERN CALIFORNIA POWER AGENCY COMMENTS ON  
PROPOSED MODIFICATIONS TO THE POWER  
SOURCE DISCLOSURE REGULATIONS**

Pursuant to the California Energy Commission (CEC or Commission) *Notice of Proposed Action*, dated December 18, 2015, the Northern California Power Agency (NCPA)<sup>1</sup> offers these comments to the Commission on proposed modifications to the *Power Source Disclosure Regulation* (Proposed Amendments) and January 6 Staff Workshop (Workshop).

**I. INTRODUCTION**

The Power Source Disclosure label is an important tool that allows customers to view and better understand the electric generation resources that generate the electricity they use. However, in order to be meaningful, it is important that the information provided to customers be understandable and not cause further confusion. NCPA has long advocated for changes to the Power Source Disclosure (PSD) Regulation to ensure that result. The current proposed amendments provide some of that needed clarity and properly incorporate the provisions of Assembly Bill 162 (2009). The proposed amendments properly reflect the June 1 submission deadline and annual disclosure requirement, and strikes obsolete and unnecessary appendices. However, there are also proposed revisions to the regulation that are unnecessary; would result in undue administrative burdens on retail sellers; and fail to effectuate the purpose of the enabling legislation, which is to provide clarity to customers regarding the sources of the electricity they consume.

NCPA encourages staff to revise the following sections in 15-day language to address the shortcomings inherent in the current proposal:

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<sup>1</sup> NCPA is a not-for-profit Joint Powers Agency, whose members include the cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, as well as the Bay Area Rapid Transit District, Port of Oakland, and the Truckee Donner Public Utility District, and whose Associate Member is the Plumas-Sierra Rural Electric Cooperative.

- Distribution of Annual Disclosures: Provision of annual disclosures via first class mail is neither necessary, nor required by the Public Utilities (PU) Code 398.4(c) and the proposed amendment should be revised consistent with the enabling legislation regarding the delivery of the annual disclosure.
- Non-California Eligible Renewable: The regulation should not create a distinction for undefined renewable resources that are not eligible for California's RPS program.
- WREGIS Certificates: Due to the manner in which WREGIS certificates are created, reporting all WREGIS certificates may not be possible for all transactions. Further, in the face of every increasing RPS mandates, this requirement imposes a significant administrative burden on retail sellers and duplicates the information that is already provided to the Commission as part of the RPS compliance reporting.
- Audit Report: Public agencies' approval of an attestation of the veracity of the annual report submitted to the Commission should continue to be deemed the equivalent of an auditor's report.

## **II. COMMENTS ON PROPOSED AMENDMENTS**

Dissemination of Annual Disclosure to Customers: Section 1393(b)(2) of the proposed amendments should be revised to ensure that it is consistent with the statute, and should not require that the annual disclosures be provided by United States (US) mail. Customers' access to billing and utility information has changed as much as the sources of electricity over the last few years. While paper bills and bill inserts once served as the primary means of communicating with customers, this is no longer the case. Increasingly larger numbers of customers prefer to receive all communications electronically, or access information through their utility's website. Public Utilities Code section 398.4 does not require that the disclosure be provided via US mail. As such, proposed Section 1393(c)(2), which requires that the annual disclosure be provided by US mail to customers should be revised.

The regulation should not require a form of service to customers that is not mandated by the statute. Retail providers should be able to provide the disclosure to customers, or notify them of the availability of the information on their website, in the same manner in which all of the regular communications are made to customers. Retail providers should not be required to undertake the additional administrative burden of obtaining consent to receive the disclosure by other than US mail; this is especially critical in instances where customers receive bills and other

notices electronically. If customers receive regular communications, including electricity bills, electronically, the disclosure should be provided in the same format. If customers receive paper billing from the retail seller, then the billing could provide a notice regarding the availability of the disclosure which provides information on how to access the disclosure on the retail seller's website or obtain a paper copy. These requirements would be consistent with the manner in which customers' billing and notices are provided, and entirely lawful within the specific direction provided in PU Code section 398.4. Such an approach is also consistent with the Legislature's recognition in PU Code section 398.4 that the disclosures to potential end-use consumers be made in "all product-specific written promotional materials that are distributed to consumers by either printed or electronic means, including the retail supplier's Internet Web site, if one exists, except that advertisements and notices in general circulation media shall not be subject to this requirement."

Section 1393(c)(2) should be revised to reflect that the disclosure need not be provided via mail to customers, but rather, can be provided by printed or electronic means, including posting the notice on the utility's website.

Reporting WREGIS Certificate Numbers: Included in the list of information required under Section 1394(a)(2)(A) of the regulations is the WREGIS certificate number for specific purchases. The annual PSD report should not require retail sellers to provide WREGIS certificate numbers because that information will not always be available in time to comply with the requirement. In practice, there are instances where outstanding questions between the California Independent System Operator and the generator, or the generator and the retail seller, will result in delays in the issuance of a WREGIS certificate. The electricity generated during the reporting period, however, would still need to be reported on the PSD, notwithstanding the fact that a WREGIS certificate has not been issued. Since the purposes of the certificate is to verify compliance with the renewable energy mandates, and since the deadlines for retiring RECs associated with various WREGIS certificates is entirely independent of tracking generation sources for a specific calendar year, listing the WREGIS certificates on the PSD report is unnecessary.

Furthermore, while providing the WREGIS certificate numbers for renewable resources is not a new requirement, the practical implications of ensuring that certificates are created in real-time, coupled with the increasing RPS mandate and the reporting and verification already required under the RPS regulation, results in a considerable additional reporting burden on retail

sellers, which provides no new information to the CEC and adds little to the value of the information provided to consumers. Indeed, revisiting the need for this additional reporting provides an opportunity to further the joint efforts of the CEC and stakeholders to streamline reporting requirements and the provision of information to the Commission. As such, Section 1394(a)(2)(A) should be amended to strike the requirement to list the WREGIS certificate numbers as part of the annual report.

Non-California Eligible Resources: Sections 1391(n), 1392(b)(3)7, and 1393(d)(1) include proposed amendments that address “Non-California Eligible Resources.” Under California’s RPS program, not all renewable energy resources are eligible for certification. Those resources, such as large hydro, may be located in other states, or they may be located in California. Proposed amendments to the PSD Regulation would create a new category for renewable resources from others states, without defining what those resources are. Separately delineating renewable resources that are certified in other states creates a distinction that could result in unnecessary confusion for customers. Absent a clear explanation of why these non-California eligible resources should be listed separately, a new category should not be included in the PSD report. The purpose of the report is to provide clarity to customers regarding the generation resources that their electricity comes from; creating a distinction that differentiates between California and out-of-state resources would only confuse California consumers, rather than provide greater transparency regarding the source of the electricity product consumed.

Auditor’s Report: Public agencies’ approval of an attestation of the veracity of the annual report submitted to the Commission should continue to be deemed the equivalent of an auditor’s report. In practice, the agency’s attestation to the veracity serves the same purpose as the audit requirement for non-public agencies. A public meeting of the governing board of a public agency is conducted in compliance with the State’s open meeting laws, which includes notice to the community and interested parties in advance of the meeting, and an opportunity for the public to attend such a meeting.<sup>2</sup> These requirements help to ensure compliance with all applicable rules and requirements, and the differences between retail sellers that are public agencies and those that are for-profit entities should continue to be recognized.

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<sup>2</sup> California Govt. Code §§ 6250, *et seq.*

Further, the PSD Regulation should be amended to recognize that applicable processes and procedures are utilized regardless of whether the retail seller offers one or multiple electricity products to its customers. All public meetings are subject to the same requirements, the same notice provisions, and the same public access. As such, the provisions of section 1394(b)(2) should apply to any annual report submitted to the Commission, and not only for instances where the public agency retail seller provides only one product.

Future Amendments: In order to ensure that power source disclosures provide accurate and meaningful information to customers, it is important to retain the distinction between reporting annual information regarding electricity generation and information regarding the retirement of renewable energy credits (RECs) under the state's RPS program. Nothing in the PSD label should be construed as a proxy for evaluating a utility's compliance with the RPS program, nor be seen as an indicator of potential future compliance. It is imperative that consumers understand that the PSD program and the RPS program serve different purposes. It is in that context that any future amendments should be viewed, including revisions to the manner in which unbundled RECs are reported on the PSD label.

### III. CONCLUSION

NCPA appreciates the opportunity to provide these comments on the proposed amendments to the Power Source Disclosure. Please do not hesitate to contact the undersigned or Scott Tomashefsky at 916-781-4291 or [scott.tomashefsky@ncpa.com](mailto:scott.tomashefsky@ncpa.com) with any questions.

Dated this 5<sup>th</sup> day of February, 2016.

Respectfully submitted,



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