

DOCKETED

| | |
|-------------------------|---|
| Docket Number: | 14-OIR-01 |
| Project Title: | Power Source Disclosure Program Rulemaking |
| TN #: | 210336 |
| Document Title: | San Francisco Water Power Sewer Comments on the Rulemaking |
| Description: | Comments of San Francisco Public Utilities Commission on proposed revisions to the Power Source Disclosure/Power Content Label - Rulemaking to Consider Modifications to the Electricity Generation Source Disclosure Regulations |
| Filer: | Patty Paul |
| Organization: | San Francisco Public Utilities Commission |
| Submitter Role: | Public Agency |
| Submission Date: | 2/16/2016 3:00:53 PM |
| Docketed Date: | 2/16/2016 |

February 9, 2016

California Energy Commission
Docket Unit, MS-4
1516 Ninth Street
Sacramento, CA 95814-5504
Sent via e-mail: docket@energy.state.ca.us

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

COMMENTS OF THE SAN FRANCISCO PUBLIC UTILITIES COMMISSION
(SFPUC) ON THE RULEMAKING TO CONSIDER MODIFICATIONS TO THE
ELECTRICITY GENERATION SOURCE DISCLOSURE REGULATIONS

Thank you for the opportunity to comment on the California Energy Commission's proposal to update the Power Source Disclosure "PSD) form and accompanying Power Content Label (PCL). We support the comments filed by the California Municipal Utilities Association (CMUA) in this rulemaking. Additionally, we offer the following comments and suggestions.

1. The PSD and PCL should be aligned with California's Renewable Portfolio Standard (RPS) requirements

One of the major goals of revising the PSD/PCL should be to better align it with the state's RPS standards. Unlike RPS compliance reporting, which only occurs through submission of written reports to the CEC, the PCL provides a yearly notification to all of the utility's customers as to where the utility is procuring its energy. For many customers, this may be their only notice as to how well a utility is procuring renewable energy.

Prior to the adoption of Senate Bill (SB)X1-2 revising California's RPS requirements, Public Utilities Code Section 398.4(j) specifically recognized that the submission of a PSD/PCL report constituted compliance for a publicly-owned utility's (POU's) RPS reporting requirements. In creating the use of renewable energy credits (RECs) as the compliance mechanism for measuring RPS compliance, state law also recognized their use for "verifying retail product claims in this state or any other state."¹ The Legislature has clearly envisioned a linkage between the RPS and PSD/PCL reporting requirements.

Edwin M. Lee
Mayor

Francesca Vietor
President

Anson Moran
Vice President

Ann Moller Caen
Commissioner

Vince Courtney
Commissioner

Ike Kwon
Commissioner

Harlan L. Kelly, Jr.
General Manager

¹ Public Utilities Code Section 399.21(a)(2)



Based on the January 16, 2016 workshop, it appears the CEC has decided to narrowly focus this rulemaking on implementing the requirements of Assembly Bill (AB)162 and AB2227 and then revisit at a later date the broader issues of RPS and PSD/PCL coordination.

2. The definitions used in the CEC’s proposed regulation should be consistent with state law

One of the main purposes of the current rulemaking is “the alignment of renewable energy definitions with RPS definitions as required by statute.”² However, several other proposed definitions are either inconsistent with or omit key phrases from their statutory definition as noted below.

a. “Electricity Product”

Public Utilities Code Section 398.4(a) requires retail suppliers to report the “electricity sources” used to serve their customers.³ The draft regulations neither mention nor contain the term “electricity sources.” Instead the draft regulations (Section 1391(b)) use the term “electricity products” defined as:

[E]lectrical energy produced by a generating facility that a retail seller offers to sell to consumers in California under terms and conditions specific to an offer or to a tariff...

The use of the term “electricity products” in this context is confusing. In its rules governing the RPS requirements applicable to POU⁴ the CEC states that:

“Electricity product” means either;

- (1) Electricity and the associated REC generated by an eligible renewable energy resource.
- (2) An unbundled REC.⁵

The CEC’s definition is taken from, and is identical to the California Public Utilities Commission’s (CPUC’s) definition of “electricity product”. Both the CEC’s and CPUC’s definitions, in turn, are based on the Legislature’s use of the term in SBX1-2 and SB350.

² Initial Statement of Reasons, p. 2

³ PU Code 398.4(a)

⁴ Enforcement Procedures for the Renewable Portfolio Standard for Local Publicly Owned Electric Utilities codified in the California Code of Regulations at Title 20, Division 2, Chapter 13, Sections 3200-3208 (POU RPS Rules)

⁵ POU RPS Rules, Section 3201(j).

Thus, for purposes of PSD reporting, an “electricity product” only refers to “electrical energy” while for RPS reporting “electricity product” refers to both the electric energy and the associated RECs.

To avoid this confusion, the draft regulations should use a similar definition of “electricity product” consistent with the RPS regulations and the Legislature’s use of the term.

b. **The “specified purchase definition in the regulation should be consistent with statute**

The proposed definition of “specific purchase” is also inconsistent with its statutory definition. As defined in Section 398.2(c):

“Specific purchases” means electricity transactions which are traceable to specific generation sources by any auditable contract trail or equivalent, such as a tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once and only once to a retail consumer. Retail suppliers may rely on annual data to meet this requirement, rather than hour-by-hour matching of loads and resources.

The above material shown in italics, while specified in statute, is not carried over to the proposed rulemaking’s definition. These are important statutory features of the definition of “specified purchases” and should be included in the PSD/PCL regulations.

3. **Support of CMUA Recommendations**

The SFPUC supports CMUA’s filed comments, and offers the following additional commentary on certain issues raised by CMUA.

a. **Expanding the Attestation requirement for Public Agencies that offer multiple products**

As CMUA notes, the transparent and open process that public agencies use to procure their energy negates any need for third-party verification of the PSD/PCL and allows for the governing board of public agencies to attest to its accuracy. As more and more public agencies are offering additional “super-green” service offerings to meet California’s environmental goals, the ability to attest to the veracity of the PSD/PCL should be extended to public agencies that offer more than one product.

b. **The proposed eligible hydroelectric generation classification is correct and should be adopted**

The SFPUC strongly supports renaming the types of renewable energy listed in the PSD/PCL to match the current RPS-eligible classifications, particularly the renaming of “small” hydroelectric resources to “eligible” hydroelectric resources. This allows for the correct classification of RPS-eligible “water conveyance facilities” operated by the SFPUC.

c. **It is unnecessary to require WREGIS Certificates as part of the PSD/PCL**

As CMUA notes, there is no need for retail providers to provide WREGIS certificates with the PSD/PCL filing as these are already provided to the CEC. In the case of the SFPUC, with its yearly RPS-compliance obligation, submission of the appropriate WREGIS certificates to the CEC will be occurring through its annual compliance filing at almost the same time it will be submitting its PSD/PCL forms.

4. **PSD/PCL reporting should be in megawatt-hours (1,000 kWh) rather than kilowatt-hours and rounded to the nearest 1/10th of a percent**

Although PU Code 398.5 requires reporting “the kilowatt hours purchased”, the CEC should use its administrative discretion and allow retail providers to file their reports in “kilowatt hours rounded up or down to the nearest 1,000” (i.e. 1 MWh). Reporting down to the kilowatt level creates significant additional administrative costs while providing no informational benefit. For a utility such as the SFPUC with sales of about 1,000,000 MWh per year it would take a change of 10 million kilowatt-hours between resource types before it would even show up as only a 1% change between generating sources. Requiring utilities to report in kilowatt-hours creates at most a 1,000 Kwh (1 MWh) difference in reported generation for each facility, which is then lost in rounding error first as facilities are aggregated by generating type and then again when final PSD results are further rounded up or down to the nearest whole percentage point. Allowing the use of rounding to the nearest 1,000 KWh is fully consistent with the legislative requirement, also contained in PU Code 398.5 for the CEC “to minimize the reporting burden and cost of reporting that it imposes on retail suppliers.” It is also consistent with the reporting of RPS-eligible energy in WREGIS which is denominated in MWh increments.

SFPUC Comments on
Power Source Disclosure
Requirements
(Docket R14-OIR-01)

Similarly, to improve accuracy, retail providers should be able to report generation in 1/10th of a percent increment rather than 1% increments. This would allow customers to better see the contribution of new technologies as they emerge toward meeting a utility's needs.

5. **Draft forms and templates should be made available before the regulations are adopted to assist parties in understanding and reviewing the proposed regulation**

Public Utilities Code Section 398.5(c) requires the CEC to “specify guidelines and standard formats...subject to public hearing, for the submittal of information pursuant to this article.”⁶ While all previous versions of the PSD rulemaking have made available the actual Power Content Label and Power Source Disclosure forms proposed for approval, the current rulemaking only contains a single reference that “stipulate the mandatory use of the PCL template provided by the Energy Commission on its website and include guidance for inputting a retail supplier’s fuel mix into the template.” However, as this template is not part of the rulemaking process, retail providers have no opportunity to comment on either the layout or underlying computations of the template. The CEC should make this information public, and provide an opportunity to comment, before its adoption.

Conclusion

Thank you for the opportunity to comment. We look forward to continuing to work with the CEC to craft revisions to the PSD/PCL forms.

Please feel free to contact me if you have any questions.

Sincerely,

/s/ James Hendry

James Hendry

San Francisco Public Utilities Commission

City and County of San Francisco

jhendry@sfgwater.org

(415) 554-1526

cc: Barbara Hale, Asst. General Manager – Power, SFPUC
Michael Hyams, Acting Manager, Policy & Administration – Power, SFPUC
Theresa Cho, City Attorney’s Office

⁶ Initial Statement of Reasons, p. 10