

## DOCKETED

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*Comment Received From: Todd Jones*

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**Center for Resource Solutionsâ€™ comment in response to the March 2016 Power Source Disclosure Program Implementation 15-Day Language**

Please find the comments of Center for Resource Solutions (CRS) in response to the March 2016 Power Source Disclosure Program Implementation 15-Day Language attached.

*Additional submitted attachment is included below.*



CRS

center for  
resource  
solutions

April 12, 2016

Mr. Kevin Chou  
Renewable Energy Office  
California Energy Commission  
1516 Ninth Street, MS-45  
Sacramento, CA 95814-5512

**RE: DOCKET NO. 14-OIR-01. Center for Resource Solutions' comment in response to the March 2016 Power Source Disclosure Program Implementation 15-Day Language**

Dear Mr. Chou:

Center for Resource Solutions (CRS) appreciates the opportunity to comment on the March 2016 Power Source Disclosure Program Implementation 15-Day Language ("March 2016 15-Day Language"), released for public comment on March 29, 2016.

**Background on CRS and Green-e®**

CRS is a 501(c)(3) nonprofit organization that creates policy and market solutions to advance sustainable energy. CRS has broad expertise in renewable energy policy design and implementation, electricity product disclosures and consumer protection, and greenhouse gas (GHG) reporting and accounting. CRS administers the Green-e programs. Green-e Energy, in particular, is the leading certification program for voluntary renewable electricity products in North America. In 2014, Green-e Energy certified retail sales of 38 million megawatt-hours (MWh), representing over 1% of the total U.S. electricity mix, or enough to power nearly a third of U.S. households for a month. In 2014, there were over 836,000 retail purchasers of Green-e certified renewable energy, including 50,000 businesses.

Stakeholder-driven standards supported by rigorous verification audits and semiannual reviews of marketing materials ensure robust customer disclosure and are pillars of Green-e Certification. Through these audits and reviews CRS is able to provide independent third-party certification of renewable energy products. Green-e program documents, including the standards, Code of Conduct, and the annual verification report, are available at [www.green-e.org](http://www.green-e.org). CRS also has a long history of working with state agencies to design and implement consumer protection policies that ensure accurate marketing and avoid double counting of individual resources towards multiple end uses.

In January 2015, the California Public Utilities Commission directed the three largest investor-owned utilities (IOUs) in the state—Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company, which together cover nearly 80% of the state—to offer a Green-e Energy certified 100% renewable energy option to their customers.<sup>1</sup> As such, these products will need to

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<sup>1</sup> California Public Utilities Commission (CPUC). Decision 15-01-051 January 29, 2015. Decision Approving Green Tariff Shared Renewables Program for San Diego Gas & Electric Company, Pacific Gas and Electric Company, and Southern California Edison Company pursuant to Senate Bill 43. Available online: <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M146/K250/146250314.PDF>.

comply with Green-e requirements for product disclosure including product content labels.<sup>2</sup> According to the order, “Green-e Energy certification will also provide customers with standardized, understandable information on the energy’s attributes.”<sup>3</sup>

## Comments

### **1. The March 2016 15-Day Language allows double counting.**

The California Energy Commission (CEC) has removed all language about Renewable Energy Certificates (RECs) or WREGIS Certificates from proposed requirements for Power Source Disclosure (PSD) in the March 2016 15-Day Language. According to the Notice of Availability of 15-Day Language:

*“Under section 1391, the definition of ‘WREGIS certificate’ was stricken and its proposed use in section 1394 for reporting and verification purposes has been withdrawn. This change was made due to numerous concerns expressed by retail suppliers that the reporting of WREGIS certificates would be an onerous and unnecessary requirement for the purposes of this program.”*

The effect of this change is that RECs are not required to verify renewable energy used to serve retail load included in PSD. As a result, the March 2016 15-Day Language allows double counting to occur—retail suppliers are allowed to report renewable energy delivered to retail customers through the PSD program while the RECs from the same generation may be sold off and used for other state Renewable Portfolio Standards (RPSs) or for other retail product claims in California or another state.

CAL. PUB. UTIL. CODE § 399.21(a)(2), requires that:

*“Each renewable energy credit shall be counted only once for compliance with the renewables portfolio standard of this state or any other state, or for verifying retail product claims in this state or any other state.”*

To avoid double counting, proof of REC (WREGIS Certificate) ownership and retirement for renewable energy that is reported and disclosed in PSD must be required.

### **2. We recommend adding language that explicitly requires the retirement of RECs (WREGIS certificates) to substantiate deliveries of specified renewables reported on product content labels (PCLs).**

Along with the problematic “REC only” category, the December 18, 2015 proposed modifications also removed language explicitly requiring all specified renewables without certificates to be reported as unspecified, in Section 1394(a)(2)(A)(3) of the May 2014 Pre-rulemaking Proposed Text. Though the “REC Only” category was rightly removed, the following language reflected an appropriate and consistent treatment of RECs in PSD:

*“If a retail supplier purchases electricity for which WREGIS Certificates were issued but the retail supplier does not purchase the Certificates, the retail supplier shall identify the fuel type as ‘unspecified sources of power’ and shall disclose the facility from which the electricity was purchased.”*

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<sup>2</sup> Green-e’s requirements for product content labels and other customer disclosure can be found in the Green-e Energy Code of Conduct, available online: [http://www.green-e.org/getcert\\_re\\_stan.shtml#coccdr](http://www.green-e.org/getcert_re_stan.shtml#coccdr).

<sup>3</sup> California Public Utilities Commission (CPUC). Decision 15-01-051 January 29, 2015. Section 5.4, pg. 90.

The December 18, 2015 Express Terms included requirements to report WREGIS certificates for specified power and the combined requirements for audited information submittals to Energy Commission in Sec. 1394 (a)(2)(A), which would have achieved the same result—requiring RECs to substantiate deliveries of renewable power reported in PSD. These requirements have been removed in the March 2016 15-Day Language, allowing for double counting in the PSD program. We recommend explicitly stating that REC retirement is required for all reported deliveries of specified renewables reported on PCLs, by re-inserting the statement above or including a similar statement.

We believe that discussions pertaining to RECs in PSD may be conflating RECs as the essential accounting instrument to verify delivery of renewable energy and associated emissions for retail product claims in California with “unbundled” REC purchasing as a form of contract and procurement option for suppliers. The CEC may choose to limit PSD based on the form of the energy procurement contract used by the supplier or the location of the generation (though this presents a less-than-complete picture of power sources used to serve retail customers and may require additional explanation to avoid consumer confusion, as we explain below). But, REC ownership must be required for delivery of any renewable energy that *is* included in PSD in order to avoid double counting of these MWh and emissions, as explained above. RECs are required for effective delivery of renewable generation attributes whether bundled or unbundled.

**3. The most complete and accurate emissions disclosure reflects *all* purchases made by suppliers, including out-of-state and unbundled RECs, since there is no difference to the customer in terms of usage claims.**

For retail customers in California, the REC represents the attributes of renewable generation (including emissions), exclusive claim to the delivery and ultimately use of renewable generation, and proof of renewable generation that has been added to the grid within Western power grid. Whether these attributes are delivered to the customer with (bundled) or separate from electricity (unbundled) has no bearing whatsoever on the delivery of those attributes and customer’s claim to receipt of those attributes (fuel type). The form of contract can be disclosed, if that’s deemed important for the customer and as we demonstrated in previous comments. We also feel that if certain purchases or generation are to be excluded, there should be disclosure to let the customer know what has been excluded, again in order to avoid customer confusion.

Contrary to Pacific Gas & Electric’s (PG&E’s) 2/5/16 comments on the Express Terms, unbundled RECs are not just a compliance mechanism. With respect to deliveries of specified renewable energy, the attributes of renewable generation, including fuel/resource type, are clearly and exclusively contained in the REC (WREGIS Certificate).<sup>4</sup> Attributes that are delivered with electricity (“bundled”) and attributes that are delivered separate from electricity (“unbundled”) are contractually and functionally equivalent with respect to a customer’s claim to receipt of those attributes and use of that specified generation source,<sup>5</sup> which is

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<sup>4</sup> CAL. PUB. UTIL. CODE § 399.12(h). Online at: <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=puc&group=00001-01000&file=399.11-399.32>. Also see Western Electricity Coordinating Council, WREGIS Operating Rules (July 15, 2013). Section 2, pg. 2, 4-5. Available online at: <https://www.wecc.biz/Corporate/WREGIS%20Operating%20Rules%20072013%20Final.pdf>.

<sup>5</sup> U.S. Federal Trade Commission (FTC). (2012). The Green Guides Statement of Basis and Purpose, pg. 218. Available online: <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-issues-revised-green-guides/greenguidesstatement.pdf>.

Also see: U.S. Department of Energy, U.S. Environmental Protection Agency, the World Resources Institute, Center for Resource Solutions. (March 2010). Guide to Purchasing Green Power Renewable Electricity, Renewable Energy Certificates, and On-Site Renewable Generation. Office of Air (6202J) EPA430-K-04-015. DOE/EE-0307. Pg. 10.

precisely what is being communicated in PSD. Multiple governmental entities at different levels, including the U.S. Federal Trade Commission (FTC) and U.S. Environmental Protection Agency (EPA), state legislation and regulation, regional electricity transmission authorities, non-governmental organizations (NGOs), trade associations, and market participants have recognized that RECs represent and convey the renewable, environmental and/or social attributes of renewable electricity generation to the owner, along with the legal right to claim usage of that renewable electricity.<sup>6</sup>

At the January 6, 2016 workshop on proposed modifications to the PSD program (“the January 6<sup>th</sup> workshop”), Debi Winney, PacifiCorp, asked about how to report a REC product (the voluntary Blue Sky program) in PSD: “If we were purchasing only the RECs would that be reported separately as a different product? [...] That would be reported as two separate mixes; is that correct?” Jordan Scavo, CEC, responded that if PacificCorp wants to report that as a separate product it can, otherwise it can report that as one integrated product.<sup>7</sup> This suggests that unbundled REC purchases can be incorporated and reported as renewable energy in a PCL. However, having struck all references to RECs and WREGIS Certificates in the March 2016 15-Day Language, it is unclear how REC procurement and use for retail load is reported to and verified by the CEC. We recommend that this be clarified in the PSD program requirements, along with, again, language that explicitly requires the retirement of RECs (WREGIS certificates) to substantiate all specified renewable energy that is reported on PCLs.

**4. Concerns articulated by stakeholders regarding reporting WREGIS Certificates and RECs in PSD at the January 6, 2016 Workshop, in written comments submitted in response to the workshop and December 18, 2015 Express Terms, and by the CEC in subsequent conversations with CRS can be addressed and do not compel or justify removal of the language requiring REC reporting and retirement, where removal of this language would allow double counting.**

**4a. California Assembly Bill (AB) 1110 pertains to emissions disclosure and does not affect power source disclosure.**

According to Kevin Chou, the CEC is postponing any language on RECs until the AB 1110 legislation is resolved. AB 1110 pertains to emissions disclosure only and does not affect PSD. Though it makes sense for PSD and emissions disclosure to be consistent in terms of what generation and procurement gets included and the methodology for used to verify reporting, the text of AB 1110 has not yet been finalized and the bill has not been passed and signed into law. The language in AB 1110, as of the date of this letter, that would prohibit the use of RECs for disclosure of GHG emissions associated with delivered electricity, a primary attribute contained in the REC,<sup>8</sup> is being challenged by CRS and others.<sup>9</sup> If the CEC wishes to ensure that PSD and emissions disclosure are consistent, it should wait to set PSD rules until AB 1110 has been finalized and passed, and it should support CRS’s recommendation that the language amending Sec. 398.4 of the Public Utilities Code be removed from AB 1110, which would allow the CEC to finish its work to determine

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Available online: [http://www.epa.gov/greenpower/documents/purchasing\\_guide\\_for\\_web.pdf](http://www.epa.gov/greenpower/documents/purchasing_guide_for_web.pdf).

<sup>6</sup> See Jones, T. (2015). The Legal Basis of Renewable Energy Certificates. Center for Resource Solutions. Available online at: [http://www.resource-solutions.org/pub\\_pdfs/The%20Legal%20Basis%20for%20RECs.pdf](http://www.resource-solutions.org/pub_pdfs/The%20Legal%20Basis%20for%20RECs.pdf).

<sup>7</sup> See Transcript of 01/06/16 Staff Workshop to Receive Public Comments on the Proposed Modifications to the Regulations, pg. 60-61. Available at: [http://docketpublic.energy.ca.gov/PublicDocuments/14-OIR-01/TN207267\\_20160111T081827\\_Transcript\\_of\\_the\\_010616\\_Staff\\_Workshop\\_to\\_Receive\\_Public\\_Comme.pdf](http://docketpublic.energy.ca.gov/PublicDocuments/14-OIR-01/TN207267_20160111T081827_Transcript_of_the_010616_Staff_Workshop_to_Receive_Public_Comme.pdf).

<sup>8</sup> See CAL. PUB. UTIL. CODE § 399.12(h), online here:

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=puc&group=00001-01000&file=399.11-399.32>.

<sup>9</sup> See a summary of CRS’s comments on AB 1110 here: [http://resource-solutions.org/site/wp-content/uploads/2016/03/CRS\\_AB1110\\_ExecSummary\\_3-15-2016.pdf](http://resource-solutions.org/site/wp-content/uploads/2016/03/CRS_AB1110_ExecSummary_3-15-2016.pdf).

the methodology for GHG emissions accounting and reporting through a transparent and open regulatory process.

4b. Removal of language about RECs/WREGIS certificates in the March 2016 15-Day Language is not an appropriate response to a lack of clarity around whether PSD should reflect procured generation (based on the purchase date) or used/retired generation (based on the date of use/retirement) because it 1) does not resolve the issue, and 2) produces double counting.

At the January 6, 2016 workshop, John Pappas, PG&E, asked whether RECs need to be purchased or retired or both in a given year in order to be reported in PSD for that year.<sup>10</sup> Kevin Chou, CEC, responded that it would make the most sense to require that the REC has been purchased, not retired, within the same calendar year. James Hendry, SFPUC, pointed out that that's not consistent with legislation that says that PSD reflects what is used to serve retail load, and suggested that for PSD the CEC look at whether it was used to serve retail load in that year in order to determine whether or not generation is included. At this point, Jordan Scavo, CEC, said:

*"These are the reasons why we pushed back dealing with the issue of RECs and unbundled RECs. That it's complicated and it's messy and there's lots of ways to think about it. And a lot of them produce a lot of confusion, especially because they don't line up with RPS."*<sup>11</sup>

Not requiring REC retirement for reported renewable energy, and the potential double counting that results, cannot be justified on the basis of questions about which generation/procurement can be reported. Furthermore, these questions are not resolved by the March 2016 15-Day Language, either directly with requirements about whether to report when generation purchased or when it is used to serve retail load, if different, or by removing all language on RECs and WREGIS Certificates.

At the January 6<sup>th</sup> workshop, Angela Gould, CEC, said that CEC staff wants PSD to reflect purchases because, "when you try to marry it too much with the RPS it just gets really, really complicated, and [...] because the retirement year won't match the purchase year."<sup>12</sup> But there are other situations (that don't involve renewable energy and RECs) in which there is a difference between the date the generation is used and the date the generation is purchased and where suppliers will need to determine whether to include a purchase. It is not necessarily true that if we remove the language on RECs, then we can simply look at purchase year to determine the generation serving retail load in all cases.

For example, at the January 6<sup>th</sup> workshop, Dona Stein, Shell, asked about whether wholesale or retail sales should be included. She noted that if PSD reflects purchases only, then this would include wholesale purchases, which are not used to meet retail load, which would be inconsistent with reporting as a retail seller on the PCL.<sup>13</sup> Ms. Gould responded (and Mr. Chou confirmed) that sales to other parties don't get included. This means that in effect the CEC has already decided that PSD should not only reflect purchased generation. Rather, that it should reflect what gets delivered to and used by retail customers. Requiring REC retirement for renewable energy would be entirely consistent with the decision to remove wholesale

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<sup>10</sup> See Transcript of 01/06/16 Staff Workshop to Receive Public Comments on the Proposed Modifications to the Regulations, pg. 50-61. Available at: [http://docketpublic.energy.ca.gov/PublicDocuments/14-OIR-01/TN207267\\_20160111T081827\\_Transcript\\_of\\_the\\_010616\\_Staff\\_Workshop\\_to\\_Receive\\_Public\\_Comme.pdf](http://docketpublic.energy.ca.gov/PublicDocuments/14-OIR-01/TN207267_20160111T081827_Transcript_of_the_010616_Staff_Workshop_to_Receive_Public_Comme.pdf).

<sup>11</sup> *Ibid.* pg. 52.

<sup>12</sup> *Ibid.* pg. 55.

<sup>13</sup> *Ibid.* pg. 55-56.

purchases. In fact, not requiring REC retirement (including renewable energy based on the purchase date) would be inconsistent with this.

Finally, removal of language on RECs in PSD requirements in response to a lack of clarity around whether PSD should reflect purchased or used generation does not resolve the potential double counting that could result where the RECs are sold off, used for voluntary products, or for other state RPSs. Ms. Gould (CEC) identified and raised this issue at the January 6<sup>th</sup> workshop.

In response to a comment from John Leslie, Shell, in support of using the year that RECs are retired, not the year that they are purchased, as the basis for reporting in PSD, Ms. Gould asked if he and other stakeholders also supported that REC retirement should be required for bundled REC purchases: “Would you want that REC to have to be retired in order to report it as eligible renewable?”<sup>14</sup> She suggested that, if not, the REC could be sold off and still reported as renewable, in that case. She noted further that an unbundled REC could be sold off to another party if retirement is not required. She asked whether stakeholders would want all RECs to be retired in order to be listed as that eligible fuel type. Mr. Leslie agreed with Ms. Gould’s concern and said that only RECs that have been retired for a supplier’s own retail load in a given year should be reported for that year. Ms. Gould then asked about a situation in which an entity purchased wind power and a bundled REC, but didn’t retire the REC within that year. How and when would the entity report that purchase in PSD?<sup>15</sup>

Ms. Gould is correct that unless REC retirement is required for all renewable energy reported in PSD, whether bundled or unbundled, the RECs could be sold off and double counted. And Mr. Leslie is also correct that renewable energy generation should be reported when RECs are retired to avoid double counting and to answer the question about whether to report when purchased or when used. In the case of bundled renewable purchases where the REC is retired in a different calendar year, the REC is effectively unbundled, meaning the electricity should be reported as unspecified in the year of purchase, and the REC is paired with a MWh of unspecified power and reported as specified renewable (re-bundled) in the year that it is retired.

Debi Winney, PacificCorp, later asked again how a purchase of energy with an associated REC where the REC is sold off would be reported. Mr. Chou, CEC, responded that it would be reported as a generic purchase, as of January 6<sup>th</sup>.<sup>16</sup> We agree that this is the correct way to report in this case. But this is not supported by the March 2016 15-Day Language, now that all language about RECs and WREGIS certificates has been removed.

#### 4c. PSD should reflect the generation used to serve retail load by requiring REC retirement for renewable energy reported.

Double counting and questions about whether to report when purchased or when used are easily resolved by simply requiring that generation that is reported in PSD shall be that which is used to serve retail load, not sold off, and for renewable energy this means REC retirement. This is consistent with the statements made by James Hendry (SFPUC)<sup>17</sup> and John Leslie (Shell)<sup>18</sup> at the January 6<sup>th</sup> workshop. In particular, Mr.

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<sup>14</sup> *Ibid.* Pg. 53.

<sup>15</sup> *Ibid.* pg. 54-55.

<sup>16</sup> *Ibid.* pg. 59-60.

<sup>17</sup> *Ibid.* pg. 51.

<sup>18</sup> *Ibid.* pg. 52, 54-55, 58-59.



Leslie said that according to Pub. Util. Code Sec. 318.1(b), the PSD program provides information on the sources of energy used to sell power to retail customer, not all purchases of energy by a retail supplier: “And that’s what we’re trying to get at here. It’s what supplies are being used in the reporting year to serve a retail supplier’s customers. And we want to distinguish that from purchases that are made for resale to others, purchases that are made that may be used in some other year.”<sup>19</sup>

It is also consistent with PG&E’s 2/5/16 comments on the Express Terms:

*“Unbundled RECs may be purchased in one year (e.g., 2015), retired the next year (e.g., 2016), but designated for any one of the three years following the initial date of generation for the purpose of RPS compliance. PG&E reiterates its July 1, 2015 recommendation that unbundled REC purchases be included in the power source disclosure in the year the retired REC as designated for RPS compliance purposes. This will ensure that the RECs are not sold and potentially counted by another retail supplier after being counted toward RPS compliance.”<sup>20</sup>*

4d. Removal of language about RECs/WREGIS certificates is not an appropriate response to a lack of clarity around whether PSD should reflect RPS procurements and deliveries.

Though there appears to have been some disagreement about whether or not to match (and the feasibility of matching) PSD to reporting/retirements for the RPS<sup>21</sup>, again, this is not resolved by the March 2016 15-Day Language, and the issue of potential double counting without requiring the retirement of RECs for all renewable energy reported in PSD remains.

4e. Double counting is not a permissible alternative to administrative burden.

Several stakeholders submitted written comments to the effect of: reporting WREGIS Certificate numbers as a part of PSD verification would represent an undue administrative burden on reporting entities.<sup>22</sup> The PSD program represents a retail product claim, for which state law requires that a REC can only be used once.<sup>23</sup> If REC serial numbers are not provided, how else will the CEC determine that renewable energy included on a PCL has not been double counted, i.e. that it includes the RECs? It is common practice across the U.S. to show proof of REC retirement for retail claims, RPS or otherwise.<sup>24</sup> In addition, these same stakeholders identified that WREGIS Certificate numbers are already provided to the CEC with annual RPS compliance submissions. If WREGIS certificate numbers are already being provided to the CEC through another process and can be used to substantiate renewable energy that is included in annual PSD reports,

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<sup>19</sup> *ibid.* pg. 58-59.

<sup>20</sup> February 5, 2016. Comments of Pacific Gas and Electric Company on the Express Terms California Energy Commission’s Power Source Disclosure Program. Pg. 4. [http://docketpublic.energy.ca.gov/PublicDocuments/14-OIR-01/TN210201\\_20160205T142420\\_Pacific\\_Gas\\_and\\_Electric\\_Company\\_Comments\\_On\\_the\\_Express\\_Terms.pdf](http://docketpublic.energy.ca.gov/PublicDocuments/14-OIR-01/TN210201_20160205T142420_Pacific_Gas_and_Electric_Company_Comments_On_the_Express_Terms.pdf).

<sup>21</sup> See the conversation between Tim Tutt (SMUD), James Hendry (SFPUC), and Caryn Holmes (CEC) on pg. 56-58 of the Transcript of 01/06/16 Staff Workshop to Receive Public Comments on the Proposed Modifications to the Regulations.

<sup>22</sup> See 12/30/2015 Shell Energy North America (US), L.P. Comments on Proposed Modifications to the Power Source Disclosure Program Regulations; 2/5/2016 City of Lancaster Comments: On Proposed Modifications to Power Source Disclosure Regulations; 2/5/2016 Comments of Pacific Gas and Electric Company on the Express Terms California Energy Commission’s Power Source Disclosure Program; 2/5/2016 Northern California Power Agency Comments: On Proposed Modifications to the Power Source Disclosure Regulations; 2/5/2016 California Municipal Utilities Association Comments: On Proposed Modifications to Power Source Disclosure Regulations.

<sup>23</sup> CAL. PUB. UTIL. CODE § 399.21(a)(2).

<sup>24</sup> Jones, T. (2015). The Legal Basis of Renewable Energy Certificates. Center for Resource Solutions. Available online at: [http://www.resource-solutions.org/pub\\_pdfs/The%20Legal%20Basis%20for%20RECs.pdf](http://www.resource-solutions.org/pub_pdfs/The%20Legal%20Basis%20for%20RECs.pdf).

then this may be sufficient to prevent double counting. WREGIS certificate numbers do not need to be reported to consumers on a PCL, but, to avoid double counting, retail sellers must demonstrate to the CEC that RECs have been retired for all renewable energy included in PSD. It should be explicit in PSD rules that REC retirement is required and must be demonstrated to the CEC.

4f. Requiring REC retirement for renewable energy reported would alleviate concerns about the timing of REC issuance relative to PSD reporting.

The Northern California Power Agency has commented that WREGIS Certification numbers will not always be available in time to comply with PSD reporting requirements, where there are delays in the issuance of certificates and electricity generation during the reporting period that must be reported on the PSD.<sup>25</sup> However, if reporting for PSD reflects usage to serve retail load and REC retirement is required for reporting for renewable energy in PSD, retail sellers will wait to report until RECs have been issued and retired. Moreover, the reporting period can be moved to align with when certificates are available for the reporting period.

**5. We express our general support for the following areas of the March 2016 15-Day Language.**

5a. We support the removal of the problematic “Non-California Eligible Renewable” category, introduced in the December 18, 2015 proposed modifications and Express Terms (“Express Terms”).<sup>26</sup>

5b. We support the continued absence of the problematic “REC Only” category, which was proposed as a part of the May 2014 Pre-rulemaking Proposed Text of Draft Regulations for the Power Source Disclosure Program (“Pre-rulemaking Proposed Text”) and removed in the December 18, 2015 Express Terms.<sup>27</sup>

In addition to the problems with the REC Only category presented in CRS’s June 12, 2015 comments on the Pre-Rulemaking Draft Regulations as well as others’ comments<sup>28</sup>, the former REC Only fuel source category should not be reinstated on the basis of arguments that the purchase of unbundled RECs does not guarantee that the zero GHG attributes of the associated physical electricity because unbundled RECs are traded separately from GHG allowances. GHG allowances do not carry the zero GHG attributes of electricity generation and cannot be used to convey use of renewable energy or zero emissions energy in California or anywhere else. A cap-and-trade system and the use of GHG allowances affects the avoided grid emissions

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<sup>25</sup> February 5, 2016. Northern California Power Agency Comments: On Proposed Modifications to the Power Source Disclosure Regulations. Pg. 3. [http://docketpublic.energy.ca.gov/PublicDocuments/14-OIR-01/TN210209\\_20160205T162442\\_Northern\\_California\\_Power\\_Agency\\_Comments\\_On\\_Proposed\\_Modificat.pdf](http://docketpublic.energy.ca.gov/PublicDocuments/14-OIR-01/TN210209_20160205T162442_Northern_California_Power_Agency_Comments_On_Proposed_Modificat.pdf).

<sup>26</sup> See CRS’s February 19, 2016 comments in response to the December 18, 2015 Notice of Proposed Action and Express Terms for Modification of Regulations Governing the Power Source Disclosure Program. Online at: [http://resource-solutions.org/site/wp-content/uploads/2016/02/CRScomment\\_CEC-PSD\\_2-19-2016.pdf](http://resource-solutions.org/site/wp-content/uploads/2016/02/CRScomment_CEC-PSD_2-19-2016.pdf).

<sup>27</sup> See CRS’s June 12, 2015 comments on the Power Source Disclosure (PSD) Program Pre-Rulemaking Draft Regulations, released by the California Energy Commission for public comment on May 14, 2015. Online at: [http://resource-solutions.org/site/wp-content/uploads/2015/07/CRScomment\\_CEC-PSD-draft-reg\\_6-12-2015.pdf](http://resource-solutions.org/site/wp-content/uploads/2015/07/CRScomment_CEC-PSD-draft-reg_6-12-2015.pdf).

<sup>28</sup> “Previously, unbundled REC purchases were known as ‘REC Only purchases’ and were included in the PCL sources as if they were an electricity source, which reduces, proportionally, reported electricity sources to a fraction of actual sales. This is not authorized by the statute, reduces the value of the PCL and confuses the consumer” (February 5, 2016. Comments of Pacific Gas and Electric Company on the Express Terms California Energy Commission’s Power Source Disclosure Program. Pg. 3).

attribute of renewable energy, not the emissions factor attribute, which is nevertheless contained exclusively in the REC. It is this attribute which is relevant to emissions disclosure. PSD conveys fuel type attributes to electricity consumers, which is also unaffected by GHG allowances. The California Air Resources Board (CARB) does not dispute this. CARB is simply not concerned with tracking renewable energy or GHG emissions to consumers. Rather, it is concerned with tracking renewable energy in the case of imports where RECs are used to prove a zero emissions factor. CARB uses a different methodology, the Mandatory Reporting Regulation (MRR), not because it is better for the purposes of tracking and determining emissions delivered to consumers, but rather because it is not intended to serve this purpose at all. The MRR is not for retail product claims, PSD or disclosure of the GHG emissions associated with delivered electricity to retail customers, nor is it appropriate as such a protocol. There is no prohibition against trading unbundled RECs under the MRR and no prohibition against using unbundled RECs for emissions claims for delivery to customers. RECs, whether bundled or unbundled, apply to delivery and consumption of electricity. There is a market for renewable energy, with which the MRR is not concerned, but which must be reflected in the fuel sources and GHG emissions factor reported/disclosed to customers in order to verify delivery of renewable energy, avoid double counting, and support the legitimacy of the program.<sup>29</sup>

5c. We support PCLs that do not include generation allocated to differentiated products that are delivered to a specific group of voluntary customers (“voluntary products”), or that disclose fuel mix for voluntary products separately.

As noted above, each of the three large IOUs in the state will be required to offer voluntary green power options, and many of the other retail suppliers in the state offer voluntary products as well. To prevent double counting, it is important that voluntary product sales, particularly of renewable energy (bundled or unbundled), and especially sales of Green-e certified renewable energy products, do not appear blended with other sales on PCLs received by all customers or non-subscribers to voluntary and Green-e certified programs and products. It is our understanding that the standardized template PCL required for retail suppliers will include additional, separate columns for voluntary products.

Thank you very much for the opportunity to comment. We would be happy to supply any other supporting or clarifying information that would be helpful.

Sincerely,



Todd Jones  
Senior Manager, Policy and Climate Change Programs

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<sup>29</sup> For more information, see pg. 9-10 of CRS's comments on AB 1110, available here: [http://resource-solutions.org/site/wp-content/uploads/2015/09/CRSlettertoAssemblymemberTingREAB1110\\_8-18-2015.pdf](http://resource-solutions.org/site/wp-content/uploads/2015/09/CRSlettertoAssemblymemberTingREAB1110_8-18-2015.pdf).