

DOCKETED

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STATE OF CALIFORNIA

STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:

POWER SOURCE DISCLOSURE
PROGRAM IMPLEMENTATION
RULEMAKING

Docket No. 14-OIR-01

RESOLUTION ADOPTING
REGULATIONS

WHEREAS, on December 4, 2015 the Commission published a Notice of Proposed Action (NOPA) concerning the potential modification of existing regulations, the Express Terms of the proposed regulations, a fiscal and economic analysis of the proposed regulations, and an Initial Statement of Reasons (ISOR) describing the rationale for the proposal; and

WHEREAS, on December 18, 2015, the comment period was extended and the NOPA was provided to every person on the Energy Commission's power source disclosure and renewables list servers and to every person who had requested notice of such matters, including the Secretary of Natural Resources, and was posted to the Commission's website; and

WHEREAS, on February 11, 2016 the Commission published a notice extending the comment period; and

WHEREAS, on March 29, 2016 the Commission published a Notice of Availability of 15-Day Language (Notice); and

WHEREAS, the Notice designated May 17, 2016, as the date for the hearing to consider adoption of the proposed regulations and on this date the Commission held a public hearing to receive comments on the proposed regulations and to consider their adoption and did so adopt the regulations; and

WHEREAS, after careful consideration, the Commission determined that some of the changes adopted may not have been clearly marked in accordance with Government Code section 11346.8(c); and,

WHEREAS, on June 16, 2016, in order to ensure that the proposed changes were properly brought to the attention of the public prior to submittal to the Office of Administrative Law, the Commission published a Notice of Availability of Additional 15-Day Language (Additional Notice) clearly identifying those portions of the proposed changes that had not been so identified in the previous publications; and

WHEREAS, each of these notices was provided to every person on the Energy Commission's power source disclosure and renewables list servers and to every person who had requested notice of such matters, and was posted to the Commission's website; and

WHEREAS, the Additional Notice designated July 13, 2016, as the date for the hearing to consider re-adoption of the proposed regulations and on this date the Commission held a public hearing to receive comments on the proposed regulations and to consider their re-adoption.

THE CALIFORNIA ENERGY COMMISSION FINDS:

The California Energy Commission has considered the application of the California Environmental Quality Act (CEQA) to the proposed regulations and concluded that its adoption is not a "project" under CEQA, but that in the event that adoption were determined to be a project, that it would nonetheless be exempt from CEQA requirements pursuant to the "common sense" exemption (CEQA Guidelines, § 15061, subd. (b)(3)) because there is no possibility that the proposed regulations may have a significant effect on the environment, and nothing in the record suggests otherwise; and

The proposed regulations update terms and definitions to conform with statutory requirements and reflect other changes such as bringing the regulations in line with contemporary usage of terms; and

The proposed regulations update the timing requirements for marketing disclosures, annual disclosures, and auditing reports and allows for electronic mailing of these requirements for customers who have consented to such; and

The proposed regulations provide additional guidance for reporting pumped storage facilities and calculating the fuel mix of an electric service product; and

The proposed regulations add clarification to multi-jurisdictional retail suppliers by directing them to use the entire portfolio of resources of the electric service product as a basis for the fuel mix calculation; and

The proposed regulations update the specifications for the power content label by directing retail suppliers to use the template contained on the Energy Commission's website, better ensuring consistent appearance and content across the retail suppliers; and

The proposed regulations conform with statutory requirements by requiring all retail suppliers to submit an annual report, not just those who made a claim of specific purchases in the previous year; and

The proposed regulations clarify that gross generation, net generation, and resold or consumed electricity must be reported separately in the annual report, and a comparison of total purchases and sales must be provided; and

The proposed regulations clarify that the Energy Commission may investigate any electricity transaction reported by a retail supplier, not just those claimed as specific purchases; and

The proposed regulations allow a retail supplier that is a public agency to self-attest to one electric service product in lieu of an audit, even if the retail supplier offers more than one electric service products. All other electric service products would require an audit; and

The proposed regulations update the Agreed-Upon Procedures appendix to reflect the regulatory changes cited above; and

The proposed regulations will not result in a significant statewide adverse impact directly affecting business, including the ability of California businesses to compete with businesses in other states; and

The proposed regulations will not create or eliminate a significant number of jobs within California; and

The proposed regulations will not create new businesses, eliminate existing businesses, or have an effect on the expansion of businesses in California; and

The proposed regulations will impose no costs on private persons; and

The proposed regulations will impose no direct or indirect requirements or costs on state agencies, local agencies, or school districts, including but not limited to costs that are required to be reimbursed under Part 7 (commencing with Section 17500) of the Government Code; and

The proposed regulations will result in no costs or savings in federal funding to the State; and

The proposed regulations will not affect housing costs; and

The proposed regulations will have no significant adverse effect on businesses in general or small businesses in particular; and

The proposed regulations have no known costs that a representative person or business would incur in compliance; and

No reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law; and

None of the comments received during the comment period or at the adoption hearing, and nothing else in the record, justified any changes to the proposed amendments as published on June 16, 2016;

THEREFORE BE IT RESOLVED, after considering all comments received and the staff's responses, and based on the entire record of this proceeding, the California Energy Commission hereby adopts the amendments to its power source disclosure regulations, as set forth in the express terms that were published on June 16, 2016 (Cal. Code of Regs., tit. 20, §§ 1391-1394). We take this action under the authority of sections 25213 and 25218(e) of the Public Resources Code, and sections 398.3, 398.4, and 398.5 of the Public Utilities Code, to implement, interpret, and make specific, sections 25216 and 25216.5 of the Public Resources Code, and sections 398.1 to 398.5 of the Public Utilities Code.

The Energy Commission delegates the authority and directs Commission staff to take, on behalf of the Commission, all actions reasonably necessary to have the adopted regulations go into effect, including but not limited to making any appropriate non-substantive changes to the regulations; preparing all appropriate documents, such as the Final Statement of Reasons; compiling and submitting the rulemaking file to the Office of Administrative Law (OAL); and making any changes to the rulemaking file required by OAL.

CERTIFICATION

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly and regularly adopted at a meeting of the California Energy Commission held on July 13, 2016.

AYE: Weisenmiller, Douglas, McAllister, Hochschild, Scott

NAY: None

ABSENT: None

ABSTAIN: None

Original Signed by

Cody Goldthrite
Secretariat