CRS center for resource solutions

[SUBMITTED ELECTRONICALLY VIA EMAIL TO docket@energy.ca.gov]

June 12, 2015

Kevin Chou
Energy Analyst
California Energy Commission (CEC)
1516 Ninth Street, MS-45
Sacramento, CA 95814

RE: Docket No. 14-OIR-01 Docket Unit, MS-4. Center for Resource Solutions' (CRS's) comments on Rulemaking to Consider Modifications to the Electricity Generation Source Disclosure Regulations and Pre-Rulemaking Draft Regulations to the Power Source Disclosure Program

Dear Mr. Chou:

Center for Resource Solutions (CRS) appreciates the opportunity to comment on the Power Source Disclosure (PSD) Program Pre-Rulemaking Draft Regulations, released for public comment on May 14, 2015.

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 2013, Green-e Energy certified retail sales of 33.5 million megawatt-hours, enough to power over a quarter of U.S. households for a month. Almost 717,000 total retail customers purchase Green-e Energy certified products from 280 companies in 2013.

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. CRS has 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 of this year, 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

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offer a Green-e Energy certified 100% renewable energy option to their customers.[1] As such, these products will need to comply with Green-e requirements for product disclosure including product content labels.[2] According to the order, "Green-e Energy certification will also provide customers with standardized, understandable information on the energy's attributes."[3]

General Comments related to the Pre-rulemaking Draft Regulations

1. **In order to be accurate, all purchases made by utilities and CCAs, including purchases of out-of-state and/or unbundled renewable energy credits (RECs), should be included in disclosure to retail customers.**

The Draft Regulations appropriately include unbundled REC purchases with other bundled renewable electricity purchases within the total for "Eligible Renewable."[4] In particular, the following language in Section 1394(a)(2)(A)(3) of the Proposed Text of Draft Regulations for the Power Source Disclosure Program ("Proposed Text") reflects 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."

PSD to electricity customers reflects the attributes of delivered electricity. The attributes of renewable generation, including fuel/resource type, are clearly and exclusively contained in the REC (WREGIS Certificate).[5] For a retail customer, the REC represents the attributes of renewable generation, 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 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, which is precisely what is being communicated in PSD.

Questions/Requests for More Information regarding the Pre-rulemaking Draft Regulations

1. **Please clarify Section 1394(a)(2)(A)(3) of the Proposed Text: "[for the REC Only category, a retail supplier] shall disclose the facility from which the REC was purchased. Additionally, the supplier shall disclose the fuel type of the REC only purchase."**

[1] 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.

[2] 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.

[3] *Ibid*. Section 5.4, pg. 90.

[4] Please see the Comments section below for our other concerns with the proposed "REC Only" category.

[5] 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.

Though this requires that retail suppliers disclose the resource type within REC Only category purchases, it is not clear from the Proposed Test or example PCLs provided in the Staff Report where this disclosure of fuel type and facilities for REC only purchases would be located. Please clarify.

Below, we provide comments and recommendations for changes to the "REC Only" category.

2. **Please clarify Section 1392(c)(2)(B) of the Proposed Text: "The balancing authority is not required to provide the Energy Commission with any information submitted under subdivision (c) of this section for out-of-state power."**

The effect of this statement is unclear to us. Does this mean that power source disclosure will not include out-of-state generation where procured for delivery to retail customers? If so, this fails to accurately characterize delivered electricity by resource type. Utilities often buy and sell electricity outside of their footprint and outside individual states. Rules for PSD should not be dictated by state boundaries or programs and policies that center on state-specific electricity.

The response to this question at the May 28 workshop was that the intent was to include out-of-state power and that this represents an oversight and will be corrected. Please confirm and provide the recommended change.

Comments on the Pre-rulemaking Draft Regulations

1. **The specific phrasing of the footnote explaining the "REC Only energy resource" on the Power Content Label (PCL) is inaccurate.**

Appendix A(f)(4) of the Draft Regulations requires the following footnote to appear at the bottom of the PCL:

> "The REC Only energy resource refers to Renewable Energy Credits that were purchased by a retail seller and does not represent actual generated electricity."

Section 399.25 of the Draft Regulations and CAL. PUB. UTIL. CODE § 399.12(h) state that RECs represent proof that one unit of electricity was generated and delivered by an eligible renewable energy resource, making this footnote inaccurate. We recommend the following change to this footnote:

> "[…] refers to Renewable Energy Credits that were purchased by a retail seller ~~and does not represent actual generated electricity~~ separate from the electricity associated with those Certificates."

2. **The proposed "REC Only" resource category is likely to be misleading. CRS recommends modification and changes to the layout of the PCL.**

"REC Only" is not an energy resource. Presenting "REC Only" as a separate energy resource category misrepresents unbundled RECs as including something other than the eligible resource types above it, or in fact as a "non-resource type," which is even more confusing. Rather, this is a category based on the nature of the underlying contractual instrument, which is not directly related to fuel source or the effective delivery of attributes. Though the value of this disclosure to retail consumers is unclear, if the Commission decides that disclosure of the type of instrument used for delivery of renewable attributes is important for consumer protection, we suggest that it explore alternative mechanisms for conveying

this information other than on the PCL, such as more detailed reports from electricity suppliers. Effectively communicating what RECs are and the role they play in all renewable energy purchasing and delivery to load is complex and we have found this requires more space and language than is typically available on a PCL.

However, if the Commission decides both that disclosure of the type of instrument used is important for consumer protection and that this disclosure should be done on the PCL, first, this should not reduce disclosure of fuel type or misrepresent unbundled RECs as a fuel type—the type of contract must be disclosed within or associated with each resource type. For example, the "wind" sub-resource type could be broken out into bundled and unbundled purchases.

Second, the use of word "only" in "REC Only" suggests that something is missing relative to the other resource categories, when in fact nothing is missing since all retail customers are receiving electricity and the electricity from specified renewable facilities is "null" without the REC. We therefore suggest using the common terminology in the industry instead: "bundled" and "unbundled." In this case, footnotes will be necessary to explain these terms (similar to the current footnote explaining "REC only").

Third, a better description of RECs on the PCL will be useful to customers—for example: "'Renewable energy credit' is a certificate of proof that one unit of electricity was generated and delivered by an eligible renewable energy resource, and it includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource."

See our suggested sample Product Content Label as Figure 1 below.

Figure 1. Suggested Sample Power Content Label, Version 1

POWER CONTENT LABEL

ENERGY RESOURCES	POWER MIX[I]	2009 POWER MIX (for comparison)[V]
Eligible Renewable	**17%**	**12%**
Biomass & Biowaste	3%	2%
Bundled[II]	3%	2%
Unbundled REC[III]	0%	0%
Geothermal	5%	3%
Bundled[II]	5%	3%
Unbundled REC[III]	0%	0%
Small Hydroelectric	3%	2%
Bundled[II]	3%	2%
Unbundled REC[III]	0%	0%
Solar	1%	<1%
Bundled[II]	0%	<1%
Unbundled REC[III]	1%	0%
Wind	5%	3%
Bundled[II]	1%	0%
Unbundled REC[III]	4%	3%
Other Renewable	0%	0%
Bundled[II]	0%	0%
Unbundled REC[III]	0%	0%
Coal	**8%**	**8%**
Large Hydroelectric	**15%**	**9%**

Natural Gas	**32%**	**42%**
Nuclear	**8%**	**13%**
Other	**<1%**	**0%**
Unspecified sources of power[IV]	**20%**	**16%**
TOTAL	**100%**	**100%**

[I] The information and percentages provided by the power content label does not represent or imply any correlation with the California Renewables Portfolio Standard and its compliance measures. For more information on the California RPS program, visit www.energy.ca.gov/portfolio.
[II] "Bundled" refers to purchases of electricity and Renewable Energy Credits by a retail seller.
[III] "Unbundled" refers to Renewable Energy Credits that were purchased by a retail seller separate from the electricity associated with those Certificates. "Renewable energy credit" is a certificate of proof that one unit of electricity was generated and delivered by an eligible renewable energy resource, and it includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource.
[IV] "Unspecified sources of power" means electricity from transactions that are not traceable to specific generation sources.
[V] Percentages are estimated annually by the California Energy Commission based on the electricity sold to California consumers during the previous year.

For specific information about this electricity product, contact **Company Name**. For general information about the Power Content Label, contact the California Energy Commission at 1-844-217-4925 or www.energy.ca.gov/consumer.

Alternatively, to resolve these issues, the apparent intent of the "REC Only" category and disclosure of unbundled and bundled renewable energy purchases can be achieved with a footnote on the eligible renewables category. In this case, the PCL would simply report the eligible renewable resource categories and specify whether bundled or unbundled purchases were used in a footnote rather than in the table itself. See our suggested sample Product Content Label as Figure 2 below.

Figure 2. Suggested Sample Power Content Label, Version 2

POWER CONTENT LABEL

ENERGY RESOURCES	POWER MIX[I]	2009 POWER MIX (for comparison)[IX]
Eligible Renewable[II]	**17%**	**12%**
Biomass & Biowaste[III]	3%	2%
Geothermal[IV]	5%	3%
Small Hydroelectric[V]	3%	2%
Solar[VI]	1%	<1%
Wind[VII]	5%	3%
Other Renewable	0%	0%
Coal	**8%**	**8%**
Large Hydroelectric	**15%**	**9%**
Natural Gas	**32%**	**42%**
Nuclear	**8%**	**13%**
Other	**<1%**	**0%**
Unspecified sources of power[VIII]	**20%**	**16%**
TOTAL	**100%**	**100%**

[I] The information and percentages provided by the power content label does not represent or imply any correlation with the California Renewables Portfolio

Standard and its compliance measures. For more information on the California RPS program, visit www.energy.ca.gov/portfolio.
[II] Purchases of renewable energy by a retail seller are either "bundled," which refers to purchases of electricity and Renewable Energy Credits by a retail seller, or "unbundled," which refers to Renewable Energy Credits that were purchased by a retail seller separate from the electricity associated with those Certificates. "Renewable energy credit" is a certificate of proof that one unit of electricity was generated and delivered by an eligible renewable energy resource, and it includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource.
[III] Purchases of Biomass & Biowaste were bundled purchases.
[IV] Purchases of Geothermal were bundled purchases.
[V] Purchases of Small Hydroelectric were bundled purchases.
[VI] Purchases of Solar were unbundled purchases.
[VII] Purchases of Wind were 1% bundled and 4% unbundled purchases.
[VIII] "Unspecified sources of power" means electricity from transactions that are not traceable to specific generation sources.
[IX] Percentages are estimated annually by the California Energy Commission based on the electricity sold to California consumers during the previous year.

For specific information about this electricity product, contact **Company Name**. For general information about the Power Content Label, contact the California Energy Commission at 1-844-217-4925 or www.energy.ca.gov/consumer.

3. The word "eligible" in the "Eligible Renewable" resource category could be removed.

We agree with the views of some expressed at the May 28 workshop that to the extent that power source disclosure is unrelated to the Renewable Portfolio Standard, marking a resource as "eligible" may be misleading. If the Commission adheres to the requirement to separate the RPS obligations from PSD, then it is unclear to what the word "eligible" is referring. This category appears to conflate two separate obligations of the power provider and two distinct concepts in the minds of consumers.

4. If GHG emissions disclosures are to be included as a part of power source disclosure, calculations should conform to international best practice.

To the extent that it was suggested at the May 28 workshop that PSD also include GHG emissions calculations, such calculations and disclosure would exist within the context of national and international determinations around best practice for GHG accounting for electricity delivered to retail customers.

The use of RECs as the basis for customer GHG claims for purchased renewable electricity (Scope 2 GHG emissions accounting) in the United States, and the lack of distinction between unbundled REC purchases and bundled renewable electricity purchases with respect to Scope 2 accounting, is consistent with best practices for market-based Scope 2 emissions calculations and reporting, which are set internationally by the World Resources Institute (WRI).[6] WRI's updated GHG Protocol Scope 2 Guidance was finalized in January after a four year long technical working group and multi-stakeholder engagement process involving hundreds of stakeholders from 23 countries, in which CRS was an active participant.

The Scope 2 guidance says:

[6] Sotos, M. (2015) *GHG Protocol Scope 2 Guidance: An Amendment to the GHG Protocol Corporate Standard*. World Resources Institute. Available online: http://www.wri.org/sites/default/files/Scope_2_Guidance_Final.pdf.

> "Utility-specific emission factors shall be calculated based on delivered electricity, incorporating certificates sourced and retired on behalf of its customers. Electricity from renewable facilities for which the attributes have been sold off (via contracts or certificates) shall be characterized as having the GHG attributes of the residual mix in the utility or supplier-specific emission factor;"[7] and
>
> "When using a supplier-specific emission factor, companies should seek to ensure that: [...] the utility or supplier discloses whether and how certificates are used in the emission factor calculation, unless there is third-party certification of the utility product. In particular, companies should seek to ensure that if the supplier has a differentiated product (e.g. a renewable energy product or tariff), the certificates or other contracts used for that product should be used only for that product and not counted in the standard product offer. [And] That the supplier-specific emission factor includes emissions from all the energy delivered by the utility, not just the generation assets owned by the supplier (e.g. what is required by some fuel mix disclosure rules). Many suppliers purchase significant portions of their energy from other generators via contracts, or through the spot market. The emission factor should reflect the emissions from all of these purchases. A supplier-specific emission rate can also reflect certificates retired for compliance purposes (such as U.S. state RPS programs) which also convey attributes for public benefit and claims."[8]

These rules set by WRI have been implemented by GHG inventory and reporting systems like The Climate Registry (TCR) and CDP (formerly the Carbon Disclosure Project), which are used by thousands of companies, organizations, governmental agencies, and municipalities reporting their emissions associated with purchased electricity (Scope 2 emissions). TCR's guidance for developing utility-specific delivery metrics can be found in Chapter 19 of its Electric Power Sector (EPS) Protocol.[9] After TCR members have reported and verified this information, their utility-specific emission factors are published on the TCR website. TCR is in the process of updating this section of the EPS Protocol to be in conformance with WRI's Scope 2 Guidance.

There is also agreement by the U.S. Environmental Protection Agency (EPA), the U.S. Department of Energy (DOE), and the U.S. Federal Trade Commission (FTC), among others, on the supremacy of RECs, whether bundled or unbundled, for making claims about the emissions associated with delivered renewable electricity.[10]

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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[7] *Ibid*. Section 7.1, Table 7.1, pg. 60.
[8] *Ibid*. Section 6.11.3, pg. 56.
[9] Available online: http://www.theclimateregistry.org/tools-resources/reporting-protocols/electric-power-sector-protocol/.
[10] Jones, T. (2014) *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