

**STATE OF CALIFORNIA
BEFORE THE CALIFORNIA ENERGY COMMISSION**

In the matter of:)	Docket No. 14-OIR-01
)	
)	SMUD Comments On:
Rulemaking to Consider Modifications)	<i>Pre-Rulemaking Draft Regulations</i>
to the Electricity Generation Source)	<i>to the Power Source Disclosure</i>
Disclosure Regulations)	<i>Program</i>
)	
<hr/>)	July 1, 2015

**Comments of the Sacramento Municipal Utility District:
Pre-Rulemaking Power Source Disclosure Draft Regulations**

Thank you for the opportunity to provide comments on the proposed pre-rulemaking modifications to the Power Source Disclosure program regulations (PSD Modifications). The Sacramento Municipal Utility District (SMUD) supports updating the Power Source Disclosure program regulations, pursuant to Assembly Bill 162 (AB 162)(Rushkin, Chapter 313, Statutes of 2009) and in light of the dramatic changes in the electricity marketplace in the 18 years since the Power Source Disclosure regulations were first adopted pursuant to Senate Bill 1305 (SB 1305)(Sher, Chapter 796, Statutes of 1997). Changes in renewable energy policy in California over the years has been significant, with the enactment of a statewide Renewable Portfolio Standard (RPS) procurement obligation, first at 20% of retail sales and recently increased to 33% of retail sales by 2030. There is also current policy and legislative discussion of increasing the targeted percentage of renewable generation for retail sales to levels such as 50% of retail sales by 2030.

Increasingly over time, state goals to reduce greenhouse gas emissions are driving the focus on supplying retail sales through renewable energy. SMUD believes it is reasonable and important to update the power source disclosure (PSD) structure, even with a lower degree of consumer choice of electricity product offerings – the original driving purpose of requiring power source disclosures to consumers – than envisioned when SB 1305 was codified.

SMUD's comments on the PSD Modifications are detailed below:

A. Interaction with Renewable Portfolio Standard: SMUD agrees that it is a reasonable goal to modify the PSD structure to reflect the state's RPS as much as is feasible and possible. The PSD structure can easily match the RPS in terms of eligibility and fuel types. However, it is inappropriate and unnecessarily constraining to attempt a matching of the percentages of eligible renewables in the Power Content Label (PCL) to RPS procurement or compliance numbers on an annual basis.

With respect to eligibility and fuel types, SMUD notes that the state's RPS has expanded hydro eligibility beyond the concept of "small hydro" that was in the original PSD regulations, based on eligible renewable definitions then in state law. The RPS began with only certain small hydro resources (≤ 30 MW in size) as a RPS-eligible hydro resource, but legislative updates over time have added the following categories to RPS-eligible hydro:

- Certain hydro resources in conduits, canals, and ditches;
- Hydro generation resulting from efficiency improvements to larger hydro resources; and
- Certain hydro resources between 30 MW and 40 MW that are part of a "water conveyance system" and began generating prior to a certain date.

In 2009, AB 162 was enacted, specifically altering the statutorily listed fuel types in the PSD structure, by changing the term "small hydro" to "eligible hydro". This was intended to allow the PSD structure and the PCL to more completely conform to the new RPS eligibility categories for hydro resources. An earlier version of proposed modifications to the PSD structure that the Commission posted in 2011 reflected this change in the fuel type terms, but the current proposed PSD Modifications do not, returning to the earlier "small hydro" definition. SMUD suggests moving back to the earlier-proposed "eligible hydro" fuel type. In addition, SMUD suggests returning to the 2011 proposed definition of "eligible hydro", which refers to the variety of RPS-eligible hydro resources, and altering the definition of large hydro commensurately (replacing "... the sum capacity of which exceeds 30 MW..." with "... excluding eligible hydro..."). No other new definitions or changes in the PCL instructions are necessary – it is sufficient to simply use "eligible hydro" as a fuel type and alter the hydro definitions to reflect RPS hydro eligibility. Any additions beyond those, such as trying to reflect the exact RPS hydro eligibility structure in the PCL in any way, runs the risk of confusing rather than informing consumers.

Other changes that conform the PSD fuel types to the RPS eligibility structure are reasonable to consider, but SMUD has no specific suggestions beyond the hydro discussion above, and the “REC Only” discussion below, on the topic of conforming PSD and RPS eligibility.

In contrast to RPS-conformance on fuel-type descriptions and eligibility, SMUD believes that trying to match renewable procurement in any year between the PSD and RPS structures is an exercise that does not produce a benefit to consumers. The RPS involves multi-year compliance periods, while the PSD structure is annual. The RPS allows surplus procurement to be “banked” and used for compliance later, while the PSD does not contemplate banking – it focuses on actual procurement in a particular year. The RPS has several features that can be triggered in certain circumstances that change the flavor of compliance in one way or another, such as cost-containment mechanisms. The RPS has secondary compliance components in the form of minimum and maximum percentage requirements for certain types of procurement in each compliance period. In short, the RPS structure is not set up in a way in which annual procurement amounts are an important component, and is simply too complex to reflect on something like the PCL.

In addition, the PSD may be used to report voluntary electricity products that are unrelated to or go beyond the RPS. Attempting to make the PCL “reflect” the RPS structure would unnecessarily constrain and complicate this option.

Nevertheless, consumers are more or less aware that there are RPS obligations for their utilities, and may look for information about RPS compliance in the PCL. Hence, SMUD appreciates and supports the inclusion of the proposed footnote in the PCL stating that the information in the label is not related to RPS compliance. However, SMUD suggests that this third footnote can be simplified and altered to further minimize consumer confusion to read:

“The ~~information and renewable~~ percentages provided by the Power Content Label ~~do not reflect or imply any correlation with~~ are not specifically related to your supplier’s compliance with the California Renewable Portfolio Standard, ~~and its compliance measures.~~ (For more information on the California RPS program, please visit www.energy.ca.gov/portfolio.”

B. Addition of “REC-Only”: SMUD understands the impetus for adding the definition, fuel type, and footnote covering the concept of “unbundled Renewable Energy Credits (RECs)”. This has been a much debated and discussed concept

in California over the last ten or so years, culminating in the establishment of a “bucket 3” procurement category in California’s 33% by 2020 RPS enacted through SBX1 2. However, while open to providing some information to consumers in the PCL, SMUD believes that the CEC should not establish a separate fuel type entitled “REC-Only” and that the proposed definition of REC-Only and the footnotes in the sample PCLs provided in the PSD Modifications should be altered.

Unbundled RECs are not a separate renewable fuel type, and establishing such a fuel type in the PCL will confuse consumers. RECs embody the attributes of the underlying renewable generation, including fuel type, even when unbundled. The underlying energy when a REC is unbundled and sold separately is not still classified as “solar” or “wind”, etc., but rather is “null power” and the fuel type attributed goes with the REC. Hence, SMUD opposes including “REC-Only” as a fuel type in the PCL. SMUD would prefer not bringing the concept of “REC-Only” into the consumer power source disclosure process at all – we feel that it will just cause consumer confusion. However, if the concept is ultimately included in the PSD structure, SMUD proposes two alternatives to the current PSD Modification in order to minimize consumer confusion.

First, the Commission could include the concept of unbundled RECs in the PCL by including a parenthetical statement in the “Eligible Renewable” line in the PCL. In this option, the parenthetical statement “... (xx percent is REC-Only) ...” would be added in this first line of the PCL, either as part of the title “Eligible Renewable” or as part of the data entry providing the percentage of eligible renewables for the product in question. A footnote that simply explains REC-Only would continue to be included in the PCL, with differing wording as follows:

“REC-Only refers to Renewable Energy Credits (RECs) that were purchased by a retail seller without the purchase of energy from the facility that generated the RECs.”

Second, the Commission could include an asterisk or footnote reference in the “Eligible Renewable” line, with the footnote explaining to consumers how much of the product is REC-only and what the term REC-only means, as follows:

“xx percent of this product is “REC-Only” procurement, meaning that Renewable Energy Credits (RECs) that were purchased by a retail seller without the purchase of energy from the facility that generated the RECs.”

Of the two alternatives and to decrease consumer confusion, SMUD suggests that if the Commission includes a “REC-Only” concept that the second option be used.

The proposed footnotes in the sample PCLs provided in the PSD Modifications should be altered to match one of the two wordings above. The current proposed footnote in the PSD Modifications, which provides that REC-Only procurement "... does not represent actual generated electricity ..." is confusing, and appears incorrect. In fact, RECs represent actual generated electricity, as shown in the proposed definition in the PSD Modifications, which states: "REC-Only" means a certificate of proof that ... one unit of electricity **was generated** and delivered by an eligible renewable energy resource..." (emphasis added). The footnotes should be revised to read like the examples provided above, as appropriate.

The just-referenced definition of "REC-Only" in the PSD Modifications also requires revision if the concept is to remain in the PSD regulations. The definition provided actually is one of the two definitions in state law of a "REC", and covers bundled RECs as well as unbundled RECs (REC-Only). If the concept of "REC-Only" remains in the regulations, the definition should be revised to read:

(7) REC-Only, "REC-Only" means procurement of a certificate of proof issued through the accounting system established by the Energy Commission pursuant to Section 399.25, representing that one unit of electricity was generated and delivered to the grid by an eligible renewable energy resource, without procuring the electricity generated by the eligible renewable energy resource.

SMUD does not think that the remainder of the proposed definition in the PSD Modifications adds clarity or is necessary, and suggests that it should be deleted.

C. Treatment of Wholesale Sales: The PSD Modifications add a provision (Section 1393(c)(1)(H)) that clarifies how the wholesale sale, rather than sale to retail customers of the reporting entity, of specific sources should be treated on the PCL. SMUD believes that this new provision is intended to indicate to obligated entities that when they sell off the renewable power they have procured as renewable power, they cannot then claim that renewable power as a source for the electricity products being provided to retail customers on their PCL.

SMUD is concerned that the specific wording of this provision may require unintended subtractions from the resources an entity expects to include in their PCL. Even if the power from the resource in question is sold as "null" power in a wholesale market, preserving the renewable attribute for use by the entity's retail customers, the power may be "... traceable to a specific generation source ..." It is SMUD's understanding that even in this null power sale case, there may be information in the market transactions that the energy came from a particular

source. However, that information does not allow any other entity to reflect that wholesale power as renewable, on another entity's PCL or in any other fashion. Some clarification seems in order. SMUD suggests that the provision be modified to read "...traceable to a specific generation source and including that source's fuel type in the sale..."

D. Reporting Requirements for Balancing Authorities: The PSD Modifications contain a variety of changes that are intended, SMUD believes, to update the concepts of "system operator" and "balancing authority" to reflect the changed landscape in California today compared to 18 years ago when the PSD regulations were first established. In those first PSD regulations, only the California Independent System Operator (CAISO) was included as having potential data reporting requirements under the PSD. In today's landscape, there are a multitude of smaller balancing authorities in California in addition to the CAISO.

It is not clear to SMUD that the Commission intends a significant new reporting requirement on these balancing authorities. In addition, the multiple balancing authorities in the State may not be sufficiently aware of or prepared to provide any data necessary under the proposed PSD Modifications. While the new reporting requirements, intended or not, do not on the surface seem difficult or onerous, it is not clear without further participation by this group of stakeholders whether or not there is a problem with any of the proposed reporting. The Commission should reexamine their intent here, and reach out to balancing authorities and try to understand if the proposed reporting is reasonable.

E. Application of Ratios if Total Net Purchases differs from Total Retail Sales: The formula provided in the PSD Modifications is inconsistent with the formulas in the Proposed AB 162 Annual Report Templates provided by the Commission for the past several years' reporting. SMUD understands that the Commission did not intend to change from this AB 162 formula. The proposed PSD Modifications formula also has the problem of inadvertently altering an entity's eligible renewable procurement as reported in the PCL. SMUD believes that the text should be returned to the AB 162 Annual Report formula, to read:

"Section 1393(c)(1)(C) For each electricity product, the percentage of each fuel type category or subcategory that is specified shall be calculated by dividing net purchases of each fuel type by total retail sales. If total net purchases differ from total retail sales, a ratio for the difference between total net purchases and total retail sales, excluding total net renewable purchases, shall be applied to each non-renewable fuel type category ~~or subcategory~~, then the product divided by total retail sales, as shown in the following formula:

~~[(total retail sales/total net purchases)(purchases for specific fuel type category)]/(total retail sales):~~

$$\left[\frac{\left(\frac{\text{total retail sales} - \text{total net renewable purchases}}{\text{total net purchases} - \text{total net renewable purchases}} \right) \cdot \left(\text{purchases for specific non-renewable fuel type category} \right)}{\text{total retail sales}} \right]$$

F. Power Source Disclosure Filing Deadline: The PSD Modifications propose a change in timing of the required Retail Supplier Report, with the filing date moving from March 1st to April 1st each year in the proposal. The March 1st date in the existing regulations was changed to June 1st by AB 162 in 2009 in order to coincide with other reporting requirements and to allow sufficient time for RECs to be created in WREGIS and transferred, if needed. The June 1st date has been observed the last several years, even as the PSD regulations themselves have not been changed to reflect the law. The PSD Modifications should propose and establish in regulations the June 1st date now in practice as enacted by AB 162, rather than propose an April 1st deadline.

Thank you again for the opportunity to comment on the PSD Modifications.

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