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| **Docket Number:** | 16-OIR-05 |
| **Project Title:** | AB 1110 Implementation Rulemaking |
| **TN #:** | 216571 |
| **Document Title:** | Alison Seel Comments: Sierra Club Comments re RPS Pre-Rulemaking Workshop |
| **Description:** | N/A |
| **Filer:** | System |
| **Organization:** | Alison Seel |
| **Submitter Role:** | Public |
| **Submission Date:** | 3/15/2017 4:15:41 PM |
| **Docketed Date:** | 3/15/2017 |

*Comment Received From: Alison Seel*
*Submitted On: 3/15/2017*
*Docket Number: 16-OIR-05*

## Sierra Club Comments re RPS Pre-Rulemaking Workshop

*Additional submitted attachment is included below.*

March 15, 2017

*Via online filing*

California Energy Commission
Dockets Office, MS-4
1516 Ninth Street
Sacramento, CA 95814-5512

**RE: Comments on Preliminary Scoping Questions on Updates to the Power Source Disclosure Regulations (Docket No. 16-OIR-05)**

To the California Energy Commission:

The Sierra Club provides these comments on the updates to the Power Source Disclosure Regulations required by Assembly Bill (AB) 1110, as discussed at the Pre-Rulemaking Workshop on February 21, 2017. Sierra Club appreciates the efforts of Commission staff to implement the new regulations, which have the potential to assist California in achieving its greenhouse gas reduction goals. While we do not address each scoping question, we number our responses in parallel to the workshop handout for clarity.

Sierra Club's California members are eager to accelerate the state's transition to a carbon-free electricity system. Many want their homes and businesses supplied by 100% renewable energy as soon as possible, and view the switch to electricity supplied by a community choice aggregator as one means of demanding an electricity supply that is cleaner than the current Renewables Portfolio Standard (RPS) requires. However, as the Commission is well aware, proving renewable resources are truly additional, or understanding how a particular procurement contract affects regional greenhouse gas emissions, is complex. Without more detailed information on exactly what type of renewable electricity products their electricity providers have procured, consumers are unable to distinguish greenwashing from progress.

Specifically, Sierra Club has serious concerns about reliance on Bucket 2 and 3 RECs to build electricity offerings advertised to be 100% renewable. We are concerned that when Bucket 2 and 3 REC-based products are misrepresented as equal to bundled renewables procurement, customers are unable to make a fair choice between electricity portfolios or offerings.

By requiring retail suppliers to present "accurate, reliable, and simple to understand information" on the greenhouse gas intensity of each purchase of electricity, AB 1110 can provide electricity customers with the ability to fairly compare the renewable credibility of different electricity portfolios.[1] Sierra Club recommends that the Commission interpret AB 1110 to (1) require the Power Source Disclosure label to clearly disclose the greenhouse gas emissions from the electricity a retail supplier scheduled onto the grid to serve its customers, including any substitute electricity, and (2) work with the Air Resources Board to develop a more accurate, regionally-differentiated emissions factor for imported electricity.

## B. Renewable Electricity Credits

*2. How should firmed and shaped electricity products (Bucket 2 RECs) be categorized for the power mix percentage calculations? Specifically, should these products be categorized based on the fuel type of their REC or the fuel type of their substitute electricity?*

Sierra Club has significant concerns about retail suppliers' undisclosed reliance on firmed and shaped electricity products to support electricity offerings that purport to be "greener" than standard offerings. We support disclosure of the REC category underlying renewable generation claims. However, we are reluctant to recommend a change to the categorization of Bucket 2 RECs in the power mix percentage, insofar as this change would create inconsistency in how RECs are defined for power mix reporting under the Power Source Disclosure rules and under the RPS.

As a compromise, we would recommend firmed and shaped electricity products continue to be categorized in fuel mix percentages based on the fuel type of their REC, just as the products would be categorized for the purpose of RPS reporting. However, we would strongly support a Power Source Disclosure label that separated renewable procurement into the three source categories. The Commission could also draft a short, factual explanation for interested consumers on the meaning of each procurement category in order for customers to assess the different value of each type of credit. Below is an example of how this label could be formatted. This type of label would meet the statutory disclosure requirements while maintaining consistency in categorization with RPS reporting.

[1] Cal. Pub. Util. Code § 398.1(b).

| 2017 POWER CONTENT LABEL | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| ENERGY RESOURCES | Power Mix | | | | 2017 CA Total Mix | | | |
| | *Bucket 1* | *Bucket 2* | *Bucket 3* | *TOTAL* | *Bucket 1* | *Bucket 2* | *Bucket 3* | *TOTAL* |
| **Eligible Renewable** | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| Biomass / Biowaste | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| Geothermal | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| Eligible hydroelectric | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| Solar | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| Wind | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| **Coal** | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| **Large Hydroelectric** | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| **Natural Gas** | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| **Nuclear** | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| **Other** | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| **Unspecified** | 0% | 0% | 0% | 0% | 0% | 0% | 0% | 0% |
| **TOTAL** | **0%** | **0%** | **0%** | **0%** | **0%** | **0%** | **0%** | **0%** |

3. *How should greenhouse gas emissions intensities be calculated for firmed and shaped electricity products? Should the greenhouse gas emissions intensity for these products be calculated based on the emissions profile associated with the generation source of their REC or based on the emissions profile of their substitute electricity?*

Sierra Club believes that if firmed and shaped electricity products include the substitution of conventional for renewable generation, these Bucket 2 products should not be presented to customers as carbon-free electricity. We recommend that the greenhouse gas emissions intensity of firmed and shaped electricity products should include the emissions profile of any substitute electricity used to augment or substitute for the original renewable power.

The relationship between the use of Bucket 2 RECs and the carbon content of an electricity portfolio is not straightforward. As we understand the definition for this REC category, Bucket 2 RECs may be purchased from out-of-state renewable facilities, and the electricity scheduled into California balancing authorities does not need to originate from the same facility or even the same sub-region. The substitute electricity may be generated at a different time of day or year than the renewable electricity, further weakening the connection between the renewable generation and its substitute.

These complicated transactions are not something that the average electricity consumer, even one with an interest in encouraging renewable electricity, easily understands. It is important that retail suppliers present information to customers in as transparent a manner as possible, to avoid unintentional misrepresentations. The National Association of Attorneys General defines a

deceptive claim in the electricity marketing context as one that "contains an express or implied representation or omission of fact that is likely, or has a tendency, to mislead consumers."[2] By including firmed and shaped electricity products squarely within the renewable energy category on the Power Source Disclosure label, retail suppliers falsely represent that these products are no different than bundled, in-state renewable energy. By omitting the fact that the renewable electricity that generated the REC was perhaps never scheduled into California, customers may be misled into believing their extra payments for a green portfolio are incentivizing new renewable energy development.

Empowered with this information, customers interested in driving construction of new in-state renewable energy may not be willing to pay extra for an electricity portfolio based on out-of-state renewable energy products, when only a portion of that renewable energy is scheduled onto the California grid. At the very least, this information is needed to distinguish between the generation types in different electricity offerings and make an informed decision. AB 1110 was intended to correct this information asymmetry. The CEC should require electricity suppliers to divulge the greenhouse gas intensity of the actual energy retail suppliers scheduled onto to the grid to serve their customers, and not the energy associated with the underlying REC generation.

*4. Should unbundled RECs (Bucket 3) be reflected in the power mix or disclosed separately on the Power Content Label? What factors should be considered in making this determination?*

AB 1110 explicitly requires suppliers to disclose the "portion of annual sales derived from unbundled renewable energy credits." Cal. Pub. Util. Code §398.4(h)(7). Therefore, it seems clear that the power mix percentage must in some way distinguish unbundled RECs from bundled purchases of renewable energy.

Sierra Club believes these fully unbundled RECs have questionable value in achieving the overall goal of reducing greenhouse gas emissions, and for this reason it is critical that their use is disclosed when customers are paying extra for a "greener" portfolio. For example, the Lancaster Choice Energy's current "Smart Choice" 100% renewable plan appears to consist entirely of Bucket 3 RECs from Oregon wind facilities constructed as long ago as 2002.[3] An electricity portfolio comparison that clearly laid out the Smart Choice portfolio's reliance on unbundled RECs is essential to properly informing customers what type of renewable energy they are buying. As Sierra Club recommended in our answer to Question 2, above, we recommend breaking out each renewable source category by the REC type on the Power Source Disclosure Label.

[2] National Association of Attorneys General, *Environmental Marketing Guidelines for Electricity* (Dec. 1999), p. 3.
[3] See Lancaster Choice Energy, 2017 Prospective Content Product Label at http://www.lancasterchoiceenergy.com/wp-content/uploads/2017/03/PCL-GreenE.pdf

5. *How should null power be categorized for the power-mix percentage calculations? How should the greenhouse gas intensity of null power be calculated?*

Current methodology for power-mix percentage calculations categorizes null power as "unspecified power."[4] Because we are recommending that Bucket 2 and 3 RECs be categorized in power mix calculations by the type of their renewable electricity, we recommend null power also maintain its current categorization as unspecified power.

However, Sierra Club is recommending that the greenhouse gas intensity of different power sources be tied to the original generation, regardless of whether or not the RECs have been sold away. Therefore, null power's greenhouse gas intensity should be calculated by the emissions of its generation source. We understand that most null power is not ultimately sold into California, so this issue should not arise often.

## C. GHG Intensity Factor Data and Calculations

*4. Should the Power Disclosure program adopt ARB's default factor as the greenhouse gas intensity factor for unspecified power?*

Sierra Club does have concerns that the unspecified power emissions factor used in ARB's Mandatory Reporting Requirement program is so general as to be inaccurate. We encourage the Commission to strongly signal to ARB that emissions factors differentiated by the region of the imports are needed to meet the statute's requirement of "accurate" information and to provide a clear-eyed view of the emissions from unspecified power.

Energy scheduled into California from neighboring states may have a wide range of greenhouse gas emission intensities, depending on which sub-region it initiated from. The Commission's Energy Almanac summarizes the situation: "Much of the Pacific Northwest spot market purchases are served by surplus hydro and newer gas-fired power plants. The Southwest spot market purchases would be comprised of new combined cycle power and some coal."[5] AB 1110 recognized the divergence between regions by including the new requirement that retail suppliers report the number of kilowatt hours of unspecified power purchased "from other subregions within the Western Electricity Coordinating Council [WECC]."[6] A more granular approach to calculating emissions from unspecified power that, at a minimum, distinguished between the sub-region of imports would better meet the statutory requirement of providing "accurate" information on greenhouse gas emissions intensity.

[4] *See e.g.* http://www.energy.ca.gov/almanac/electricity_data/total_system_power.html
[5] California Energy Commission, *Total Electricity System Power*. *See* http://www.energy.ca.gov/almanac/electricity_data/total_system_power.html
[6] Cal. Pub. Util. Code § 398.5(a)(2).

Sierra Club understands AB 1110 was intended to maintain when possible "the approach taken by ARB under its existing programs" in order to "ensure consistent treatment amongst GHG programs administered by the state."[7] Therefore, we encourage the Commission to work with ARB to develop a new emissions factor for both programs.

**Conclusion**

Thank you for your consideration of the concerns raised in these comments. We look forward to working with Commission staff and other parties to develop our understanding of these issues and to help develop regulations that improve transparency and encourage demand for new renewable energy development.

Respectfully,

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[7] Letter from Assemblymember Philip Ting to E. Dotson Wilson, Chief Clerk of the Assembly on Aug. 28, 2016.