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CALIFORNIA ENERGY COMMISSION

STAFF WORKSHOP

In the Matter of:)
) Docket No. 16-OIR-05
UPDATES TO THE POWER SOURCE)
DISCLOSURE REGULATIONS)
)

CALIFORNIA ENERGY COMMISSION

1516 9TH STREET

ARE ROSENFELD HEARING ROOM A

SACRAMENTO, CALIFORNIA

FRIDAY, JULY 14, 2017

1:00 P.M.

Reported by:

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P R O C E E D I N G S

1:06 P.M.

SACRAMENTO, CALIFORNIA, FRIDAY, JULY 14, 2017

MR. SCAVO: Good afternoon. My name is Jordan Scavo, and I'm the Staff Lead for Assembly Bill 1110 implementation. We are holding this workshop as part of our pre-rulemaking for updating Power Source Disclosure.

I'd like to thank our stakeholders for attending, both in person and remotely. We're also joined by Staff from the California Air Resources Board, who work on cap and trade and greenhouse gas emissions verification. And I'd like to extend the Energy Commission's thanks for their participation today.

Just a few housekeeping items before we begin.

First, this workshop will be recorded and a transcript will be placed in the docket log in a week or two.

For those of you not familiar with this building, the closest restrooms are located directly across from us on this floor. There's a snack bar on the second floor under the white awning. Lastly, in the event of an emergency and the building is evacuated, please follow our employees to the appropriate exits. We will reconvene as Roosevelt Park, located diagonally across the street from this building.

Please proceed calmly and quickly, again, following the employees with whom you're meeting to safely exit the building.

Copies of this workshop agenda and the AB 1110 Implementation Proposal are available on the desk at the entrance, as well as online. And written comments for this workshop should be submitted by 5:00 p.m. on Friday, July 28th. Written comments may be e-filed through our website. There's also a link provided on this slide.

I'll start by running through a brief outline of this workshop's agenda. I'll begin with some background information, then walk folks through our AB 1110 Implementation Proposal, outline a few other potential program modifications, and lay out our next steps.

After that, we'll open the meeting up for a discussion session, the purpose of which will be twofold. It will provide us with a chance to hear and respond to clarifying questions about our AB 1110 Implementation Proposal. If there was anything that was unclear in the Energy Commission's staff report on AB 1110 implementation, we'd like to address those at the start. This discussion session will also allow us to begin a dialogue with our stakeholders on other potential changes to Power Source Disclosure beyond those required by AB 1110.

After that, we'll open the floor up for general public comments from our stakeholders. That will be an opportunity for stakeholders to provide feedback on the implementation proposal and raise issues or counterpoints we may need to reconsider.

Let me touch briefly on our rulemaking process. The Energy Commission is required to implement AB 1110 through a formal rulemaking, in accordance with the rules laid out by the Office of Administrative Law. Right now we're in the pre-rulemaking phase, an informal step that can be used before a formal rulemaking to carry out preliminary activities. As many of you know, the Energy Commission staff held a scoping workshop in February of this year to start the pre-rulemaking. Once the Energy Commission has concluded pre-rulemaking activities, we'll initiate formal rulemaking procedures which requires us to develop proposed regulatory language, known as expressed terms, as well as additional documentation that provides the context and rationale for the proposed regulatory modifications.

Upon starting a formal rulemaking, the Energy Commission will have one year to develop and finalize the rulemaking package and present it for approval at an Energy Commission business meeting. Staff anticipates beginning the formal rulemaking in the first quarter of 2018, which will give us through early 2019 to complete the rulemaking. I'll dig into our next steps in more detail at the end of this presentation.

Throughout this process, workshops, hearings and public comment periods are built in to ensure stakeholders are able to participate. All oral and written comments are saved as part of the official rulemaking record.

To ensure everyone here has an understanding of our starting point, I'll provide an overview of the program and the changes required under AB 1110.

Power Source Disclosure was established in 1998 and was designed to provide clear and accurate information about the sources of a consumer's electricity. Retail suppliers are required to report their generation sources, their wholesale sales, and their retail sales. This style of reporting is used to construct individual power mixes for each electric service product, and for California as a whole. Retail suppliers then disclose to their consumers, to their customers, a power content label that displays the power mix of the customer's electric service product, alongside that of the state's total system power mix.

Assembly Bill 1110, authored by Assemblymember Phil Ting was signed into law in the fall of 2016. The new law makes a number of changes to Power Source Disclosure. It requires retail suppliers to report the greenhouse gas emissions intensity factor associated with electric service product. A greenhouse gas emissions intensity factor is a rate, a mass quantity of emissions per unit of electricity. To determine these overall GHG emissions intensity factors, AB 1110 requires the Energy Commission, in consultation with the Air Resources Board, to develop a method for calculating facility-level GHG emissions intensity factors and overall GHG emissions intensity factors for each electric service product, and for California as a whole.

AB 1110 also requires the disclosure a retail suppliers unbundled Renewable Energy Credits. Unbundled RECs are Renewable Energy Credits that have been disassociated from their electricity. In other words, unbundled RECs do not represent actual electricity. In addition, AB 1110 contains a provision for the Energy Commission to establish guidelines for an emissions adjustment under certain circumstances for publicly-owned utilities that demonstrate excess generation of zero-GHG resources.

To implement AB 1110, Energy Commission Staff solicited stakeholder input through the scoping workshop in February. Based on what we learned in that workshop, Energy Commission Staff began drafting was framework for implementation of AB 1110, in consultation with the Air Resources Board. Through that work, Energy Commission Staff produced the AB 1110 Implementation Proposal that was published two weeks ago.

The balancing act of existing and new statutory requirements has proved to be a complex matter. With the benefit of stakeholder input and collaboration with the Air Resources Board, Energy Commission Staff has put together an approach that we believe satisfies the statutory requirements and practical needs of the program. The aim was to develop a proposal that kept retail suppliers reporting under Power Source Disclosure simple. And thus, Energy Commission Staff explored how to construct a unified reporting tool that can be used to generate two different outputs, the power mix and the GHG emissions intensity factors.

The implementation of AB 1110 is guided by a number of principles detailed in statute. The power content label serves the general public, so the Energy Commission needs to develop rules that will result in retail suppliers providing simple, easy to understand information to consumers. The Energy Commission is required to minimize a reporting burden on retail suppliers.

And reported data must be accurate, which means we need to design rules that ensure GHGs and energy resources are only counted once. To provide accurate information to consumers, the Energy Commission needs to have verified data. Fortunately, an existing GHG emissions accounting framework already exists at our sister agency, the Air

Resources Board Mandatory Reporting Regulation. MRR is a GHG emissions reporting program that conducts robust verification. This also speaks to the legislative intent behind AB 1110, which was for our methodology to align with the Air Resources Board's GHG emissions accounting programs, such as MRR. In fact, we found that alignment with the Air Resources Board's methods provides a path for meeting the statutory principles described above.

In our scoping questions from last February, Energy Commission Staff asked for stakeholder input on some statutory definitions. A few terms are used in statute that refer to some form of an electricity service or product. Based on stakeholder feedback, Staff proposes that the terms "electricity portfolio" and electricity offering," as used in statute, are synonymous with one another and with the term "electric service product" that's currently used in the regulations. These terms all mean one or more resource mixes offered generally to a retail supplier's customers.

The term "annual sales" is used in statute, but the definition isn't codified in the regulations. Historically, it's been taken to mean retail sales. But we sought to get stakeholder input and to memorialize the definition in the updated regulations. Based on public feedback, we've interpreted the term "annual sales" to mean retail sales, as it's used under the Energy Commission's

Renewables Portfolio Standard. This means that annual sales will exclude wholesale sales, distribution and transmission line losses, and municipal load for things like street lighting.

One of our first tasks in developing this proposal was to identify which greenhouse gases should be tracked, and from what resources. Staff therefore proposes to limit the greenhouse gases tracked under Power Source Disclosure to those compounds most commonly associated with electricity sector GHG emissions. As identified by leading state, federal and international emissions accounting, these gases are carbon dioxide, methane and nitrous oxide. And although the terms are sometimes conflated, not all renewable resources are GHG-free. Biomass, biomethane, and some geothermal generators emit GHGs.

These emissions are tracked under MRR, the Air Resources Board's emissions reporting program, but exempted under Cap and Trade, a compliance program. In addressing these emissions the Energy Commission staff proposes to follow the Intergovernmental Panel for Climate Change's Electricity Sector Emissions Accounting Guidance. In accordance with IPPC guidance then, the Energy Commission's proposal calls for the reporting of any geothermal GHG emissions. However, CO2 from biogenic fuels, such as biomass and eligible biomethane, would not be reported under

Power Source Disclosure.

One of our foundational questions was to determine the appropriate -- what the appropriate role should be for RECs in the power mix and the GHG emissions intensity factor. As defined in statute, electricity must be transacted with RECs in order to be counted as an eligible renewable resource under Power Source Disclosure. California's definition of a Renewable Energy Credit, as defined in the RPS Eligibility Guidebook, reflects the environmental attributes identified in a California Public Utilities Commission decision, including an avoided greenhouse gas emissions. This decision also explains, and the Air Resources Board has codified it in its Cap and Trade Program design, that the avoided greenhouse gas emissions attributed -- emissions attribute -- that the avoided gas emissions' attribute of a REC does not have value under the Cap and Trade Program, as the total GHG emissions allowed under the cap are fixed.

The generation of renewable energy, instead of fossil-fuel based energy, does not impact the cap on emissions, but rather frees up allowances that can be used by other entities. As such, the Air Resources Board requires actual greenhouse gas emissions to be reported. In keeping with this policy, our proposal does not allow RECs to impact or be used in the calculations of GHG emissions intensity factors. This definition in treatment of RECs is consistent across California State energy and climate programs.

At the same time, some stakeholders have expressed an interest in seeing RECs reported on the basis of their retirement for the calculation of the power mix. Such a change, however, would not overcome the fundamental reporting differences between Power Source Disclosure and RPS. Furthermore, reporting RECs on the basis of their retirement would produce inconsistency with nonrenewable resources, which necessarily must still be reported according to the year in which they were generated. Therefore, Staff proposes that the RECs associated with directly delivered renewable electricity and firmed and shaped electricity should be reported according to the year in which they were generated.

Lastly, because unbundled RECs do not represent actual electricity, Staff proposes that unbundled RECs should be -- should not factor into the calculations for the power mix or the GHG emissions intensity factor. Rather, the quality of unbundled RECs would be disclosed separately on the power content label, outside of the power mix. At the same time, our proposal does call for unbundled RECs to be reported according to the year in which they were retired, rather than generated. This is to ensure unbundled

RECs will not be double counted, since unbundled RECs can be resold, unlike bundled and firmed and shaped RECs.

To reiterate, power mix accounting will be largely unchanged, with the major exception being the exclusion of unbundled RECs. Transactions for directly delivered and firmed and shaped electricity products will be counted as eligible renewable resources on the power content label. Null power, meaning the electricity from a renewable generator that has been disassociated from its RECs, will be counted as unspecified power. Disparities between net generation and retail sales, such as from line losses and municipal load, will be reconciled by reducing each generation source pro rata so that total generation matches retail sales.

Moving on from the power mix, I will describe how the Energy Commission proposes to develop generator-specific GHG emissions intensity factors.

I'll start by saying that the Energy Commission plans to develop these generator-level emissions intensity factors ourselves and to make a list of them available annually to retail suppliers for Power Source Disclosure permitting. This will minimize the reporting burden on retail suppliers.

The Energy Commission proposes to derive the bulk of our GHG emissions data from the Air Resources Board's

Mandatory Reporting Regulation, the MRR. By employing the most recently verified, publicly available data from MRR, Energy Commission Staff will be able to provide generator-specific emissions intensity factors for generation source serving California load. For most of all in-state generators, we'll calculate the factors using MRR emissions data and generation data from the Energy Information Agency. For out-of-state generators, we'll adopt the latest GHG intensity factors calculated directly through MRR each year. For any outlying generators, we'll calculate the associated emissions intensity factors using data from the Energy Information Agency and the Environmental Protection Agency in a manner that is consistent with MRR practices, as is detailed in the Energy Commission's staff report on AB 1110 implementation, published two weeks ago.

For co-generation facilities, Staff proposes to determine the associated GHG emissions by evaluating the proportion of fuel consumption dedicated to electricity production using Energy Information Agency data. The share of GHG emissions will then be reflected in each co-generators GHG emissions intensity factor.

As I mentioned earlier, Staff proposes that RECs should not factor into GHG emissions accounting under Power Source Disclosure. Therefore, firmed and shaped imports supplied with substitute power need special reporting guidance, as the emissions of these transactions will be tracked according to the generators that deliver -- that actually deliver electricity to meet California retail load. This means that firmed and shaped electricity will be assigned a GHG emissions intensity factors according to the emissions profile of the substitute electricity.

As some stakeholders have noted, the Cap and Trade Program provides and RPS adjustment to give retail suppliers credit for the costs associated with procuring firmed and shaped resources. The RPS adjustment provides an optional adjustment of an entity's compliance obligation in limited circumstances, based on the retirement of RECs associated with eligible firmed and shaped electricity products. However, the RPS adjustment is meant to credit only the added cost of procuring firmed and shaped products that retail suppliers bear to comply with RPS. It is not recognition of the avoided emissions characteristics of the REC associated with the electricity bundled with firmed and shaped electricity transactions.

The RPS adjustment does not change the GHG emissions associated with the firmed and shaped electricity product. As such, Energy Commission Staff's proposal for implementing AB 1110 does not include a similar RPS adjustment. Because Power Source Disclosure is not a compliance program that imposes direct financial costs on

GHG emissions, Staff feels the RPS adjustment is not appropriate for inclusion in the Power Source Disclosure Program. Staff proposes that the greenhouse gas emissions of firmed and shaped imports be derived from the substitute electricity which is in alignment with emissions accounting under MRR.

Consistent with MRR, null power, meaning electricity from renewable generators that has been disassociated from its RECs, will be assigned the emissions intensity factors of the generator. This means that null power may convey zero-GHG emissions characteristics for the purposes of emissions accounting. For the power mix, however, null power will continue to be classified as unspecified power.

Staff proposes to treat transaction through the Energy and Balance Market in accordance with the most recent guidance under MRR. For specified imports, Staff proposes to adopt MRR’s transmission line loss adjustment which increases the quantities of imported electricity by two percent from the point of first delivery into California. Energy Commission Staff are exploring ways to allow a retail supplier to avoid the two percent line loss adjustment if it can be demonstrated that the losses have been accounted for, consistent with MRR practices.

For unspecified sources of power, Staff proposes to adopt the Air Resources Board's default emissions factor of 0.428 metric tons of CO2 equivalent per megawatt hour. Although the Air Resources Board only applies that factor to unspecified imports, our proposal calls for the factor to be applied to all sources of unspecified power. Energy Commission Staff analysis indicates that there is very little difference in the emissions profile of unspecified power, whether it is from in-state or out-of-state marginal generators. Staff further proposes to adopt any revision to the Air Resources Board's default emissions factor if such revisions occur.

For asset controlling suppliers, such as Powerex or BPA, Staff proposes to allow transactions for unspecified power with these entities to use the emissions factors assigned under MRR. This means that a purchase of electricity from BPA, for example, would be reported as unspecified power for the power mix, but would have a considerably lower emissions factor than standard unspecified power. For unspecified imports, Staff proposes to adopt MRRs transmission line loss adjustment of two percent, as described in the previous slide for specified imports.

Finally, AB 1110 requires the Energy Commission to establish guidelines for adjustments to a GHG emission intensity factors for a publicly-owned utility in certain circumstances. This adjustment would be made available to a publicly-owned utility if it can demonstrate generation of zero-emission electricity in excess of its retail sales and wholesale sales of specified sources. This means that a publicly-owned utility can bank emissions credits to reduce its emissions in future years, so long as it meets the requirements of this provision.

Energy Commission Staff proposes that emissions credits would be calculated by multiplying the quantity of eligible generation by the default emissions factor for unspecified power of 0.428 metric tons of CO2 equivalent per megawatt hour. Each emissions credit can be applied only once to a retail supplier's annual report, and unused credits would expire after 20 years.

To recap, I’ll lay out the major changes to a retail suppliers reporting requirements. As you’ll see, Energy Commission Staff has taken care to reconfigure the program in a manner that minimizes the burden on retail suppliers.

First, retail suppliers would be required to report their annual retired unbundled RECs in aggregate and apart from the line items of electricity sources. As I stated earlier, the AB 1110 Implementation Proposal calls for unbundled RECs to be disclosed separately from the power mix and GHG emissions intensity factors.

Retail suppliers would need to report the total megawatt hours of municipal load. And they would also need to indicate whether or not each line item of renewable generation was sourced through firmed and shaped transactions.

Finally, retail suppliers would need to input the generator-specific GHG emissions intensity factors for each line item of generation. The Energy Commission will supply an annual index of GHG emissions intensity factors for retail suppliers to use in their Power Source Disclosure reporting. We don’t yet have a mockup of the proposed annual reporting forms, but Staff expects the revised forms to be modified versions of the current forms.

So that wraps up the AB 1110 Implementation Proposal. Now I’d like to highlight a few potential modifications meant to clarify and improve the program beyond what’s required by AB 1110.

First, the statutory deadline for retail suppliers to disclose their power content labels to consumers is by the end of the first full billing cycle of the third quarter. However, some retail suppliers have indicated that this deadline may be difficult under the current program deadlines. Furthermore, there may be variability in billing cycles among retail suppliers. Staff would like to hear from stakeholders on any practical limitations or issues with the current program's reporting time frames, as Staff would like to explore potential clarifications and options to support timely reporting by program participants.

Second, storage is becoming increasingly relevant in the energy landscape. And the current regulations offer no guidance for how to account for electricity losses resulting from energy storage. The Energy Commission staff is considering treating storage losses in a manner consistent with transmission and distribution line losses, with the losses accounted for by pro rata reductions to every generation source of an electric service product.

Third, schedules three and four of the annual reporting template are meant for power pools. However, these funds have been unused for years. And Staff are not aware of any existent power pools in California. So we'd like to raise the idea of eliminating these schedules and the regulatory language associated with them.

And fourth, asset controlling suppliers can be assigned an emissions factor through MRR for its wholesale sales of electricity, which electrical entities can claim under MRR emissions reporting. Some stakeholders have inquired about the possibility of retail suppliers claiming the system mix of an asset controlling supplier for purchases of unspecified power. This means that a purchase from BPA, for example, would be broken into subcategories of hydro and other resources, rather than simply list it as unspecified power. So the Energy Commission requests stakeholder input on whether to implement such a provision.

Lastly, I'll touch on our milestones in this process.

After reviewing public comments to this workshop, Energy Commission Staff will begin developing pre-rulemaking draft regulatory language for the Power Source Disclosure update. Staff anticipates presenting this draft regulatory language in the third quarter of 2017.

After that, we plan to initiate a formal rulemaking under OAL rules in the first quarter of 2018, and to present a final regulatory package for adoption at an Energy Commission business meeting in the third quarter of 2018.

Please note that AB 1110's requirement for the reporting of GHG emissions intensity factors does not kick in until 2020, at which time retail suppliers will disclose their GHG emissions intensity factors for the 2019 reporting year.

This concludes our presentation. Following this workshop, this presentation will be placed in the docket log at the address above. Rulemaking documents can also be obtained online through the docket log, or by contacting Staff.

I'd like to remind everyone that the due date for public comments to the AB 1110 Implementation Proposal and this workshop will be Friday, July 28th at 5:00 p.m.

Up next, we'll hold our public questions and comment sessions. First, we'd like to hear and respond to any clarifying questions that stakeholders have about the AB 1110 Implementation Proposal. At the same time, we'll build out that discussion session so that we can start a dialogue over other potential modifications beyond those required by AB 1110. Finally, we'll have a session for public comment.

Thank you.

MS. SMITH: Good afternoon everyone. I'm Courtney Smith. I'm the Deputy Director of the Renewable Energy Division here at the Energy Commission. As Jordan mentioned, what we're going to do now is we're going to have a little bit of a discussion session that's really going to focus on two main things.

One, it's going to give an opportunity for you all to give clarifying questions on anything that was outline in the written proposal, which was provided through the docket a couple weeks ago, and through Jordan's presentation. We can clarify those questions for you.

In addition to that, Jordan teed up a couple of questions that we have for stakeholders regarding potential other modifications to the program. From our perspective, this rulemaking, really, it’s an opportunity, obviously, to input on AB 1110, but also an opportunity to improve upon the program and provide clarity, where needed. So we were hoping folks would feel comfortable sharing some of their responses to those questions here today. If not, there’s always the written public comment period. And as Jordan mentioned, the deadline for that is July 28th.

So with that, I just wanted to real quick -- I know Jordan had introduced them already, but I wanted to make sure folks were aware that Mary Jane Coombs and Ryan Schauland from the Air Resources Board are here, in case folks have specific questions regarding ARB programs specifically. Mary Jane is a Manager within the Cap and Trade Program over there. And Ryan focuses on verifications of the Mandatory Reporting Regulation.

So with that, really, I invite folks, both in the room and online, to step up to the podium if you have clarifying questions or answer to some of the questions we had outlined.

(Colloquy)

MS. SMITH: And then after this session, we will have a more formal public comment period where folks can give us their critique or thoughts on the proposal as we’ve laid out.

And I’ll just add, really, our vision here was to put something out concrete, so that way it can really structure the feedback that we get from stakeholders. Our desire would be we’d be able to be in a place where we are able to move towards the development of expressed terms, actual regulatory language. But, of course, that's contingent on the outcome of today's workshop and the comments that we get back from folks.

So with that, I'd like to invite folks, if you have questions, to step up to the podium.

UNIDENTIFIED MALE: I'm a little confused. Are we just asking questions, clarifying something we don't understand in the proposal, and then going to public discussion about -- or stakeholder discussion about what's actually in the proposal?

MS. SMITH: Yes.

UNIDENTIFIED MALE: So this is just clarifying questions?

MS. SMITH: Yes. And that was a clarifying question.

MR. BARRING: Hi. Bryan Barring with Turlock Irrigation District.

A question on the timing of reporting. So I saw that you had some proposals for changing the timing. I guess it would be helpful to maybe hear an example of how the timing would work and how it would kind of align with reporting under the MRR versus, you know, being completely different and distinct.

MS. SMITH: Yeah. So -- oh, I’m sorry. Go ahead.

MR. BARRING: And then the other question was -- is kind of, you know, to the extent that you are reporting on red and there's a lag in terms of when REGIS (phonetic) is providing REC data, you know, how would that be accounted for in the power content label?

MS. SMITH: Well, I'll answer the first one. And maybe you can take the second one on regulations.

So the question specifically that we were teeing up regarding timing had to do really with stakeholders reporting time frame. As Jordan mentioned, there's statutory language around providing consumers a power content label the first billing cycle within the third quarter. What we've heard from stakeholders is that some of their process, for instance, getting things approved by the Board, is laborious enough where it’s making it difficult, that window between us providing the template with (inaudible) power, then being able to create that label, get it approved by a board, and meet that statutory deadline, is creating some issues.

We actually don't have a strong sense of, among all of the stakeholders, what practically speaking, that statutory deadline means for folks in terms of timing. If we get a better sense of that, we may be able to backtrack the way that things play out in a way that provides stakeholders with a little bit more timing. And we'd like to explore that to be more supportive. But I think for us having a better understanding of stakeholders, like what that statutory deadline means for you guys, will help us be able to backtrack and perhaps move some of the other reporting deadlines up for move them around to be more amenable to stakeholders actual process.

Does that make sense? Okay. Was that your question?

MR. BARRING: Yeah, it was. I mean is, I guess what we're trying to think through, I mean, I certainly appreciate the recognition in the staff presentation about, you know, minimizing the administrative burden. And for Turlock, you know, because we are a smaller utilities and we don't have, you know, the big compliance staff that some of the larger utilities do. You know, aligning the power content label timing with -- you know, when we are already working on other reports, for example, the RPS reports or the MRR, that, you know, in general will really, I think, reduce the administrative burden.

MS. SMITH: Okay.

MR. BARRING: But we'll -- take a look at the timing and provide written comment on that.

MS. SMITH: That’s helpful feedback. Thanks.

MR. BROWN: Hi. I’m Andy Brown from Ellison, Schneider, Harris and Donlan. I’m here today for Sonoma Clean Power. We also submitted comments for the Alliance of Retail Energy Markets. A couple of questions on today’s discussion.

One of the major concerns our clients have is the changes happening here will actually increase customer confusion. We have, in the past, reported in a way where our concern had been having this report line up similar to what we're reporting for RPS requirements. Now it seems like this reporting isn't necessarily going to be reflecting RPS compliance for a certain year, but instead estimating what a carbon intensity, as would be reported through MRR, is.

So I guess my question is: How are customers better informed, in light of the product that they are buying, if the data underlying some of these products, particularly when you're talking about unspecified intensity levels for PCC 2s that have data from here? Either we need be sure that the labels are saying these are estimates -- and they can be off, because if you have a big hydro year in the year you delivered, but you're actually reporting on emissions intensities for unspecified that are two years older, it's not going to be accurate; right? And we're going to be seeing something that really doesn't square with, necessarily, with what the RPS reporting looks like.

So that’s sort of trying to get clarity on what the message to consumers actually is. Because our concern is we're going to be having multiple reports that have different information that seems to be talking about deliveries that are made in a similar year.

The other question I had --

MS. SMITH: Wait. Did you want a response or was it --

MR. BROWN: Well, I wanted to just --

MS. SMITH: Okay.

MR. BROWN: -- present my two questions. So that’s the first one.

The second one is one of the first slides that went up, you were saying electric portfolios were equal to electricity portfolios that were equal to electric sales products, and I don't understand what that means. Because whether or not I'm a CCA that has different product types that customers can sign up for and change during the year, or I'm an ESP that has bilateral contract with individual direct access customers, I may be having a single portfolio for that year, but out of that portfolio, I am sourcing different product. So it doesn't seem to me that the concept of a portfolio is necessarily following straight down. There can be subsets within. It depends how it delivered, and also what the suppliers bring in that current year.

So those are the two areas I'm looking for clarification.

MS. SMITH: So specifically on the definitions, I'll just say that the statute uses certain terms, and we wanted to make sure that everyone was operating with the same language. If the proposal that we put out you feel doesn't appropriately capture the way that you are operating or certain -- like contractual agreements that you're entering into, we welcome that in the public comment. We can consider that.

In response to your earlier comment regarding clarity to consumers, you know, I just want to clarify one thing. You made a comment about how you've currently been aligning your reporting through Power Source Disclosure with RPS compliance. And I just want to be clear that currently through Power Source Disclosure, that reporting by its very nature in the fact that it’s annual, makes it difficult to align with how things are addressed in the RPS compliance process, which is, you know, a multi-year process. Folks have some time to shore up the RECs that they’re reporting over that period of time.

MR. BROWN: But even with the -- even though the compliance obligation is multi-year, you do report what was retired in each individual year. And so that, again, is getting to some of the issues. I was really going to hold for the public comment. But the distinction between a delivery time and a retirement time, now we've disconnected those two things right there, as well.

And so I'm just pointing out that there’s going to be a lot of information about what service providers are providing to their customers, and they’re not going to align. And in my mind that only is going to either create more customer confusion -- it's almost like we are fostering more customer confusion. That's my concern.

MS. SMITH: Well, I think we had the difficult job of having to try to align both with existing programs, as well, specifically the RPS, and wanting to make sure that there’s consistency, as well as having to speak to the legislative requirement that we also align with, greenhouse gas reporting programs, which are fundamentally different purposes. We tried to thread that needle, but if you have suggestions on how that could be better done, we welcome them.

MR. BROWN: Thank you.

MS. PARSONS: Hi. Cindy Parsons with Los Angeles Department of Water and Power. I have a couple of questions.

First one, if you could please clarify what is and is not included in annual sales? In the proposal that was posted online, it states that "Staff proposes annual sales should include in transmission and distribution line losses associated with delivering electricity to retail customers, but should not include electricity used for municipal load."

In the slides, I thought I saw -- there was a slide that said annual sales excludes wholesale sales, losses and municipal load. So can you please clarify whether line losses are or are not included in annual sales?

MR. SCAVO: So apparently there's been possibly an error in the report. Line losses need to be reported. Line losses, though, are not included in retail sales. So in your schedule one, the line losses are included in your procurements of line items of electricity resources, but those will be reduced pro rata when it comes to determining a power mix. So, in effect, they aren't included in retail sales. It's a complication because of the way that the statute is constructed where it requires reporting on all purchases, but for the denominator in a power mix to be retail sales, and those two numbers don't add up.

So to be clear, line losses aren't included in retail sales, but they do need to be included in your reporting.

MS. PARSONS: Okay. So can you explain how -- so if you're picturing schedule one, so you have, right now, you have three categories. You have a gross procured, you have losses and self-consumed, and then you have net. So is there -- where do the losses fit in that structure, or will there be a different structure?

MR. SCAVO: I think it will be different. So in the report we mentioned that things like line losses will be removed -- reduced pro rata, which means that your total procured electricity, net procured, so after your wholesale sales, will be some number. And you'll have retail sales that will be some lower number. And in order to reconcile those two, we'll reduce each line item of procurement proportionately, so that will cut out the line losses.

MS. PARSONS: Okay. So from a practical standpoint, the pro rata doesn't really make sense, because some of those resources are located in California. Some of them are located outside of California. ACS Power travels a fairly long distance to get to California, whereas a solar farm located in Las Vegas travels a very short distance to get to load in California. So the pro rata deductions from resources doesn't really make sense.

And the reason why it would be a concern is because if you're deducting more losses from a renewable source that either is sourced in California or close to California, and you're taking the losses from the far-away resources which are not renewable, but yet you're deducting those losses from the renewable, then the percent renewable, once you calculate what your percent renewable is, divided by your retail sales, it's going to look lower than the actual amount of renewable energy you procured.

MS. SMITH: Yeah. I think being able to take into account that level of granularity and that, you know, the distance that the electrons travel for every resource would require, in my mind, a pretty intensive methodology, and subsequently a pretty significant reporting burden on stakeholders. But if you guys have ideas on how to better capture transmission line loss, like I said, we welcome that.

MS. PARSONS: I had another question related to line losses, and it has to do with the difference between utilities that are also balancing authorities and utilities that are part of like the CalISO. So the balancing authority is who supports the line losses. So, for example, you put 100 megawatts in and you get a 100 megawatts out. Well, there’s losses in between, but the balancing authority is who is making that up. So not all the utilities that are subject to the Power Source Disclosure would be reporting the same magnitude of losses because some of them, they’re taken care of by the balancing authority, so CalISO takes care of them for them.

So how do you propose to level the playing field between utilities that are in CalISO and those that are not in terms of the magnitude of the losses that are included?

MS. SMITH: Well, I don't think that we had thought about that. So I appreciate L.A.'s unique perspective as a balancing authority. And, you know, I think that would be a great thing to raise in your comments and give us some -- and in addition, if you have thoughts on how to actually operationalize a proposal for that, we welcome that.

MS. PARSONS: And then a related -- another related question to line losses is --

MS. SMITH: Is it -- can I just real quick, Just to clarify, is it a question or is it a comment? Because we do have a separate opportunity for --

MS. PARSONS: It's a question.

MS. SMITH: Okay. Great.

MS. PARSONS: And it's wield power (phonetic), so it's related to the same question. So wield power is not procured, so the utilities are not procuring it but it's coming through at the balancing authority, so maybe it's related to a comment.

Anyway, the other question that I had has to do with what role do contracts play in the emissions that are calculated for the GHG intensity? So under the CARB program, they have something called a specified source contract. And that contract is what differentiates whether ACS Power is specified or unspecified. And if it’s a specified source contract, you apply the ACS emission factor. But if you bought it on an exchange, you apply the unspecified emission factor.

So I thought I heard in the presentation that all ACS Power would it be assigned the ACS emission factor; is that true?

MR. SCAVO: It's what I said, but it sounds like there's more detail to this than we understood, so that idea may need more fleshing out. We intend to align with ARB’s practice on this.

MS. PARSONS: So the contract then would have a role in the emission factor that is applied?

MS. SMITH: It's something that we will consider, and we can provide a little bit more feedback on that one.

MS. PARSONS: And would that be the case with the null power, as well, where you would have to have a specified source contract for null power to be given the emission factor of the generating source?

MS. SMITH: Yeah, I think, again, this is one of those things that we’ll have to take back and work with our colleagues to understand what they're collecting on this to make sure that we're in alignment.

MS. PARSONS: Okay. That's it for now.

MS. SMITH: Great. Thank you, Cindy.

You’re back.

MR. BARRING: Hi. Bryan Barring, Turlock Irrigation District. So I wanted to follow on one of Cindy's question, and pose an additional question, and maybe put a little finer point on it.

So I think the alignment makes sense in certain instances. And again, you know, we are worried about administrative burden, so that helps.

There is an important distinction, though, between the statute in AB 1110 and how they define specified sources and the definition in the Mandatory Reporting Regulation and how that is defining specified sources. So the MRR defines specified sources based on delivery, but the AB 1110 statute refers to transactions.

So I guess when you're kind of thinking about the coordination of the two programs there, there is an important distinction between something that's been delivered, you have a tag showing that, you know, it came into California versus something that's a transaction where you transacted for a resource. So I'll build on that a little bit when we get into the full discussion of public comments but --

MS. SMITH: Thanks.

MS. COOMBS: Can I ask a clarifying question, Bryan? This is Mary Jane Coombs from ARB.

Do you think this situation is created because there’s just a different reporting basis? Because sort of what’s going through my head as you're talking is, you know, we have an importer basis, and it's the importers relationship with the out-of-state resources, determined specified, whereas in this case it's the, you know, utility delivery and the electricity. Is that some of the distinction you're talking about and the tension between the two definitions?

MR. BARRING: It is. I mean, I guess I don't know all of what the legislature had in mind when they did AB 1110. But I know that when the bill was under discussion, there was a lot of discussion around how would the RPS adjustment be included? And ultimately the version of the bill that was ultimately passed didn't mention the RPS adjustment, but there was some targeted changes to the definition of specified source electricity, so I think there is a basis. And again I'll get into this when I go on my spiel about the importance of recognizing the RPS adjustment in the Power Source Disclosure Program. But I think there is a basis, looking at that definition of specified sources under AB 1110, for specifically looking at what was transacted versus what was actually delivered.

MS. SMITH: I'd like to invite folks on the phone who may have clarifying questions or perhaps comments that they'd like to make on some of our potential program changes. Nothing? Okay.

Are there any remaining questions in the room? I'm not seeing any. Oh, I am.

MR. HENDRY: Good afternoon. James Hendry from the San Francisco Public Utilities Commission. I have a clarifying question on the measures they'll use for the San Francisco Public Utilities Commission. And we’re allowed to carry over, with limited circumstances, our surplus greenhouse gas emissions. The regulation says that that ability to carry over would not start until after the regulations go into effect in 2019. But the legislation is clear that for any compliance year, that has to be credited for the previous years’, plural, generation. So it would seem that it's unclear.

According to statute, then the 2019 requirement should include then the ability to carry over generation from previous years. And I was trying to understand the reasoning and why the statutory language wasn’t followed for that?

MS. SMITH: It might have been something that we just -- was an oversight, so I appreciate you bringing it to our attention.

MR. HENDRY: Thank you. That's --
MS. SMITH: And if you can put it in writing, that will give us --
MR. HENDRY: Right.
MS. SMITH: -- the (indiscerinble).
MR. HENDRY: We had raised them in our comments and will follow up with it, you know, on this issue.
MS. SMITH: Okay.
MS. HENDRY: Thank you.
MS. SMITH: Great. Thank you. Okay.
So with that, I think that's a good transition to the public comment section.
(Colloquy)
MS. SMITH: We're going to try to keep comments to three minutes. But, of course, if you have additional comments that you'd like to make, there's the opportunity to do so in written form. Again, the deadline for that is July 28th.
So with that, if anyone would like to start us off with public comments?
(Colloquy)
MS. SMITH: It said, may be limited to five minutes, I believe, is what it said. Did you prepare for a five-minute comment?
MR. JONES: I prepared for five minutes.

MS. SMITH: All right. Then I will --

MR. JONES: Is that okay?

MS. SMITH: Yeah. Then I will make it so that everyone can have five minutes. But you better not go over five minutes. I'm just teasing.

MR. JONES: You can cut me off at three. No. Thanks. My name is Todd Jones. I'm with the Center for Resource Solutions.

So we believe that this proposal would have a considerable negative impact on renewable electricity markets and consumers in California. It represents a legally questionable revision to California's definition of a REC. It infringes on the property rights of REC owners. It conflicts with federal FTC and CEQA guidance and international guidance on RECs and GHG accounting for consumers. It's inconsistent with other programs that deliver renewable energy in California, the RPS and voluntary program. It creates inconsistency between power mix and emissions disclosure. And it would have serious negative consequences for the voluntary market in California and all providers of voluntary renewable energy in the state, including the three IOS, all on the basis of a misapplication of the MRR's treatment of RECs to consumer GHG claims, a misunderstanding of the effect of bundling and unbundling with respect to consumer claims.

So there are three critical changes that we feel must be made to this proposal to protect the integrity of the REC instrument and REC-based markets, including the RPS and voluntary markets, protect potential -- prevent potential litigation over contractual benefits and REC property rights, and ensure that California businesses are not put at a disadvantage in terms of reporting the impact of their actions on climate change and renewable energy.

So first, the proposal should allow for differentiation of voluntary green power products. Rolling all LSC sales into a single PCL for all customers represents a double claim since it discloses that generation that is delivered to an individual customer or group can be claimed by all LSC customers. That would cause consumer confusion about what customers are buying and receiving. It also conflicts with Green-E (phonetic) Rules and would prohibit Green-E from certifying voluntary green power products in California, which is required for IOU programs.

Second, the proposal should recognize that RECs do convey the emissions profile of renewable generation for consumer claims. The generation attributes included in a REC include the direct emissions associated with generation, and that does not conflict with the MRR. Customers receiving system mix paired with RECs should be able to claim to be receiving zero-emissions power. Customers receiving null power should not be able to claim to be receiving zero-emissions power from renewable sources.

The Staff paper denies that RECs convey the emissions profile of renewable gene for consumer claims and effectively says that the direct emissions attribute of renewable energy is not contained in the REC, again on the basis of how RECs are treated in a production-based accounting system, the MRR, a misunderstanding that RECs contain the emissions associated with generation for the purposes of consumption and delivery claims without double counting or effecting production claims.

Third, the proposal should not limit deliveries of zero emissions renewable energy that can be reported to customers to bundle power purchase contracts. Unbundled RECs procured by the retail provider and paired with local system power deliver zero emissions power.

More importantly, this proposal infringes on the property rights of REC owners by denying that their RECs convey a claim to consumption of a particular fuel type and emissions profile and for example, assigning that emissions profile to the underlying power, null power. This would have direct implications for energy contracts and many may have to go to court where their contracts say their RECs or their WREGIS certificates convey these benefits.

It also produces a situation where in the case that unbundled RECs are used for the RPS, the RPS can claim to be delivering wind power for example, but not zero emissions power. The proposal conflicts with FTC and CEQ guidance and international guidance on RECs and renewable energy claims, all of which say RECs and system power represent renewable energy. California law also says that RECs contain the attributes of renewable generation and are used for verifying retail product claims. It does not say that only bundled power contracts convey those attributes and claims.

So once again, this proposal would be disruptive to renewable electricity markets in the region. It diverges from best practice and federal guidance and it denies benefits to consumers that they've paid for. And the three most important changes we think are allowing for differentiation of voluntary green power products, recognizing that RECs convey the emissions profile of renewable generation for consumer claims. And that does not conflict with the MRR, and the three do not limit delivery to the zero emissions renewable energy that can be reported to customers to bundled power purchase contracts.

So from our perspective it's very simple, RECs are the way you assign attributes including omissions. Omissions are an attribute to delivered and consumed power on a shared grid in the U.S. There's a legal basis for that and that's due to the nature of electricity, which cannot be tracked and traded to specific customers on a shared grid. If we choose a different way to assign those attributes or deny that RECs convey those attributes for delivering consumption claims, you cause problems in existing markets, which can be double counting where two parties can claim the same zero emissions power. Or REC integrity problems where the REC owner cannot claim the emissions associated with their REC. Both of those problems have legal consequences for transacting parties in energy markets and damage demand participation in the impact of these markets and programs that rely on RECs. Thank you.

MS. SMITH: Thanks, Todd.

MR. SCAVO: Just so folks are aware, we're having a little bit of technical issues. I'm going to keep time over here. I'll do like a slow cartwheel or something to let you know once you're nearing the five-minute mark.

MR. TUTT: I'm going to take five minutes just so I can see that. (Laughter.)

Actually, I could probably just say ditto and give up the rest of my five minutes. But we share the concerns that were just expressed by CRS. We don't think that the compliance obligation structure, and the mandatory reporting structure needs to be replicated in the consumer-oriented power content label as much as it is in the staff proposal.

And it will lead to consumer confusion in our minds. As an example, you might have a utility that meets its 50 percent RPS with a firmed and shaped contract. They might be putting out a power content label to their consumers that say, "We get 50 percent of our power from wind, but we have a GHG emissions signature that's consistent with 100 percent fossil." That makes no sense to consumers.

In SMUD's case we have the Greenergy Program, that it's very popular with our customers, that often uses a significant amount of unbundled RECs. And we tell those customers that they are getting zero GHG renewable power. And in part, we tell them that, because we participate in the Voluntary Renewable Energy Program. So we're actually retiring greenhouse gas tons, allowances, on behalf of our customers. So I can't imagine us putting out a label to our Greenergy customers that says you have what we've been claiming is that you have 100 percent GHG-free power. But the label says, no there's actually no renewables in here and it's actually got a lot of fossil GHG. That's not going to work for us.

SMUD also has a situation where we have a lot of renewable contracts where the power isn't delivered to our service territory. These aren't firmed and shaped contracts. They're not part of the RPS adjustment. They're not related to that concept per se, but it does appear in the staff proposal that we wouldn't be able to count the GHG emissions as reflective of those power contracts.

We're going out for our ratepayers and our consumers and saying, "We're spending your money on renewables." And yet, you're asking us to tell them in the power content label, "you're not getting what you paid for." We're not going to like that and we're not going to be happy about it.

So I agree that these changes that have mentioned by CRS need to be made, need to be considered and thought about. And I would just make a recommendation, I guess, that this is the beginning of an informal long process. And this kind of format where each of us is coming up individually and giving five minutes' worth of points might work. But I would actually like to see a round table discussion in the next workshop, so that we can actually get some of these issues out on the table and talk stakeholder to stakeholder and work these things through, because this is complicated stuff.

It's not the kind of stuff where in my mind you're going to be able to say here's our proposal. Give us five minutes and a bunch of written comments and work it out that way. We're going to have to talk about it. Thanks.

MS. SMITH: Okay. Timothy Tutt? Timothy Tutt.

MR. TOMASHEFSKY: Cartwheels.

MR. SCAVO: I didn't hear the timer. I've also been given a card, so I won't need to do my stretches.

MR. TOMASHEFSKY: It's like four minutes and 30 seconds to the cartwheel? I'll give us a reason to (indiscernible) about it.

And this is Scott Tomashefsky with the Northern California Power Agency. I wanted to go back to Andy's comment early on. And you're kind of hearing a common theme about consumers and the use of this label and the extent to which it can be confusing or not. And when you start to go back in history with this label, we dealt with an excess of power. It was designed to deal with direct access and that caused all sorts of confusion when all of a sudden, everyone was having coal in their portfolios when yet there really wasn't in a lot of utilities.

And so then we came up with the concept of unspecified power and you can kind of pull things out. And that's created some other issues. When we start to look at greenhouse gas intensity, and you start to look at what this number represents, to me you're never going to get to the solution set of making it absolutely clear to what a consumer is going to do with this piece of information. It becomes sort of a proxy for how you deal with the information that you have in front of you.

And so when you start to look at things like even the label itself and you look at today's label, you're normalizing to 100 percent, okay? So what does that mean if you're a consumer? I have no idea. What you do know is you know the renewables number is supposed to be generally spot on for the most part. So if you want to use it as a proxy for renewables then we normalize natural gas and all the fossil fuel things and we kind of move it down. And you come to the magical 100 percent number. But it's not exact.

We were kind of talking with family before, it's sort of like you get your EPA estimates on your mileage of your car is this, but your actual mileage may vary depending on how you drive it and what you put in there. So then you start to get into the carbon intensity calculation and you start to look at what's in there. And the basic constructs of what's trying to be accomplished makes sense, but when you start to get into the details it becomes really important.

And so as we have members that have tried to explain changes in the last iteration of the power content label, it's not that simple to deal with. This raises it to a whole different level, because now you're combing multiple programs and multiple objectives. And so you start to look at the intensity factor, sometimes a comparison between where the state mixes and your individual mix is important. How it is accounted for in the context of other programs that we're responsible for. If you start to look at how all these SB 350-ish programs fit together, how we deal with RPS and how we deal with greenhouse gas compliance really becomes a lot of the driving force behind what we do.

And so I would rather be in a position to explain away why that number? For example, if you take a resource that's renewable that's considered exempt from Cap and Trade consideration for compliance purposes, but yet has a carbon intensity factor associated with it. It's easier for me to explain to someone that no, that number actually generates a little bit of carbon, but for purposes of the Renewables Program it's zero carbon resource. Much easier for me to explain that than to say, "Wait a second, I've got a biomass resource that's generating 1,100 pounds and I'm reclaiming it as renewables. But yet it's making my carbon footprint go significantly up?"

So what you're trying to get towards is trying to figure out something that a consumer can get their hands around. And it's easier to say given the programs I have we're treating this as carbon free. Even with firmed and shaped resources, the fact that it's a zero carbon resource for Cap and Trade, really important, a decision point on getting involved in that resource is driven largely by that. Not by I have to explain away the fact that well there's a carbon resource that may provide that support.

So when you start to look at that particular number, you can come up with a bunch of scenarios where you could have a utility that has a ton of historic carryover. They could basically consume 100 percent coal if they want to. Show 100 percent renewables in a carbon intensity factor of 2,200 pounds. And you could do that and those are the signals you don't want to provide to your customers. You want them to be able to understand, yeah I've been hearing all these stories and other things where my councils and my boards are telling me, "We're doing this to make clean energy investments. We're involved in the RPS Program to deal with this. We're taking auction proceeds and we're doing these things."

It's allowing us to make some financial adjustments to the numbers that show up here, but those are the things that are actually causing things to happen in your community. And the last thing you want to have -- you can do the cartwheels now -- okay, the last thing you want to have happen is you want to have them start to raise questions about how that doesn't seem to make sense from the basic piece of information you might actually provide your customer.

Where the first thing out of the box is they actually open up their label and they look at that thing. And they say, "This doesn't make any sense to me at all."

So I'd be really cautious about going too far down the path of trying to be perfect in terms of what that number is and making sure that the number actually reflects the things that you're actually doing. Even if it's not exact, because you'll never get to the point of being exact. So and we can talk a lot more about that, there's a lot of different examples. And we're happy to have that conversation, but it's a good starting point though. I appreciate it.

MR. OLINEK: We can stay within three minutes, it's okay. This is Spencer Olinek, Pacific Gas & Electric.

I just wanted to start by thanking staff and the ARB for all of their hard work on this so far. We know it's not easy and probably won't be any time in the next year. We want to give broad support for what's been put forth so far in your draft proposal, especially when it comes to treatment of unbundled RECs.

We will, of course, expand on this in writing, but we would like to see differentiation between unspecified imports and in-state market purchases. We know it's not the easiest lift, but we think it's an important differentiation to make, especially down the road.

And as we continue this process we're certainly happy to sit around the table with Tim, staff, other agencies, to talk about this and make it smooth and easy. And in that process, we would like to discuss uniform accounting for (indiscernible) GHG emissions to LSEs. I think that's important both for PCL work in the future under 1110 as well as for everything that's coming our way with the IRP process. Thank you.

MR. BROWN: Hi, Andy Brown again. These comments are for Sonoma Clean Power. They're similar to comments I anticipate submitting for Alliance of Retail Energy Markets.

The chief concern, besides the customer confusion issue that was raised, has to do with the treatment of PCC 2s and a suggestion that the RPS adjustment type mechanism be applied for all of those imports. Even if they are imports that may not be being used for RPS compliance, because they may be a purchase that is supporting somebody who is exceeding what the RPS compliance calls for.

The crux of the issue is this, the RPS Program as structured with the different product content categories, provides retail sellers with optionality in terms of how they sourced to meet that obligation. And their customers paid different premiums for those different product types. When they purchased the REC, as you've heard previously by a couple of different entities, they are securing those attributes as a property right essentially.

And so if an import isn't being recognized whether it is rejected as having an emission factor, because it's a PCC 2, but you're not going to recognize the null power coming in. You're going to call that unspecified, which is contrary to what as I understand the ARB doing. What we want to see is all of the PCC 2 imports, the RPS adjustment being applied to them. Now, that doesn't necessarily mean it won't have any carbon associated with the import depending on what the substitute energy is. But we don't want all of that substitute energy having a unspecified or a regionally differentiated number attached to it.

So we think that the RPS adjustment is a means to recognize that attribute value. But again, we really don't want to create another report that's going to have potentially a set of numbers that is attributed to a same year, but having different values. Because whether it is the treatment of losses in retail sales and having numbers in different filings that, because of the instructions say include or exclude, that just creates a number of problems for us interfacing with our customers and regulators asking, "Well, you reported this in this report, but this other number is different."

And in many cases those persons challenging the submissions don't understand some of the nuances and the differences between them. So that's a huge concern, but primarily with respect to the PCC 2s it's making sure that the customers get to recognize the premium that they're paying for the REC. And have a degree of consistency with all the RPS reporting that's going on. Thank you.

MS. SMITH: Any more public comment in the room?

MR. FREEDMAN: Hi, my name's Matt Freedman. I'm with the Utility Reform Network and we were the sponsor in the Legislature of AB 1110. So I don't think it's going to come as a surprise to anybody in the room that we really like the draft proposal. Perhaps, we're the only one here present physically today who's going to offer this. We think it's a major improvement over the current program. We do intend to submit written comments and to respond to other concerns that have been raised by stakeholders here.

We think that the draft proposal would result in far better accuracy in terms of informing customers about the real greenhouse gas impacts of their purchases and the power that is being supplied to them by retail suppliers. We think that this would be a major step forward in terms of customer education.

At a high level our view, and we think it's the view of the staff based on the proposal that's in front of us today, is the RPS Program is not a proxy for greenhouse gas free electricity. The RPS Program was created in 2002. It was not a greenhouse gas reduction initiative. It was created for a variety of purposes and the mere fact that a resource is eligible for compliance under the RPS Program does not mean this automatically deemed GHG-free. And that's really a fundamental issue that everybody is here arguing about.

You have many buyers and sellers of renewable attributes and products who want a safe harbor. If something can be RPS eligible it is automatically deemed GHG-free. I don't think that's accurate. It's not true. It's not consistent with the program design. These are different programs, the RPS Program has one set of purposes, the greenhouse gas regulatory mechanisms in California administered by the Air Resources Board and the Power Source Disclosure Program have a different set of purposes.

And AB 1110 really directs these two Commissions, the Energy Commission and the ARB to work together to place a primary emphasis on ensuring that disclosure is consistent with greenhouse gas reporting protocols, not RPS eligibility. And in our view, the treatment of renewable energy credits does not naturally flow from the fact that some suppliers claim it to be a GHG-free product. They are not GHG offsets.

The purchase of unbundled RECs matched with California system power does not reduce greenhouse gases in the State of California. And it's not counted under the Cap and Trade Program or MRR. So we don't want the information provided to consumers under this program to be increasingly divorced from reality, and from the mechanisms used for accounting under other state programs.

With respect to firmed and shaped resources, I think it's useful to point out that even under the staff proposal any entity purchasing firmed and shaped imported renewable power could still claim it as both renewable and GHG-free, so long as the substitute electricity is sourced from a zero carbon resource. And since typically in California these are products sourced from the northwest there is an abundance of hydropower that is available to firm these products. So we think that there's an abundant opportunity for buyers to still retain both the renewable characterization and the zero GHG characterization.

For the unspecified power, we would also point out that we have concerns about the use of a single factor for imports and instate purchases. This is a live issue in other forums and I won't dwell on it here today.

Look, we understand that there are many entities here that buy and sell RECs. There are many entities here that that's their business model. They're here, because they care a lot about preserving their business model. There are utilities that have made commitments to their customers and to third-party suppliers for these products. But your job is not to adjust the policy and the rules, based on the preferred business practices of various industry participants. Your job is to implement the program based on what the Legislature enacted and based on what's good policy.

So I encourage you to be careful about accepting the argument that just because there are transactions occurring in the market that have one set of representations attached to them, that you are obligated to somehow have those representations flow through into the policy that you adopt. And, of course, I know this is a very unpopular view in this room today.

Finally, with respect to the comments made by San Francisco PUC, and I'll stop now before cartwheels happen, we don't agree with the characterization that the legislation requires a carryover of historical over-generation by the San Francisco PUC. That's not in the statute. It refers to prior years, because it assumes that in the future there will be prior years from which an excess is carried over. We're happy to put this in comments.

We worked very closely on the drafting of this provision. And so I just want to make sure you understand that there is an alternative viewpoint on this. So thank you for your time.

MS. SMITH: Great. Thank you.

MR. BARRING: Hi, Bryan Barring with Turlock Irrigation District. I want to just first of all, thank you all, for providing a very open transparent public process.

You know, having a staff proposal that is a concrete proposal and then having an opportunity to review proposed rules before the rules are actually noticed. That really does help, because this is as you're hearing, very esoteric stuff. And there's a lot of complications and I think we would agree with a lot of the comments that have been expressed about the concerns about the potential for customer confusion.

I'd actually also agree with Matt Freedman's comment that just because something is renewable does not necessarily convey the GHG emissions attributes. But in the case of PCC 2 or in our case PCC 0, what has been procured is a bundled product. We procured both the RECs and the energy from that.

And when California ratepayers have made that investment we feel very strongly that the ratepayers really should get the emissions attributes that are stated frankly in the WREGIS operating rules that the RECs do convey the emissions attributes.

I'll put this into a real-world context, which I think may help provide a little bit of context here. TID made an early investment before there was any RPS procurement obligation for publicly owned utilities. TID invested in a large wind project outside of California and that is consistent with the RPS rules, can be brought in directly. Or in some case depending on the transmission availability it is firmed and shaped.

And I think what we are very concerned about is that the way the staff proposal has been teed up it wouldn't make clear to the customers that made that investment that they did make an investment in a zero GHG resource before there was any requirement to do so.

So I think from our perspective that is kind of the crux of the issue and why it's more than just does it have a regulatory cost or not? You know, is it subject -- it's not a question of whether or not it's subject to the Cap and Trade or does it affect RPS procurement, but it is a cost. And so far as we're telling our customers, "You made this investment, but you're not getting the zero GHG emissions attributes of the bundled product."

So we'll tee that up in additional detail in our comment and again, thank you for the opportunity to provide comments here.

MS. SMITH: Great, thank you.

Any other public comment in the room?

MR. HENDRY: Good afternoon, James Hendry with the San Francisco Public Utilities Commission again.

I think it's important to kind of look at the difference between the Power Source Disclosure Form, which was implemented in 1998 and the RPS legislation, which was implemented much later. And in trying to crack greenhouse gas, the California Energy Commission seems to be going backwards in saying, "Let's try and comport to what the Power Source Disclosure Form formatting says," rather than looking forward to what was adopted by the RPS Standards in 2002.

The purpose of the PSD was to basically tell consumers this is where your renewable energy and the composition of your energy is. And was very forward-looking for its time, but it's since been passed on. And its laws have been superseded by the Renewable Portfolio Standards, which establish as we all know, a statewide tracking system. A statewide means of ensuring there's no double counting, a very elaborate statewide reporting and verification system.

And so to kind of openly dismiss the use of the RPS Standard, I think, is troubling given the attempt of money and effort that's gone into it. I think we largely support the viewpoints of CRS and SMUD and others on the use of renewable energy credits. And I think as is said, they represent all the environmental attributes that are associated with it and therefore should be counted.

In terms of the intent of AB 1110, I think it's important to kind of look at the full parts of it. In the package there's the letter from Assemblyman Ting, which says two things. One, he wants to try and comport the AB 1110

Greenhouse Gas Emission Regulations to comport with the mandatory reporting requirement in the Power Source Disclosure requirements. And at the time that AB 1110 was implemented the Power Source Disclosure requirements did allow these renewable energy credits as being counted toward the Power Source Disclosure Form and claimed as a specific resource. So I think there's kind of the attention there.

A second (indiscernible) the language that tried to implement what would be reliance on the Air Resources Board's proposal was not in the final version of AB 1110. It was in an earlier draft, but was taken out over time. And so I think Assemblyman Ting's intent may have been one thing, the actual legislative language is a little more nuanced and leaves much more discretion to you.

So I think your comment earlier that you felt obligated and required to this to be consistent with the MRR is a little more flexible. And is consistent with what your flexibility is, both in the language of AB 1110 and Assemblyman Ting's letter.

The second thing, Assemblyman Ting talked about the issue of double counting, the second part of his letter. And I think as many of the parties have said there's a lot of issues with potential double counting here that need to be addressed.

Finally, on the RPS Program itself, although it was adopted in 2002 it is a greenhouse gas reduction measure. And we have to know to look no further than the AB 32 Scoping Plan, which identifies the RPS Program as one of the major emission reduction targets and measures in AB 32, with 21.3 million tons of GHG reductions. So to say the RPS Program is not a greenhouse gas reduction program, and to say then that the monitoring of it should not count, I think needs to be looked at further.

And if you look at the various MRR rules there are situations as people have pointed out, where renewable energy credits basically are counted as greenhouse gas reductions, both in the Voluntary Renewable Energy Program and in the RPS adjustment.

Finally, I want to go back to the issue on the San Francisco PUC exemption. Matt Freedman claimed he was involved in drafting the rules, we were actually involved in the drafting as well. Probably more specifically on this language than he was. The language is very clear that it says that in any reporting year, the previous years' emissions must be available to be credited. And I think it's very clear statutorily and I don't really think there's much dispute over that.

But again we will raise that in comments as the rulemaking progresses as well. Thank you.

MS. COOMBS: This is Mary Jane Coombs from the Air

Resources Board. I just wanted to make a couple of clarifying comments with respect to your comments, James.

One is that absolutely ARB recognizes in its Climate Change Scoping Plan, and every Climate Change Scoping Plan we've written including the draft that's out now, that the RPS Program does result in greenhouse gas emissions reductions. The distinction here is whether or not a REC is indicative of a greenhouse gas emissions reduction. And that's the distinction we're talking about here.

In a world where there's a cap on California's emissions, the only place we allow for -- I'm using air quotes -- emissions reductions to count in our MRR and our Cap and Trade, well really in our Cap and Trade Program, is with greenhouse gas offsets. And RECs are not greenhouse gas offsets, so in that sense I'm talking about something we've all been talking about here today. We don't recognize that RECs are a recognition of a greenhouse gas reduction.

The RPS adjustment is a reduction and a compliance obligation. It is not a reduction in California's emissions. MRR recognizes that our greenhouse gas emissions inventory recognizes that those are California's emissions. So it's only in the case of an entity's compliance obligation, that there is considered any sort of reduction. And it's not necessarily a greenhouse gas emission reduction. It is a compliance obligation reduction.

MR. TUTT: Tim Tutt from SMUD again. I don't know if I get a second bite of the apple or not, but I might get to see a cartwheel if I do.

I do think this is a difficult task. I mean, you've got a variety of different programs that you're trying to interact with and to comply with in a variety of ways.

So I understand that the Power Source Disclosure Form can't be conformed to the RPS, because the RPS has multi-year banking and multi-year compliance periods. It's just going to be confusing to consumers.

I understand that the Power Source Disclosure structure can't be conformed to the MRR regulations or program at CARB. The MRR or the Cap and Trade is an obligation on sources, not on procurers of power. They are different.

And the question of how to conform all these programs should be guided primarily by what is least confusing to consumers. Nobody is asking ARB here to change how they handle the RPS adjustment for compliance or to change how they look at a REC in terms of greenhouse gas emissions.

This is a program that is aimed at how to tell consumers what their utilities are procuring. And if we procure an unbundled REC it might be from outside of California, but it's going to represent generation inside the REC of a renewable entity or renewable generator. And that generation is going to likely offset a fossil resource that's going to reduce greenhouse gases somewhere.

AB 1110 doesn't talk about how your greenhouse gas intensity for greenhouse gases within California -- I mean we procure outside of California. Are we supposed to not include the emissions and the procurement from resources outside of California? I don't think so.

And it's true that inside California, renewable resources of any kind firmed and shaped directly delivered solar power inside our service territory, is going to reduce our greenhouse gas emissions presumably. But that means under the cap that somebody else's greenhouse gas emissions were allowed to go up.

So should we say in our Power Content Label that all of our renewable procurement has no impact on greenhouse gases just because of the Cap and Trade structure? I don't think you want us to do that. I think you need to separate out what the purpose of the Power Content Label is, which is to tell consumers that their utilities are buying a certain amount of renewable power in a variety of the ways that are allowed by the structure. And that reflect the greenhouse gas emissions of them doing that. Thank you.

MS. SMITH: Okay. Are there any other public comments in the room? Folks who haven't had an opportunity first, if you don't mind?

Okay. I see Cindy. Did you want to make a comment? Come on.

MS. PARSON: So just to follow up on an earlier comment, oh Cindy Parsons with the Los Angeles Department of Water and Power. And there was a comment earlier about having more like a round table technical discussion? I think that's a very good idea.

This GHG emissions for power sold to customers is a complicated issue. And really, we do need to sit down and work through some examples, so that we on the reporting end really understand what the intent and the purpose is that we're actually trying to accomplish.

So I get the feeling it's not about gross emissions. It's more tailored to the emissions for the power that goes to our customers. And the reason I bring that up is because gross emissions include wholesale power that you sell on the wholesale market. Well, that has nothing to do with our customers, so our customers shouldn't see the intensity in their power for electricity that was taken off the top that never even went to the customers.

Something I brought up earlier about supporting losses for wheels, wheel-throughs, again that is not --

those emissions are not associated with electricity that goes to our customers. That is just part of operating the Grid. So I really think we need to sit down and have a technical discussion to tease out the things that don't belong in this calculation.

So and again going back to the earlier comment about the pro rata deduction from each resource, the more I think about it the more I realize that is really not the appropriate way to do that. For example, we buy renewable energy on behalf of our customers. But we may make a wholesale sale, so it would really be inappropriate to deduct a wholesale sale from the renewable energy we bought from our customers, because we're not reselling that energy.

So just to do an approach that takes a across-the-board pro rata deduction really isn't appropriate, because certain types of energy are not resold. You buy it on behalf of your customers, our customers are paying a premium for that energy. And they really do need to get the credit for the energy that they paid a premium to purchase.

So that's all. Thank you.

MS. SMITH: Anyone else in the room who would like to make a public comment?

Can we let folks on the phone first before people start doing second rounds? At this point are there any folks who have joined us remotely via WebEx who would like to make a public comment? Why won't we unmute all of the lines, if you'd like to make a comment your line is unmuted and maybe just say so? I see some people are multi-tasking. Okay.

At this point I'm not hearing any desire to make a public comment, so we can cut the line. Of course, that is not your only opportunity. We have written comment opportunities as well.

Okay. So with that I'll do a last call. It seems like Todd wants to make maybe one last statement and then we can wrap up.

MR. JONES: I'll keep it short. I just wanted to respond to part of Matt's comments, what Mary Jane said earlier and actually part of what Jordan talked about in his opening presentation. There's a lot of talk about avoided emissions, about the effect of the cap on the emissions reductions associated with renewable energy, using RECs as offsets.

So we are conflating, and specifically so Jordan said that California's definition of a REC includes avoided emissions, avoided emissions attribute does not have any value under Cap and Trade as the total GHG emissions are capped. That's what you reiterated as well, Mary Jane. And then in keeping with this policy the proposal for PSD does not allow RECs to affect emissions disclosure.

So we are conflating avoided grid emissions with the direct emissions associated with generation. Avoided emissions are zero for renewable energy in California due to the cap. Avoided emissions in RECs would not otherwise be offsets. No one is talking about using RECs as offsets, if they were reflected in emissions disclosure that would not be treating them as offsets, on the basis of avoided emissions. They could not be used to reduce the direct emissions of any generator.

So RECs have no rule in the MRR except for imports, not because the avoided emissions are zero, but because the MRR is a production-based accounting system. And RECs only convey the emissions profile of renewable energy generation to customers. They determine who gets the claim that renewable energy in the emissions profile, not who generates it.

Generation and consumption of the same generation and emissions can be reported by different parties without double counting. That has to do with the direct emissions associated with the generation, not avoided emissions. So Power Source Disclosure also has to do with the direct emissions associated with generation, not avoided emissions.

So the conclusion that the MRR's treatment of RECs, that they have no rule should mean that they should have no rule in Power Source Disclosure and Emissions

Disclosure to customers is incorrect. Both because we're not talking about avoided emissions, and because the MRR is a production-based accounting system, a source-based accounting system that does not involve RECs except in the case of imports as we've discussed. Which is a delivery of renewable energy into the state and that's a different issue.

But I wanted to make that clear. Thank you.

MS. SMITH: Last call?

Great. Okay, so as mentioned before there's a deadline set for public comment. I just want to thank folks. I know some of you have traveled quite far to be here in person, and that's very much appreciated.

It sounds like from today's comment we have stakeholders falling on both ends of the spectrum, and some folks in between. So I appreciate Tim's desire to have folks around the table, we can consider in the process moving forward depending on the comments that we get here today. But I do recognize there's quite a bit of I will say, divergence among folks, so I don't know how useful that will be. But we will certainly consider it.

All right. Thank you, everyone.

(The workshop was adjourned at 2:49 P.M.)

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