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AWEA California Caucus Comments on AB 1110 Implementation Proposal Paper and February 1, 2018 Workshop

Additional submitted attachment is included below.

Jordan Scavo
California Energy Commission
Dockets Office, MS-4
Re: Docket No. 16-OIR-05
1516 Ninth Street
Sacramento CA, 95814-5512

Filed Electronically

RE: ***AWEA California Caucus Comments on AB 1110 Implementation Proposal Paper and February 1, 2018 Workshop***

Dear Mr. Scavo,

The American Wind Energy Association California Caucus[1] ("ACC") provides the following comments on the January 2018 *Revised Assembly Bill 1110 Implementation Proposal for Power Source Disclosure* ("Proposal"). As discussed below, ACC encourages the California Energy Commission ("Commission") to amend the staff proposal to recognize that Procurement Content Category 2 ("PCC-2") transactions are bundled transactions and California ratepayers have purchased zero-GHG emissions power and RECs under PCC-2 contracts. By awarding the zero GHG emissions attributes to an entity importing "null-power" who did not pay for the emissions attributes, the CEC will devalue existing PCC-2 and grandfathered firmed and shaped transactions. If implemented, the staff proposal would also create a fundamental disconnect in the GHG accounting that occurs in separate, but connected state programs, including the Cap-and-Trade program, the Mandatory Reporting Regulation ("MRR"), the Scoping Plan, the Integrated Resources Planning ("IRP") process and the Power Source Disclosure ("PSD") program. The Proposal should remedy this issue by incorporating the RPS adjustment from the Cap-and-Trade program into the PSD program.

DISCUSSION

I. PCC-2 Procurement Is Bundled, and the Emissions Attributes of the Contracted Facility Should Be Assigned to the Entity Holding The RECs.

Under the RPS program, a firmed and shaped contract must be bundled for procurement (i.e., similar to PCC-1). ACC supports the proposed treatment of PCC-1 resources in the Proposal because customers purchased a bundled product and as such, the PCC-1 import should

[1] Members of the AWEA California Caucus include global leaders in utility-scale wind energy development, ownership, and operations, and many members also develop and own other energy infrastructure such as transmission lines, utility-scale solar, and energy storage. ACC is unanimous in its commitment to the need for—and widespread economic benefits derived from—a diverse and balanced portfolio in California to reliably and affordably meet state energy demands and environmental goals. The AWEA California Caucus strives to direct the economic and environmental benefits of utility-scale wind energy to California.

be assessed GHG emissions based on the contracted or owned resource. The same logic should apply to PCC-2 resources. Under a PCC-2, firmed and shaped contract, the purchasing load serving entity ("LSE") must procure both the RECs and the renewable power from the out of state resource. Firmed and shaped contracts have been included in the past in all of the various iterations of the RPS laws. The 20% RPS allowed unlimited amounts of firmed and shaped resources, and the 33% and 50% RPS laws recognized unlimited amounts of grandfathered firmed and shaped resources and established procurement content category limits for new PCC-2 contracts. Firming and shaping contracts provide buyers with temporal flexibility to buy power at market when it is needed and sell power from the resource when the power is not needed. Zero-emissions power is in fact generated and owned by California ratepayers under a PCC-2 contract structure. However, the Proposal would assign emissions attributes of firmed and shaped imports without any adjustment to account for the power purchased by the utility from the resource. By not recognizing the emissions attributes of firmed and shaped resources, the staff proposal would fundamentally devalue the bundle of property rights that are conveyed to a buyer when they purchase from or invest in a firmed and shaped resource. As made clear at the February 2nd workshop, the Proposal would devalue investments that various LSEs have made in reliance on the RPS laws.

ACC is also very concerned that the Staff Proposal would assign the emissions attributes to market participants that purchased the null power from out of state resources on an unspecified basis. In other words, these market participants did not pay for the emissions attributes and would receive a windfall by being able to claim and market the emissions attributes at the expense of the LSEs that purchased the RECs. This directly conflicts with the attributes of a REC identified in the WREGIS operating rules, which provide that RECs convey all "credits, benefits, emissions reductions, offsets, and allowances–howsoever titled–attributable to the generation from the Generating Unit, and its avoided emission of pollutants." Assigning the emissions attributes to wholesale market participants transacting null power is an unfair transfer of property at the expense of California ratepayers. In reviewing other party comments echoing concerns about potential takings claims, we are very concerned by the risks the Proposal could create for the PSD program. The CEC should avoid exposing the PSD program and other programs that rely on information from the PSD program (e.g., the IRP) to unnecessary legal risks and delay.

II. The Proposal Would Create a Disconnect Between Separate but Connected State Programs.

ACC understands that one of the justifications for the treatment of PCC-2 and grandfathered firmed and shaped resources in the Proposal is that the staff considers this program to be "non-regulatory" insofar as it does not impose a direct regulatory cost the same way as other programs, such as the cap-and-trade. ACC does not agree. The communication of GHG emissions attributes is a key consideration in LSE procurement and any proposal that devalues PCC-2 and grandfathered firmed and shaped resources will impose a considerable cost on LSEs relying on these resources.

Equally important, the PSD program is the only program that would collect GHG information from all LSEs. The Mandatory Reporting Regulation ("MRR") does not apply to most Community Choice Aggregators (CCAs) because their imports are typically scheduled (and reported to the ARB) by their counter-parties. Reporting for in-state gas resources is done by the plant operators. ACC expects that the PSD program will play a critical function in gathering a common set of data for all LSEs that may be used in other programs – e.g., the Integrated Resources Planning ("IRP") process. The IRP in turn aligns with the Cap-and-Trade insofar as the cap-and-trade allowance allocations established the framework for individual, LSE-specific GHG targets in the IRP. Carbon accounting will be a common thread guiding various state energy procurement and planning programs, and it is critical that these programs rely on common assumptions and reporting requirements.

The Proposal would not achieve this needed alignment because the PSD would not incorporate the RPS adjustment that is calculated in the MRR and conveyed to the Cap-and-trade. The RPS adjustment is a key component of the MRR because it adjusts the reporting entity's emissions to account for the emissions attributes of a bundled, contracted RPS facility, such that the cap-and-trade compliance obligation is appropriately assessed. In other words, the reporting entity's final "covered emissions" obligation is determined by the RPS adjustment. By failing to align the PSD regulation with the MRR and Cap-and-Trade, the PSD would create a fundamental disconnect in state policy that will create a ripple effect to the IRP. We are concerned that as the State plans California's energy system through the IRP in reliance on disparate information from the Cap-and-Trade and PSD, the state will not be able to account for the potential of regional renewable resources, including wind energy to cost effectively meet future demand. To address these concerns, the Proposal should be updated to align with the Cap-and-trade and include an RPS adjustment such that the emissions reported for a firmed and shaped resource reflect the zero-emissions attributes of the contracted facility.

CONCLUSION

The proposed treatment of PCC-2 and grandfathered firmed and shaped resources undermines the investment California ratepayers made in bundled resources and transfers that value to wholesale market participants importing null power to California. The Proposal would create a disconnect in state policy that the CEC should rectify by incorporating an RPS adjustment into the Proposal.

Respectfully submitted,

/s/

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