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3Degrees Comments on Assembly Bill (AB) 1110 Implementation Proposal for Power Source Disclosure, Third Version

Please find attached 3Degrees Group, Inc.'s comments on the October 9, 2018 AB 1110 Implementation Proposal for Power Source Disclosure, Third Version.

Additional submitted attachment is included below.

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Jordan Scavo
Renewable Energy Office
California Energy Commission
1516 Ninth Street, MS 45
Sacramento, CA 95814-5512

October 29, 2018

RE: Docket No. 16-OIR-05 -- Comments on Assembly Bill (AB) 1110 Implementation Proposal for Power Source Disclosure, Third Version

Dear Mr. Jordan Scavo,

3Degrees Group, Inc. ("3Degrees") appreciates this opportunity to provide comments in response to the California Energy Commission staff's ("CEC Staff's") AB 1110 Implementation Proposal for Power Source Disclosure, Third Version ("Staff Proposal"). 3Degrees is a leading provider of comprehensive clean energy and carbon services that enable organizations and individuals to transition towards a low-carbon economy. 3Degrees is one of the largest buyers and sellers of renewable energy credits ("RECs") in the country and serves hundreds of businesses, utilities, and other load serving entities. Specifically, 3Degrees works closely with a number of California utilities on their green power offerings to residential and commercial customers.

3Degrees is supportive of California's efforts to update customer disclosures of electricity offerings, and appreciates the inclusive and comprehensive process CEC Staff has undertaken in implementing AB1110. In line with the stated goals of AB1110, we support a Power Source Disclosure ("PSD") program that that provides customers with transparent, concise, and understandable information about the sources of energy and corresponding greenhouse gas ("GHG") emissions associated with the electricity they receive. We appreciate the numerous workshops and opportunities for public comment that CEC Staff has incorporated into the process of implementing AB1110.

As it pertains to the Staff Proposal published on October 9, 2018, 3Degrees provides the following comments:

1. 3Degrees supports the requirement that direct deliveries of renewable generation must include the procurement and retirement of the associated RECs for reporting of renewable fuel type and associated GHG emissions in PSD. We also support the proposal that null power be assigned the fuel type and GHG emissions profile of unspecified power.
2. 3Degrees recommends that the proposal be revised to not allow private contracts to be reported in the power content label ("PCL") that is delivered to all customers.
3. 3Degrees recommends that the CEC reconsider the proposed treatment of Bucket 2 and Bucket 3 RECs. The current proposal is problematic from an accounting standpoint and

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will be confusing to customers.

4. 3Degrees believes the CEC should, at a minimum, further establish that claims to delivery of renewable energy that allows carbon footprint reduction claims based on Bucket 2 and Bucket 3 RECs do not contradict the GHG emissions intensity as presented in the proposed PCL.

1. 3Degrees supports the requirement that direct deliveries of renewable generation must include the procurement and retirement of the associated RECs for reporting of renewable fuel type and associated greenhouse gas emissions in PSD. We also support the requirement that null power be assigned the fuel type and GHG emissions profile of unspecified power.

As 3Degrees outlined in its comments submitted on February 23, 2018[1] and August 11, 2017[2], RECs must be retired in association with all renewable energy reported in PSD in order to prevent double counting, and to protect and promote private investments in renewable energy in the region. This means that renewable energy should only be reported when RECs are retired, and that null power must be assigned the fuel type and GHG emissions profile of unspecified power. We also support the requirement that retail suppliers must amend prior PSD filings and PCLs if any amount of RECs are subsequently resold. These decisions are important to protecting and promoting private investment in renewable energy by ensuring renewable energy is not double-counted.

2. 3Degrees recommends that the proposal be revised to not allow private contracts to be reported in the PCL that is delivered to all customers.

Allowing the fuel types and associated GHG emissions from private contracts to be aggregated and included in the disclosure of the supplier's default electricity portfolio leads to double-counting. A PCL should represent only the resources delivered to the customers receiving the specific PCL, and renewable energy and its associated emissions should only be claimed if and when RECs are retired on behalf of the specific customers receiving the disclosure. Allowing LSEs to include the resources associated with private contracts on the default PCL will lead to double counting, devalue private contracts for renewable energy, and could lead to legal issues with those entities who legally own the RECs associated with the generation. This provision should be revised to ensure that these private contracts **cannot** be included in the disclosure that is sent to all customers.

3. 3Degrees recommends that the CEC reconsider the proposed treatment of Bucket 2 and Bucket 3 RECs within PSD. The current proposal is problematic from an accounting standpoint and will be confusing to customers.

In making the case for why RECs must be required to report delivered renewable energy, CEC Staff acknowledges explicitly in its proposal that RECs "support retail level renewable energy

[1] Available at: https://efiling.energy.ca.gov/GetDocument.aspx?tn=220679.
[2] Available at: https://efiling.energy.ca.gov/GetDocument.aspx?tn=222709.

claims"[3] and "are the conventional tracking instrument for retail-level claims on renewable energy."[4] On the other hand, the Staff Proposal does not clearly make the case for why the treatment of RECs within the Mandatory Reporting Regulation ("MRR") aligns with retail claims on zero emissions power. The Staff Proposal specifically states that the MRR "uses a source-based approach **instead of a retail-based approach** for GHG emissions accounting"[5] (emphasis added). The Staff Proposal later states that the State "performs GHG emissions accounting... both at the source and retail levels."[6] Beyond stating that SB350 requires retail suppliers to incorporate GHG emissions accounting for the purpose of integrated resource planning (IRP), it is not clear in what context the State reports out on GHG emissions in a way that is linked to the retail level. Under SB350, CARB has assigned to each LSE an electricity sector emissions reduction target range based on the needed reductions to meet the state's 2030 GHG targets--targets that are related to *source-based emissions reporting*.

CEC Staff appears to interpret the requirement that the program "align with" other GHG reduction programs in California to mean simply that the program should only report out on the emissions associated with delivered electricity in California that is reported under the MRR. In this case, 3Degrees would recommend that any RECs associated with electricity delivered into California be allowed to be reported as zero emissions power, even if unbundled from the underlying electricity. The Staff Proposal makes the case that the reason Bucket 2 and Bucket 3 RECs should not be reported as zero emissions power is due to the fact that "the sources of electricity and associated emissions procured by a retail supplier, when aggregated across all retail suppliers' portfolios, should generally correspond to CARB's GHG Emissions Inventory for the electricity sector."[7] As currently proposed, the PSD program would underreport emissions, since unbundled RECs associated with energy generated in or delivered into California would not be reported as zero emissions power. The proposal makes the claim that when LSEs procure "only the RECs and not the associated renewable electricity, those RECs are not an electricity source serving CA retail load."[8] However, if the generation is delivered into California, the RECs are in fact representative of renewable electricity serving California load. By removing this benefit, the program will under-report on GHG emissions associated with the electricity sector and also discourage trading of RECs.

3Degrees would also like to note that the bucket system in the California RPS stemmed from desires to increase in-state renewable energy generation and displace in-state conventional generation, and *not* due to a justification that Bucket 2 and Bucket 3 RECs are associated with environmentally inferior procurement.[9] The Staff Proposal seems to imply this when it states

[3] Staff Proposal, p.8.
[4] Staff Proposal, p.18.
[5] Staff Proposal, p.9.
[6] Staff Proposal, p. 10.
[7] Staff Proposal, p.12.
[8] Staff Proposal, p.7.
[9] See August 3, 2010 Assembly Committee Analysis for SB 722 (available here: http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0701-0750/sb_722_cfa_20100803_161202_asm_comm.html). Note that this analysis is associated with SB722 (2010), whereas the bill that passed that introduced the RPS bucket system was SB2(1x). However, the March 15, 2011 Bill Analysis for SB2(1x) (available here: http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0001-0050/sbx1_2_cfa_20110315_182405_asm_floor.html) presents that SB2(1x) is presented as a bill that mirrors SB722. SB722 was negotiated in the 2009-2010 session but was unable to be concurred by the Senate before they

that the reason Bucket 2 RECs should not be treated the same as Bucket 1 procurement is because they are "not considered equivalent to directly delivered renewables."[10] In 2010 and 2011 bill analyses for RPS revisions, arguments for introducing the bucket system revolved around a sentiment that since RPS compliance is paid for by California ratepayer, it should also be associated with renewable energy jobs in California and that RPS targets should lead to the construction of new renewable energy facilities in California.[11] In this way, Bucket 2 and Bucket 3 RECs are "not equivalent" not because they do not deliver renewable energy under the RPS, but because they are associated with out-of-state generation. The decision to not allow unbundled RECs on PSD would therefore reflect a policy preference for in-state generation, but cannot be justified on the basis that there exists an inherent inferiority of Bucket 2 or Bucket 3 RECs in terms of delivering retail fuel type and GHG emissions claims.

In viewing PSD as representative of delivered renewable energy, it is appropriate to allow all RECs, but at a minimum Bucket 2 RECs, to be counted as zero emissions power within PSD reporting. 3Degrees has concerns that, from a consumer transparency standpoint, the differing treatment of Bucket 2 in terms of renewable energy versus GHG reporting is very confusing. It also represents an inherent inconsistency in the way that renewable energy and GHG emissions are being treated in PSD -- the fuel type claims align with retail level accounting, whereas the GHG emissions claims align with MRR, a program that the CEC acknowledges is one of source-based emissions accounting.

Nonetheless, if, as a policy decision, the CEC believes that the GHG reporting should only report on procurement that is also reported in SB350 and MRR, then 3Degrees believes the language on the PCL should be updated to reflect this policy decision. For example, rather than stating this program represents the emissions delivered to customers, the PSD should clearly define which emissions are reported to the customer, for instance that the disclosure only reports on the emissions associated with renewable energy where the electricity is reported under California's Mandatory Reporting Regulation.

In terms of consumer transparency, 3Degrees also recommends significant changes to the language in Footnotes 2, 3, and 5 (at a minimum). For instance, the language used to explain firmed and shaped power in Footnote 2 is a disservice to LSEs and customers, and will result in further confusion among customers rather than creating engaged and informed customers. It is unlikely that customers will understand what "nonrenewable electricity delivered under renewable contracts" means. We would be happy to provide additional feedback on how to better formulate this language. Currently these footnotes are very confusing for customers and do not achieve of the goal of "truth in advertising"[12].

4. **3Degrees believes the CEC should, at a minimum, further establish that claims to delivery of renewable energy that allows carbon footprint**

adjourned.

[10] Staff Proposal, p.21.

[11]SB722 (2010) Assembly Committee Analysis from August 3, 2010, available at: http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0701-0750/sb_722_cfa_20100803_161202_asm_comm.html.

[12] Staff Proposal, p.4.

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reduction claims based on Bucket 2 and Bucket 3 RECs do not contradict the GHG emissions intensity as presented in the proposed PCL.

3Degrees believes that the CEC should clarify how it interprets the requirement outlined in Public Utilities Code Section 398.4(k)(3) that "any marketing or retail claims relating to the greenhouse gas emissions intensity of the electricity portfolio of a retail supplier be consistent with the methodology adopted by the Energy Commission[.]"

Given that the Staff Proposal acknowledges that RECs allow for retail renewable energy claims, CEC Staff should make clear that it is not inconsistent with PSD for an LSE to market a product sourced from Bucket 2 and Bucket 3 RECs as delivering renewable energy that allows carbon footprint reduction claims. Federal guidelines from the Federal Trade Commission ("FTC") clearly state that unbundled RECs allow customers to make carbon footprint reduction and renewable energy claims. The CEC should clarify that, in line with FTC guidelines, REC-based programs can continue to be marketed to customers as renewable energy that delivers a claim to zero emissions power that allows them to reduce their carbon footprint.

In order to allow companies to continue to provide RECs for retail electricity claims, 3Degrees recommends that the PCL include language that clearly states that RECs represent this value and does not devalue RECs from a consumer claims perspective. 3Degrees would be happy to discuss in more detail what this kind of language might look like. For instance, the footnotes 3 and 5 of the PCL could be combined to state the following:

"The renewable energy and greenhouse gas emissions presented here only represent delivered renewable energy where renewable energy credits (RECs) are procured in association with the underlying delivered electricity. RECs are the contractual representation of the renewable and environmental attributes of renewable generation, and can also be purchased unbundled from underlying power and matched with delivered electricity to provide a retail renewable energy usage claim and to deliver renewable energy under California's Renewable Portfolio Standard."

Thank you for this opportunity to provide comments. We would be happy to discuss our recommendations in further detail and to answer any questions. Please do not hesitate to reach out with any questions or comments.

Sincerely,

Maya Kelty

Maya Kelty
Senior Manager, Regulatory Affairs