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**LADWP comments on the “Rulemaking to Amend Regulations
Governing the Power Source Disclosure Program”**

Additional submitted attachment is included below.

BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA

In the matter of:) **Docket No. 21-OIR-01**
)
Pre-rulemaking to Amend Regulations Governing) *RE: Notice of Staff Pre-*
the Power Source Disclosure Program) *Rulemaking Workshop on*
) *Updates to the Power Source*
) *Disclosure Regulations*

COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) TO THE CALIFORNIA ENERGY COMMISSION ON POWER SOURCE DISCLOSURE DRAFT REGULATIONS

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

<i>In the matter of:</i>)	Docket No. 21-OIR-01
)	
<i>Rulemaking to Amend Regulations Governing the Power Source Disclosure Program</i>)	<i>RE: Notice of Staff Pre- Rulemaking Workshop on Updates to the Power Source Disclosure Regulations</i>
)	

**COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) TO THE
CALIFORNIA ENERGY COMMISSION ON POWER SOURCE DISCLOSURE DRAFT REGULATIONS**

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to review and comment on the California Energy Commission (CEC's) proposed changes to the Power Source Disclosure Program (PSD) Regulations in response to Assembly Bill (AB) 242 (Holden, 2021): *Public Utilities*.

The City of Los Angeles (City of LA) is a municipal corporation and charter city organized under the provisions set forth in the California Constitution. LADWP is a proprietary department of the City of LA, pursuant to the Los Angeles City Charter, whose governing structure includes a mayor, a fifteen-member City Council, and a five-member Board of Water and Power Commissioners. LADWP is a vertically-integrated publicly-owned utility of the City of LA, serving a population of over 4 million people within a 465 square mile service territory covering the City of LA and portions of the Owens Valley. The LADWP is the third largest electric utility in the state, one of five California balancing authorities, and the nation's largest municipal utility. LADWP exists to support the growth and vitality of the City of LA, its residents, businesses and the communities it serves, providing safe, reliable and cost-effective water and power in a customer-focused and environmentally responsible manner.

Below are LADWP's specific comments on CEC's document titled *Pre-Rulemaking Amendments to Power Source Disclosure Program* that was docketed on December 6, 2021.

SPECIFIC COMMENTS

1. Section 1394 (b)(2)(A): LADWP Supports the CEC's Proposed Revision to Clarify its Treatment of Unbundled Renewable Energy Credits (RECs)

LADWP is fully committed to supporting the CEC's objective to promote California's leadership toward a 100 percent clean energy future and addressing climate change. As we move towards this common goal, LADWP appreciates the CEC's efforts to encourage

appropriate approaches to invest in renewable energy while minimizing any regulatory uncertainty. For this reason, LADWP welcomes the CEC's proposed revision to clarify that all unbundled RECs retired in association with electricity products offered during the previous calendar year may be claimed for that previous calendar year. CEC's proposed clarification allows LADWP to confidently claim all retired unbundled RECs without the burden of retiring the unbundled RECs on or right before December 31 due to regulatory uncertainty.

2. Section 1394.1 (i): LADWP Request that the CEC Consider Clarifying the Timeframe for POU's to Receive the Power Content Label (PCL) Template from The CEC to Reduce Logistical Uncertainty

California Public Utilities Code (PUC) 398.4, as amended by AB 242, mandates annual disclosures "on the retail supplier's internet website by October 1 of each year, and in written promotional materials by the end of the first complete billing cycle for the fourth quarter of the year". The CEC and retail suppliers alike play a critical role in ensuring these two mandated milestones are met. Currently, a prerequisite for publishing the PCL on a retail supplier's website by October 1 is for the retail supplier to receive the PCL template from the CEC in a timely manner that allows sufficient time for the retail supplier to input the required data, obtain of the necessary approvals, and appropriately update its website to meet the statutory requirements.

To ensure POU's can meet the October 1 deadline, LADWP recommends that CEC provide the PCL template to retail suppliers by July 1 or grant an extension to the subsequent milestones as it has done in previous years.

LADWP recommends revising Section 1394.1(i) as follows:

(i) Each retail supplier shall use the power content label template provided by the Energy Commission on its website or by electronic mail to generate its power content label. The format of the power content label may not be altered by the retail supplier. The Executive Director or her or his designee, shall issue the Power Content Label template to the retail supplier by July 1 of each year or grant the retail supplier an extension of time equal to or greater than the number of business days the template is issued after July 1, to complete the disclosure requirements specified in Section 1394.1 (b) and the auditing requirements specified in Section 1394.2 (a).

LADWP recognizes the importance of working with the CEC to achieve our common goals and looks forward to exploring this or alternative solutions.

3. Section 1394.1 (b)(2): LADWP Requests that the CEC Clarify the Purpose of the September 1 Deadline; Review if the September 1 Milestone Jeopardizes Retail Sellers Ability to Meet the State-Mandated October 1 Deadline; or Consider Removing the September 1 Deadline from the Proposed Changes to the PSD Regulations.

LADWP requests that CEC clarify the purpose of the newly introduced deadline of September 1; specifically, LADWP is unclear whether it is the intent of the CEC to review the PCL on or after September 1 and request that retail suppliers make changes prior to publishing the PCL on their websites. Having an additional review process for the PCL could significantly delay retail sellers' ability to meet the State-mandated October 1 milestone since the PCL has to be finalized prior to being processed for publication by retail sellers. Therefore, if CEC's intent is to engage in a review process, LADWP recommends removing the September 1 milestone and consider other alternatives, such as those proposed below.

In lieu of a September 1 review process, CEC could rely on its review of each retail seller's PSD Schedule 3 fuel mix submitted on June 1 and the review of each retail seller's PCL published on October 1. Since the data that retail suppliers are required to submit by June 1 already indicates the calculated breakdown of their electricity portfolios and is used by the CEC to calculate the California Power mix, no new data would be evaluated by the CEC following the proposed September 1 PCL submittal. Any modification to the PCL fuel mix would be inconsistent with the data submitted by the retail suppliers on June 1, which is already validated by the CEC. Furthermore, any alterations to retail suppliers' PCL data after the PCL template has been widely distributed to retail sellers may lead to inaccuracies in the published California fuel mix. Since the current process does not allow retail sellers to modify their fuel mix to be different from what was submitted on June 1 or the footnotes unless approved by the CEC, as an alternative, the CEC may validate retail sellers' adherence to the regulations following the retail seller's PSD submittal and PCL website publication.

As a final note, retail sellers currently face several timing constraints to meet the annual PSD milestones. For instance, to meet the October 1 milestone, retail suppliers' internal processes require sufficient time to complete the PCL, obtain appropriate approvals, and publish it on their websites. LADWP's goal is to avoid or reduce the risks of not successfully meeting the established milestones and look forward to working with the CEC to ensure successful implementation of the PSD program.

4. Section 1394.2(a): LADWP Recommends Shifting the October 1 Deadline for a “Proof of Service” or Removing that Requirement Altogether

As currently written, Section 1394.2(a) requires retail suppliers to provide an audit report, which includes a “proof of service” of the annual PCL to customers, by October 1 of each year. However, PUC 398.4 allows retail sellers to provide the PCL to customers by the end of the first complete billing cycle for the fourth quarter of the year. Consequently, the “proof of service” will likely not be available by the CEC’s October 1 deadline. Therefore, LADWP recommends changing this date to December 31 of each year.

LADWP recommends revising Section 1394.2(a) as follows:

*(a) By ~~October 1~~ **December 31** of each year, all retail suppliers shall provide a report prepared by an auditor who has conducted the procedures identified in subdivision (b) The report shall contain a summary of the results of the procedures and a proof of service of the annual power content label to customers.*

Alternatively, LADWP recommends that the CEC remove the proof of service requirement from the auditing requirements, in order to separate the PSD auditing process from distribution of the PCL to customers.

(a) By October 1 of each year, all retail suppliers shall provide a report prepared by an auditor who has conducted the procedures identified in subdivision (b) The report shall contain a summary of the results of the procedures ~~and a proof of service of the annual power content label to customers.~~

5. LADWP Would Like to Reiterate its Most Critical Concerns from the Previous PSD Rulemaking that Have Not Been Addressed

LADWP would like to reiterate the following comments previously submitted on December 11, 2019 in response to the CEC’s staff paper titled *Modification of Regulations Governing the Power Source Disclosure Program*. LADWP requests that CEC re-consider these comments:

- Section 1393(a)(4): The method to calculate net electricity procured by subtracting total specified net purchases from total retail sales may not reflect the quantity of unspecified power procured, resulting in inaccurate information on the PCL. For example, if a retail seller’s total specified net purchases are greater than its retail sales, the retail seller would report zero percent unspecified power regardless of the amount of unspecified power that it actually procured, which would be inaccurate. The methodology described in the April 2019 instructions for Schedule 1 (copied

below) yielded a more accurate representation of a fuel mix that includes unspecified power.

Instructions for Schedule 1: Power Procurements and Retail Sales (Version April 2019)

For unspecified sources of power, include the following information for each line item:

- *Facility Name - Provide the seller of electricity or enter "unspecified" in the facility name field*
- *Megawatt Hours Procured - Provide the quantity of electricity procured in MWh.*
- *Megawatt Hours Resold or Consumed - Provide the quantity of electricity resold at wholesale or self-consumed.*
- *Net Megawatt Hours Procured - Provide the quantity of electricity procured minus resold and consumed electricity.*

- Section 1393(a)(6): The method to reduce total net electricity procured to equal total retail sales by reducing natural gas first, then reduce coal and other fossil fuel resources, then reduce all specified purchases (including renewable energy) skews the fuel mix percentages and misrepresents the GHG intensity associated with electricity procured to serve retail customers. LADWP recommends reverting back to the previous methodology where the difference between total net electricity procured and total retail sales was applied pro-rata to each non-renewable fuel type. Section 1393(a)(6) should be revised to read as follows:

“If the total procurement of specified net purchases of an electricity portfolio exceeds retail sales, each net purchase of electricity from a generator using ~~natural gas~~ any non-renewable fuel type shall be proportionally reduced so that the sum of all adjusted net purchases equals the retail sales of an electricity portfolio, as expressed in Equation 3”

- Section 1393(a)(3): For correct GHG emission accounting, wholesale sales tagged from a specified out-of-state generating facility should not have to be a “specified” sale to be deducted from the gross purchase when calculating net procurement from that specified facility. For example, if a wholesale sale is tagged from an out-of-state generating facility to an out-of-state point of delivery, the energy sold off does not enter California and should not be counted in the PCL for customers within California. Therefore, section 1393(a)(3) should be revised as follows:

“Net purchases of each specified gross purchase shall be calculated by deducting any ~~specified~~ wholesale sales from each specified gross purchase, as expressed in Equation 1: [...]”

Addressing the aforementioned pending issues would enable to PCL to more accurately reflect the fuel mix that each customer is receiving as intended by the State Legislature.

CONCLUSION

In closing, LADWP appreciates the opportunity to participate in the pre-rulemaking process and looks forward to continue working with the CEC to help shape effective regulations that will benefit the health, safety, and security of all California residents. If you have any questions, please contact myself at (213)367-2525, or Mr. Scott Hirashima at (213)367-0852.

Respectfully Submitted,

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