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California Energy Commission
Docket Unit, MS-4
Docket No. 21-OIR-01
715 P Street
Sacramento, California 95814

Submitted Electronically

Re: American Clean Power – California: Comments on September 26, 2023 Power Source Disclosure Workshop to Discuss SB 1158 Implementation

American Clean Power – California (“ACP-California”)¹ appreciates this opportunity to provide the following comments on the California Energy Commission’s (“CEC”) efforts to implement Senate Bill 1158 (Becker, Statutes of 2022). ACP-California generally supports the CEC’s efforts to implement Senate Bill (“SB”) 1158’s requirements and ensure that ratepayers have access to clear and easy-to-understand information concerning their load-serving entity’s (“LSEs”) procurement. However, we are concerned that the implementation of SB 1158 could create barriers to power contracting for zero-carbon energy and storage resources. Below, we discuss potential barriers to regional market development, storage charging assumptions, and the need to protect confidential information. We recommend developing the SNOW cloud system to set clear expectations for sellers in the California Independent System Operator (“CAISO”) market as well as non-CAISO resources. We recommend the CEC revise the net-procurement concept for determining the emissions profile of charging energy to ensure that LSEs are not limited to charging in a particular hour, but rather can account for unmatched energy procured by the LSE over the course of the year. We also recommend limiting data access rights in the SNOW cloud system to ensure that market participants are only able to view hourly data for resources they have under contract.

¹ The American Clean Power Association (“ACP”) is the national voice of companies from across the clean power sector that are providing cost-effective solutions to the climate crisis while creating jobs, spurring massive investment in the American economy, and driving high-tech innovation across the United States. ACP’s mission is to transform the U.S. power grid to a low-cost, reliable, and renewable power system. ACP-California is a state project of ACP, representing companies who develop, own, and operate utility-scale solar, storage, land-based wind, offshore wind, and transmission assets to power a clean and renewable economy for California and the West.

DISCUSSION

I. The Power Source Disclosure Program Should Not Become a Barrier to Participation in Regional Energy Markets.

As the CEC updates and refines the Power Source Disclosure (“PSD”) program to comply with SB 1158, it must avoid creating inadvertent barriers to California LSEs’ participation in regional energy markets. California is comprised of several Balancing Authority Areas, is part of the Western Interconnection, and imports and exports a considerable amount of power every year. California is also taking steps to reduce costs associated with capacity and energy by expanding its participation in regional energy markets, such as the Western Energy Imbalance Market, and emerging opportunities such as the Extended Day-Ahead Market and the West-wide Governance Pathways Initiative.² The CEC must be mindful of these broader market developments as it develops the next iteration of the PSD program. The PSD program is more than just an informational requirement that LSEs must satisfy; it is an enforceable compliance requirement that directly affects LSE retail offerings. As such, the PSD program can and does affect power contracting. To the extent that California laws create new reporting or informational requirements that are unique to California off-takers, the program can in turn create a barrier to regional market participation by California LSEs.

The hourly PSD program would largely rely on data from the new SNOW cloud system, which appears to be CAISO-centric. It is not yet clear how hourly data would be generated and allocated from non-CAISO resources, which risks creating ambiguity and potentially new barriers to contracting for outside-CAISO market participants. Such asymmetry is one example of how a California-specific regulatory requirement could impede the efficient functioning of wholesale power markets. To avoid creating unintended barriers, ACP-California recommends that the SNOW cloud system be designed to account for the needs of outside-CAISO market participants or, in the alternative, the CEC should provide guidance on how LSEs will access hourly information of outside-CAISO resources.

II. The Total-Net Procurement Methodology Should Ensure that Charging Energy for Stand-Alone Storage Can Be Matched Across Multiple Hours, Consistent with SB 1158.

Section 1392(c)(5) of the Proposed Regulations would create a “total net procurement” concept to assess the emissions attributes of charging load and subsequent dispatch of storage resources. LSEs should be able to claim the greenhouse gas (“GHG”) emission attributes of excess energy beyond their hourly load without being bound to a rigid net-procurement calculation. Charging for storage and an LSE’s retail load are unrelated and should not be interdependent. Solar charging occurs in hours that may be associated with charging energy and later dispatch, but this charging energy may not be fully accounted for in the proposed net-procurement calculation. This creates the possibility that the net procurement calculation will

² See July 14, 2023 State regulators’ call for a viable path to electricity market inclusive of all western states, with independent governance, available at: <https://www.westernenergyboard.org/wp-content/uploads/Letter-to-CREPC-WIEB-Regulators-Call-for-West-Wide-Market-Solution-7-14-23.pdf>.

assign GHG emissions to charging hours even though an LSE may have procured sufficient zero-carbon energy in other hours to cover its expected charging load.

SB 1158 explicitly allows for aligning charging need across multiple hours, not a singular, hour-by-hour net-procurement requirement. Section 398.6 of the Public Utilities Code contemplates reporting of “the energy storage facility in prior *hours* sufficient to provide the exported electricity after taking into account round-trip losses within the energy storage facility.” (emphasis added.) The use of the term “hours” (plural) makes clear that an hour-specific net-procurement requirement is not required by SB 1158.

The possibility of assigning emissions from net-procurement would also conflict with competing requirements for procurement and capacity accreditation at the California Public Utilities Commission (“CPUC”). The CPUC’s mid-term reliability procurement requirements contemplate matching energy storage and zero-carbon generation on an annual basis (see Diablo Canyon Replacement Requirement in [Decision 21-06-035](#)). By adopting a potentially conflicting hour-by-hour net-procurement construct, the CEC would devalue investments LSEs have made in response to the CPUC’s procurement orders. Moreover, in the Resource Adequacy Slice-of-Day framework, an LSE is allowed to match the monthly expected energy production of generation resources in their portfolios with the expected charging need of stand-alone storage. An hourly net-procurement requirement in the PSD program would therefore conflict with the less granular framework at the CPUC.

To avoid this conflict and align with other regulatory programs like Integrated Resource Planning and Resource Adequacy, the CEC should amend Section 1392(c)(5) to enable a less granular matching of charging load and specified procurement. This is consistent with Section 398.6 which requires matching with “prior hours.” While SB 1158 did not specify how many hours or over what period the charging energy should be matched, we recommend the CEC interpret the statutory requirement to account for “prior hours” on an annual basis or, at a minimum, over the course of a month. Put differently, LSEs’ specified procurement over the course of a calendar month (if not a year) should determine the emission factor for discharge from stand-alone storage.

III. The Power Source Disclosure Regulations Should Grandfather Contracts with Multiple-Offtakers that Do Not Allocate Hourly Shares.

The proposed revisions to the PSD Regulations do not contemplate contract structures where sellers sell power to multiple off-takers. Such contract structures are commonplace in CAISO. In Renewables Portfolio Standard contracts, power is often purchased as a quantity of MWhs over a period of time, with multiple off-takers receiving power from the same specified source. There will likely be a considerable amount of power under contract after the first reporting period in 2027 where sellers have not been able to update contracts to account for hour-by-hour allocations among multiple off-takers. To avoid conflicts with existing contractual arrangements, LSEs should be able to provide contracts executed prior to the effective date of the regulation that entitle the LSE to specified purchases, and the CEC should allow generation to be allocated among multiple sellers without limiting total expected generation and aggregate load among multiple off-takers. In other words, for contracts executed prior to July 1, 2024, LSEs

should be able to choose when they will take their share of energy, without respect to a conflict among multiple buyers within a particular hour.

IV. The SNOW Cloud System Should Be Designed To Protect the Confidentiality Rights of Buyers and Sellers.

Hourly generation and load data directly relates to market participation and can reveal confidential business information (e.g., storage arbitrage strategies). Safeguarding confidentiality is explicitly required by SB 1158. Section 398.6(f) requires the CEC “to protect the confidentiality of market sensitive data...” As the CEC designs the SNOW cloud system, specifically the user-access interfaces and data that can be viewed by any other reporting entity or a member of the public, the CEC should ensure that it does not inadvertently disclose market sensitive data. For example, the CEC should not enable SNOW cloud users to learn the identity of other buyers’ hourly shares of a resource. In addition, if a SNOW cloud user does not have a contract with a resource, it should not be able to view the bidding and dispatch data of a specified resource. The CAISO has considerable experience in managing confidentiality protections in electricity markets and should be closely consulted in the design and user-interfaces of the SNOW cloud system.

CONCLUSION

ACP-California looks forward to working with the CEC as it updates the PSD program to comply with SB 1158 and in evaluating future refinements of the proposal that will minimize impacts to existing contracts and wholesale power markets throughout the West.

Sincerely,

/s/

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