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**Shell Energy North America**
4445 Eastgate Mall, Suite 100
San Diego, CA 92121
www.shell.com/us/energy

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California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

***Re: Docket No. 21-OIR-01 – Proposed Regulatory Changes to the Power Source Disclosure Program***

Shell Energy North America (US), L.P. d/b/a Shell Energy Solutions (Shell Energy) appreciates this opportunity to submit comments on the California Energy Commission's (CEC) proposed changes to the Power Source Disclosure (PSD) Program Regulations.

Shell Energy is an electric service provider (ESP) serving retail customers through California's direct access program, which limits ESP service to commercial and industrial customers. Shell Energy works directly with its customers, which are sophisticated entities, to provide energy solutions across a portfolio of priorities, including resource-specific, cost-based, and/or reliability-focused solutions designed to meet each individual customers' needs.

Shell Energy understands that Senate Bill (SB) 1158 (2022, Becker), which enacted section 398.6 of the Public Utilities Code[1] and directed the CEC to update its PSD regulations, is designed to improve transparency of greenhouse gas (GHG) emissions associated with electric retail sales. SB 1158 directs the CEC to adopt rules, on or before July 1, 2024, implementing the requirements under section 398.6(a) that retail suppliers annually report the following information to the CEC beginning on January 1, 2028:

(1) the retail supplier's sources of electricity used to serve loss-adjusted load for each hour during the previous calendar year;

(2) to the extent feasible, the emissions of GHG emissions associated with each of those sources of electricity;

(3) an annual total of GHG emissions and an annual average GHG intensity; and

(4) an annual total of avoided GHG emissions.

Section 398.6 subsections (l) and (m), however, allow for exceptions in application of the above requirements if "unduly burden[some]" for certain retail sellers, and/or if a delay in implementation is found "infeasible" or "unreasonably costly for retail suppliers to obtain the

[1] All subsequent references are to the California Public Utilities Code unless noted otherwise.

necessary data or develop the necessary reporting tools" within the timeline provided. Shell Energy submits that the current reporting proposals would trigger these criteria, and the CEC should delay the implementation timeline until hourly reporting standards can be developed that are less burdensome, more accurate, and more helpful to the consumer.

### 1. *Several of the Proposed Amendments to the PSD Reporting Requirements Would Be Contrary to PSD Program Objectives*

Shell Energy is concerned the CEC's hourly reporting requirements, as proposed, would have a contrary effect to the overarching purpose of the PSD Program: to provide information to the customer about what they are purchasing from a load-serving entity (LSE). Adding hourly generation reporting does not accomplish the original intent of the regulation because the renewable energy that LSEs are mandated to procure—and for which customers pay a premium—is not always generated at the same time load is being served. Therefore, while the data may be accurate with respect to what is being generated at the time the load is consumed, the new reporting requirement would create a false narrative about the price the customer pays for that "hour" of MWh generation. Indeed, one of the reasons the Renewable Portfolio Standard (RPS) regulations provide for a three-year compliance period is to recognize this mismatch.[2]

While Shell Energy recognizes that collecting this data may be *informative* for the CEC and the Legislature, the proposed report-out will mislead LSEs' customers about what they are buying, completely negating the statutory objective that the PSD Program provide the customer with information that is "accurate, reliable, and simple to understand."[3] Further, the hourly reporting approach mistakenly implies that LSEs buy a specific electron to serve a specific customer; on the contrary, LSEs procure on a portfolio basis and sell to our customers from that portfolio in order to limit the financial impact of the regulations to customers.

As with the proposed hourly reporting requirements, the CEC's proposed amendment to require reporting of unbundled renewable energy credits (RECs) under Cal. Code Regs., title 20, section 1393 based on the calendar year associated with the electricity portfolio (the prior year), rather than according to the retirement year, would result in misleading price signals. The proposed amendment fails to recognize that these unbundled RECs are not necessarily paid for in the same year in which they are retired. As such, lumping in those resources with reporting on the prior year may result in misleading cost information, contrary to the PSD Program objective of providing clear and accurate information to the customer.

### 2. *Proposed Reporting of "Other End Uses" in Annual Data Collection*

The CEC also proposes an amendment to collect reporting of "other electricity uses" in LSEs' annual reports. During the September workshop, it was suggested that this amendment is designed to capture other end uses for natural gas resources. For non-investor owned utility (IOU) LSEs, however, it is unclear what other "end uses" any natural gas would be used for other than

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[2] *See* SB 350 (2015, De León), setting three-year compliance periods for the RPS program. Available at http://www.leginfo.ca.gov/pub/15-16/bill/sen/sb_0301-0350/sb_350_bill_20151007_chaptered.htm.
[3] Section 398.1(b).

retail power. For CCAs and ESPs, regulatory oversight is limited to power procurement to serve retail load, so the full scope of natural gas end-use is already captured under the current annual reporting framework. To the extent the CEC decides not to delay implementation and remains interested in collecting this information, Shell Energy requests the proposed regulations be modified to exempt non-IOU LSEs from this reporting requirement.

3. *Proposed Alternative to Update to the Power Content Label Format*

The CEC proposes to update the power content label (PCL) to include additional columns, but it is not clear how those columns reflect the alleged benefit of hourly reporting or the granularity of the new reporting requirements under the proposed regulations. In the event the CEC chooses not to delay implementation, Shell Energy recommends that instead of providing daily hourly reporting (8,760 hours per year) as proposed in the PCL template, LSEs should provide data on its coincident hourly peak in each month, which would mirror data provided to the California Public Utilities Commission under the new slice of day framework. This approach would streamline regulatory reporting obligations and is consistent with the statutory requirements under SB 1158 because it still provides information on an hourly basis, while "minimizing the reporting burden and the cost of reporting" that the PSD rules impose on retail suppliers.[4] Since the CEC is charged with implementing the requisite hourly reporting requirements established under SB 1158, and the statute does not define the "hourly reporting" obligation, it is entirely within the CEC's control to request coincident hourly peak in lieu of the highly granular and reporting-intensive data reflective of all 8,760 hours of a year.

4. *Requests for Clarity on the Proposed PCL Template to Ensure Data Integrity*

The CEC proposes to update the PCL reporting template to include gross procurement information, which is based on meter data. Shell Energy is concerned that this metric may create issues with data collection integrity. Not all meter data is created equal; in fact, significant time and capital is necessary to transform meter data calculations into a base standard that can be consistently reported. Shell Energy appreciates the CEC's acknowledgment that some hourly data may even be unobtainable, and the CEC provides that "if the hourly distribution of a resource is not known, a retail supplier will use the proxy distribution that the CEC establishes."[5] Shell Energy requests further specificity and clarification on the proxy the CEC would use and how it is developed to avoid inconsistencies and ensure the integrity of the data reporting.

5. *The CEC's Proposed Emissions Factor for Unspecified Source Energy is Outdated and Should be Updated*

The CEC's proposed amendments include hourly GHG emissions factors for unspecified sources that would vary by the hour.[6] The draft hourly reporting template posted by the CEC

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[4] Section 398.6(k) ("In developing the rules and procedures specified in this section, the Energy Commission shall seek to minimize the reporting burden and the cost of reporting that it imposes on retail suppliers.").
[5] *See* September 2023 Workshop presentation at p. 17.
[6] *See* Pre-Rulemaking Amendments to the Power Source Disclosure Program, p. 19 (Sept. 20, 2023), https://efiling.energy.ca.gov/GetDocument.aspx?tn=252317&DocumentContentId=87333.

applies an emissions factor that is over 15 years old and should be updated. The CEC should base the unspecified variable emissions factor on the in-state mix of resources contributing to system power, rather than relying on an emissions factor predicated on out-of-state emissions factors, which are ostensibly higher.[7] The emissions factor of 0.428 that is provided in the hourly template does not reflect the significant changes in the mix of generating resources on the grid that have occurred over the past 15 years.

6. *The CEC Should Take the Time Necessary to Develop PSD Reporting Requirements That Will Meet All Program Objectives and Statutory Requirements*

Taken overall, the additional reporting criteria initiated by SB 1158 present feasibility challenges, would be unreasonably costly, and, more significantly, would not provide accurate data to LSE customers as the regulation originally intended. SB 1158 expressly acknowledges this possibility and allows the CEC to "delay when retail suppliers shall begin reporting [certain data pursuant to SB 1158] if the [CEC] determines that it is infeasible or unreasonably costly for retail suppliers to obtain the necessary data or develop the necessary reporting tools within the timeframe."[8]

Shell Energy encourages the CEC to take the time necessary to develop updated PSD reporting requirements that will meet the program objectives of being "accurate, reliable, and simple to understand" while meeting the statutory directive to "minimize the reporting burden and the cost of reporting that it imposes on retail suppliers."

Shell Energy thanks the CEC for its consideration of these comments and recommendations.

Sincerely,

*/s/ Christa Lim*

Christa Lim, Regulatory Affairs (West)
Shell Energy North America (US), L.P. d/b/a Shell Energy Solutions
4445 Eastgate Mall, Suite 100
San Diego, CA 92121
(858) 241-4107
E-Mail: christa.lim@shell.com

[7] *See* Draft Reporting Template, EF tab (Firm and Shaped Power retains the default EF of 0.428), https://efiling.energy.ca.gov/GetDocument.aspx?tn=252316&DocumentContentId=87331.
[8] Section 398.6(m).