

**DOCKETED**

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**Liberty Utilities (CalPeco Electric) LLC Comments on Dkt 21-OIR-01  
“ Rulemaking to Amend Regulations Governing the Power  
Source**

*Additional submitted attachment is included below.*

February 21, 2024

California Energy Commission  
Docket Unit, MS-4  
Re: Docket No. 21-OIR-01  
715 P Street  
Sacramento, CA 95814-5512

***VIA ELECTRONIC FILING***

**Re: Liberty Utilities (CalPeco Electric) LLC Comments on Docket 21-OIR-01 – Rulemaking to Amend Regulations Governing the Power Source Disclosure Program**

Liberty Utilities (CalPeco Electric) LLC (“Liberty”) provides these comments to the revised version of the Power Source Disclosure (“PSD”) draft regulations issued by the California Energy Commission (“Commission”) on January 31, 2024. Liberty appreciates the opportunity to provide feedback on the PSD regulations in light of statutory provisions applicable to Liberty and other small electrical corporations. Liberty appreciates efforts by staff to update the PSD regulations to minimize reporting burdens for Liberty by allowing the use of proxy data to estimate hourly emissions. However, as discussed in detail below, Liberty believes that an exemption from hourly reporting requirements for small electrical corporations under the PSD regulations is more appropriate. An exemption from hourly reporting is consistent with Senate Bill (“SB”) 1158 and Assembly Bill (“AB”) 242 which authorize exempting small electrical corporations like Liberty from hourly reporting. In addition, exempting Liberty from hourly reporting will avoid reporting inaccuracies that will occur if the currently proposed PSD draft regulations relying on proxy data are not modified.

**I. Liberty is Unlike Other Load Serving Entities Operating in California**

Unlike other California load serving entities (“LSEs”), Liberty does not operate within the California Independent Systems Operator (“CAISO”) balancing authority area (“BAA”) and has no connections to the CAISO. Instead, Liberty is located within the NV Energy BAA and serves its customers from owned renewable resources (the Luning Solar Project (“Luning”) and the Turquoise Solar Project (“Turquoise”)) and an energy services agreement (“ESA”) with NV Energy. The ESA requires NV Energy to provide all energy needed to meet and match Liberty’s real-time load requirements that Luning and Turquoise do not otherwise meet.

Most of Liberty’s energy is sourced from NV Energy under the ESA. NV Energy primarily uses unspecified power from various generation facilities to meet Liberty’s load requirements, though NV Energy is required to provide Liberty a certain amount of renewable

generation that is tracked through the Western Renewable Energy Generation Information System (“WREGIS”).<sup>1</sup> However, NV Energy does not track or assign specific energy from particular facilities to meet Liberty’s load needs on a general basis, much less on an hourly basis. This is also true for renewable generation provided by NV Energy. While Liberty can use WREGIS data to determine volumes delivered, it lacks hourly data for such deliveries. Accordingly, Liberty cannot obtain or report its sources of electricity and associated GHG emissions on an hourly basis outside of its Luning and Turquoise projects.

## **II. The Commission Should Exercise Its Authority Under Public Utilities Code Section 398.6(1) to Exempt Liberty From Hourly Reporting Requirements to Ensure that Liberty Can Continue to Provide Accurate and Reliable Information**

### **A. Although the PSD Draft Regulations Seeks to Minimize Reporting Burdens Under Public Utilities Code Section 398.6(1), Relying on Proxy Data Will Not Produce Accurate Reporting**

Commission Staff acknowledge that small entities like Liberty are burdened by hourly emissions reporting requirements. The updated PSD regulations aim to alleviate the reporting burden on Liberty and other small retail suppliers by allowing them “to report proxy data for all their resources.”<sup>2</sup> Specifically, the Summary of Changes and FAQs provides:

Based on their annual load and procurements, these retail suppliers may use the hourly production profiles of the [Clean System Power calculator] CSP to establish proxy figures. The only new data these retail suppliers must provide will be hourly load. This approach will enable the tracking of GHG reduction progress and allow for a more complete hourly dataset while minimizing the reporting burden of small entities.<sup>3</sup>

Liberty is appreciative of Staff’s updates to the PSD regulations to account for Liberty’s unique characteristics and to address Public Utilities Code Section 398.6(1). Indeed, utilizing proxy data, as identified in sections 1393(c)(1) and 1393(h) of the revised PSD draft regulations, will make reporting easier for Liberty as reporting emissions on an hourly basis would have been impossible for Liberty. Nevertheless, Liberty believes that exempting Liberty from hourly reporting is best suited to advance statutory goals and ensure accurate reporting. The PSD regulations’ proposed proxy reporting methodology will allow LSEs operating within the CAISO to provide accurate hourly data. However, proxy data will not accurately represent emissions data and is ill-suited for Liberty.

As described in the Summary of Changes and FAQs:

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<sup>1</sup> This tracked amount of renewable generation in WREGIS is used by Liberty to help meet its renewables portfolio standard (“RPS”) procurement obligations.

<sup>2</sup> Pre-Rulemaking Updates to the Power Source Disclosure Regulations, Summary of Changes and FAQs, p. 6.

<sup>3</sup> *Id.*

The staff report proposed two methods of estimating hourly data when it is unobtainable: using hourly production profiles of energy resources in the Clean System Power (CSP) calculator of the California Public Utilities Commission (CPUC), or calculating retrospective hourly production profiles from California ISO data.<sup>4</sup>

Staff’s assertion that the CSP will provide “generation profiles for all resources and asset-controlling suppliers and accounts for regional variability”<sup>5</sup> is incorrect as applied to Liberty. The CSP calculator does not measure the production of solar resources, and will not accurately account for output from Luning or Turquoise, nor can it account for unspecified power from NV Energy. Using hourly production profiles based on CAISO data would be equally unhelpful given Liberty’s location outside the CAISO. Accordingly, while proxy data may reduce reporting burdens for Liberty, it is unlikely to provide accurate or meaningful information.

**B. The PSD Program’s Intended Goal to Provide Accurate Information is Not Met By The Proposed Proxy Data Methodology**

Comments made throughout the legislative processes of AB 242 and SB 1158 emphasize that the PSD program’s primary goal is to provide customers accurate information. For example, in AB 242, comments describe how the “power source disclosure program was established in an effort to provide retail electricity consumers *accurate and reliable information* on the sources of energy used to provide electric services.”<sup>6</sup> Similarly, a bill analysis of SB 1158 details how the “Power Source Disclosure (PSD) program was established by SB 1305 (Sher, Chapter 796, Statutes of 1997) in an effort to provide retail electricity consumers ‘*accurate, reliable, and simple to understand information* on the sources of energy that are used to provide electric services.’”<sup>7</sup>

Based on this stated objective, Liberty maintains that the Commission should exercise its statutory authority provided under Public Utilities Section 398.6(1) to exempt Liberty from hourly reporting requirements. The revised PSD draft regulations’ use of proxy data is not appropriately tailored to Liberty (and presumably other small electric corporations) because it relies on the CPUC’s CSP calculator and CAISO data that do not capture accurate emissions information for Liberty’s portfolio. Exempting Liberty from hourly reporting requirements is well within the Commission’s jurisdictional authority and will allow Liberty to provide PSD reports that accurately present reliable and easily understood data.

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<sup>4</sup> Pre-Rulemaking Updates to the Power Source Disclosure Regulations, Summary of Changes and FAQs, p. 5.

<sup>5</sup> *Id.*

<sup>6</sup> August 28, 2021 Senate Floor Analyses, p. 7, emphasis added, available at [https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=202120220AB242#](https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220AB242#).

<sup>7</sup> April 25, 2022 Senate Energy, Utilities, and Communications Bill Analysis of SB 1158, p. 5, emphasis added, available at [https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill\\_id=202120220SB1158#](https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220SB1158#).

Liberty has expressed concern in earlier comments<sup>8</sup> that there is no feasible way for Liberty to provide accurate hourly emissions information. While Liberty is appreciative of the Commission's efforts to ease reporting burdens on small electrical corporations in the revised PSD regulations, the use of proxy data will not accurately reflect emissions information for Liberty's procurement sources. Therefore, the Commission should exempt Liberty from hourly reporting requirements because it advances the PSD program's primary goal to provide accurate information and it is within the Commission's authority as explicitly authorized by Public Utilities Code Section 398.6(l) to do so.

### **III. If the Commission Requires Reporting Emissions on an Hourly Basis, Energy Commission Staff Should Provide Proxy Data Three Months Before PSD Reporting Deadlines to Reduce the Burden on Liberty**

As discussed above and in earlier comments, Liberty maintains that exempting small electric corporations from hourly reporting is appropriate. However, in the event that Liberty is required to report hourly emissions data on an hourly basis, Liberty recommends that the Commission further revise the PSD regulations to provide sufficient time for LSEs to complete PSD reports. The PSD draft regulations provide that "Energy Commission staff will provide hourly production profiles based on the latest hourly production profiles used for Integrated Resource Planning at the California Public Utilities Commission."<sup>9</sup> It is unclear when Energy Commission Staff will provide LSEs with proxy data, which can put strain on LSEs to complete PSD reports before reporting deadlines. Therefore, proxy data should be made available to LSEs by March 1 to allow LSEs sufficient time to incorporate proxy data and prepare accurate PSD reports.

### **IV. Conclusion.**

As outlined above, the Commission should revise the PSD regulations to exempt Liberty from any hourly reporting requirements. This exception is consistent with Public Utilities Code Section 398.6(l) and the PSD program's goal of providing customers accurate information. If the PSD regulation's hourly reporting requirements extend to Liberty, the Commission should revise the PSD regulations to provide sufficient time for LSEs to access and incorporate proxy data into PSD reports.

Liberty appreciates the opportunity to provide comments on the draft resolution and looks forward to working with the Commission on the changes to the PSD program.

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<sup>8</sup> See the October 24, 2023 Comments of Liberty on the Proposed Updated to Power Source Disclosure Regulations and the April 14, 2023 Comments of Liberty on the March 21, 2023 Request for Information.

<sup>9</sup> PSD Draft Regulations, Section 1393(c)(1)(A).

Respectfully submitted,,

DOWNEY BRAND LLP



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