

DOCKETED

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**Docket 21-OIR-01 – Rulemaking to Amend Regulations
Governing the Power Source Disclosure Program**

Additional submitted attachment is included below.

February 21, 2024

VIA ELECTRONIC FILING

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

Re: Docket 21-OIR-01 – Rulemaking to Amend Regulations Governing the Power Source Disclosure Program

PacifiCorp d/b/a Pacific Power (PacifiCorp or Company) respectfully submits the following comments in response to the revised version of the Power Source Disclosure (PSD) draft regulations issued by the California Energy Commission (Commission) on January 31, 2024. PacifiCorp appreciates efforts by the Commission and staff to address stakeholder feedback and revise the PSD draft regulations, particularly with respect to recognizing statutory provisions applicable to PacifiCorp and other small electrical corporations and new provisions authorizing such electrical corporations to report proxy data. While the use of proxy data is likely to address certain reporting burden concerns previously raised by PacifiCorp, as discussed in greater detail below, PacifiCorp maintains that an exemption from the hourly reporting requirements under the PSD regulations is more appropriate. Exempting small electrical corporations like PacifiCorp from hourly reporting is not only consistent with Senate Bill (SB) 1158 and Assembly Bill (AB) 242, but it will also avoid reporting inaccuracies that will occur under currently proposed PSD regulations relying upon proxy data.

- I. The PSD Regulations Should Exempt PacifiCorp from Any Hourly Reporting Requirements as Explicitly Authorized by Public Utilities Code Section 398.6(l) and to Ensure that PacifiCorp Continues to Report Accurate and Reliable Information.**
 - A. The PSD Draft Regulations Appropriately Recognize Public Utilities Code Section 398.6(l) by Seeking to Minimize Reporting Burdens, but will Result in Inaccurate Reporting.**

In revising the PSD regulations, staff acknowledges the burden of reporting hourly emissions for small multi-jurisdictional entities like PacifiCorp. To “minimize the reporting burden of these retail suppliers,” the updated PSD regulations allow PacifiCorp and other small

retail suppliers “to report proxy data for all their resources.”¹ Specifically, the Summary of Changes and FAQs provides that

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.²

PacifiCorp agrees that utilizing proxy data, as contemplated under sections 1393(c)(1) and 1393(h) of the revised PSD draft regulations, will make reporting less burdensome for PacifiCorp (and presumably for other small electrical corporations covered by Section 1393(h)). Specifically, the revised regulations allow PacifiCorp to avoid unnecessarily complex reporting of hourly emissions from the more than 400 generation resources on its system, a reporting process that, at best, would be extremely burdensome and cost-prohibitive for the limited number of customers PacifiCorp serves in California. Realistically, this process would be impossible given operational parameters of PacifiCorp’s two Balancing Authority Areas (PacifiCorp West (PACW) and PacifiCorp East (PACE)) and hourly reporting concerns raised previously by PacifiCorp.³

While PacifiCorp is appreciative of the revisions to the PSD regulations to account for PacifiCorp’s unique characteristics and to address Public Utilities Code Section 398.6(l), PacifiCorp maintains that an exemption from hourly reporting altogether is warranted to advance statutory goals and ensure accurate reporting. The proxy reporting methodology contemplated under the revised PSD regulations may provide fairly accurate data for load serving entities (LSEs) operating within the California Independent System Operator (CAISO or California ISO), but the proposed proxy reporting methodology will not accurately reflect emissions data for resources utilized by PacifiCorp.

As described in the Summary of Changes and FAQs:

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

¹ Pre-Rulemaking Updates to the Power Source Disclosure Regulations, Summary of Changes and FAQs, p. 6.

² *Id.*

³ See the October 24, 2023 Comments of PacifiCorp on the Power Source Disclosure Pre-Rulemaking Amendments and the April 14, 2023 Comments of PacifiCorp on the March 21, 2023 Request for Information. PacifiCorp will not repeat those same positions here, but incorporates its prior comments herein by reference.

California Public Utilities Commission (CPUC), or calculating retrospective hourly production profiles from California ISO data.⁴

While staff contends that the CSP “provides generation profiles for all resources and asset-controlling suppliers and accounts for regional variability,”⁵ this is not the case for PacifiCorp. Importantly, and particularly relevant to the revised PSD regulations, PacifiCorp is not subject to the same Integrated Resource Plan (IRP) requirements as other CPUC-jurisdictional entities. For example, PacifiCorp is exempted from many CPUC IRP requirements and does not utilize the CSP calculator. This means that “using hourly production profiles of energy resources in the Clean System Power (CSP) calculator” will not provide accurate emissions data for PacifiCorp. Furthermore, because PacifiCorp operates outside of the CAISO, “calculating retrospective hourly production profiles from California ISO data” similarly will not accurately reflect hourly emissions for PacifiCorp’s resources.

B. The Proposed Proxy Data Methodology in the Revised PSD Regulations Will Not Accomplish the PSD Program’s Intended Goal to Provide Accurate Information.

A key tenet of the PSD Program is to provide accurate information. For example, comments in AB 242’s legislative history 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.”⁶ SB 1158 includes similar history, outlining 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.’”⁷

PacifiCorp is concerned that utilizing proxy data to report hourly emissions, particularly given the sources of proxy data are tailored to LSEs other than PacifiCorp by either utilizing the CPUC CSP calculator or by relying upon CAISO data, will result in inaccurate emissions information that does not truly reflect PacifiCorp’s system-wide fleet of resources that serve its customers across six states. While such reporting may be less burdensome, PacifiCorp believes it is more appropriate for the Commission to exercise its statutory discretion provided under Public Utilities Code Section 398.6(l) and exempt PacifiCorp from any obligation to report hourly emissions. By providing an exemption, the Commission will adhere to statutory goals by exercising the explicit statutory authority outlined in Public Utilities Code Section 398.6(l) to

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

⁵ *Id.*

⁶ August 28, 2021 Senate Floor Analyses, p. 7, emphasis added, available at https://leginfo.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220AB242#.

⁷ 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#.

exempt PacifiCorp from hourly reporting requirements while ensuring that PSD reports provided by PacifiCorp continue to provide accurate, reliable, and easily understood data.

II. If PacifiCorp is Required to Report Hourly Emissions, the PSD Regulations Should be Further Revised.

For the reasons outlined above, as well as in earlier comments, PacifiCorp maintains that the Commission should exempt PacifiCorp from any requirement to report on an hourly basis under the PSD program. However, to the extent PacifiCorp is required to report on an hourly basis, PacifiCorp recommends that the PSD regulations be further clarified and revised, as outlined below, to account for the unique characteristics of PacifiCorp.

A. PacifiCorp Should be Exempted from Any Requirements for Oversupply and Avoided Emissions Given its Operation As an Integrated, Multi-State System and its Location Outside of the CAISO.

It is unclear how the PSD regulations will classify and treat oversupply and avoided emissions given PacifiCorp's location outside of the CAISO. Section 1392(c)(8) of the revised PSD draft regulations outlines the process for calculating oversupply and avoided emissions, noting that "GHG emissions reductions associated with oversupplied resources shall be classified as avoided emissions elsewhere on the grid and shall be factored into calculations for hourly GHG emissions factors of unspecified power." It is unclear how PacifiCorp would or could make this calculation. Given PacifiCorp is a non-California balancing authority and a multijurisdictional utility that utilizes a multi-state cost allocation protocol, any allocation of resources are reflective of the multi-state allocation agreements between states; the oversupply and avoided emissions calculations as outlined is not appropriate as it pertains to PacifiCorp as stated in our previous comments submitted on October 24, 2023. While oversupply within the CAISO is likely to be utilized by other LSEs located within the CAISO, PacifiCorp optimizes generation from resources across its multi-state service territory. When oversupply does occur, any additional generation is either utilized by PacifiCorp, or sold in the bilateral market to another utility or counterparty that may be inside or outside California. Accordingly, while PacifiCorp maintains that an outright exemption from hourly reporting is appropriate and warranted, to the extent PacifiCorp is required to report hourly data, it should be exempted from any requirement to calculate oversupply and avoided emissions.

B. LSEs Must be Provided with Sufficient Time to Incorporate Proxy Data into PSD Reports.

Section 1393(c)(1)(A) of the revised 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." However, it is unclear when such proxy data will be made available to LSEs, and how it will be made available to PacifiCorp who does not participate in the California integrated resource

planning process. To ensure that LSEs are able to complete PSD reports before reporting deadlines, it is essential that any proxy data be made available well in advance of the deadlines. PacifiCorp recommends that this data be made available by March 1.

C. PSD Reports Should Specify that Proxy Data May Not Accurately Reflect Emissions.

Given that proxy data is unlikely to reflect emissions for PacifiCorp accurately, reporting templates should include a statement, for example in the form of a footnote or disclaimer, indicating that the reported data is based on proxy information that may not actually or accurately reflect the hourly emissions for PacifiCorp's resources. This statement is important to convey accurate information to customers and avoid customer confusion. This will also help ensure that customers do not rely upon the proxy data provided in the PSD report for their own reporting purposes, such as Scope 2 GHG emissions reporting.⁸

D. Once Finalized, Additional Workshops and/or Individual Meetings with Staff Should be Held to Ensure LSEs Report Correctly.

Given the complexity of hourly reporting, and the fact that this is an entirely new requirement yet to be implemented, PacifiCorp recommends that LSEs be provided with additional direction and instruction to ensure that information is correctly provided to the Commission. Taking into account the unique characteristics of PacifiCorp, it may be preferable to schedule meetings with individual LSEs so that LSE-specific issues can be discussed and addressed, thereby ensuring that the reporting format will recognize LSEs and in particular PacifiCorp's unique multi-jurisdictional characteristics and operational realities while achieving Commission PSD goals.

III. Conclusion.

PacifiCorp appreciates this opportunity to provide comments on the revised PSD draft regulations. For the reasons described throughout these comments, the Commission should revise the PSD regulations to exempt PacifiCorp from any hourly reporting requirements. Not only is such an exemption consistent with Public Utilities Code Section 398.6(1), but exempting PacifiCorp from hourly reporting will avoid inaccurate reporting given that proxy data will not reflect actual resource profiles and associated emissions for PacifiCorp's resources. While PacifiCorp maintains that an exemption from hourly reporting is warranted, to the extent the PSD regulations do require PacifiCorp to report on an hourly basis, the regulations should be revised and clarified to exempt PacifiCorp from any oversupply or avoided emissions

⁸ For example, California SB 253 (2023) or the Securities and Exchange Commission, *Proposed Rule, The Enhancement and Standardization of Climate-Related Disclosures for Investors*, Mar. 21, 2022.

requirements and to provide sufficient time for LSEs to access and incorporate proxy data into their PSD reports.

Sincerely,

DOWNEY BRAND LLP



Jedediah J. Gibson

JJG