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**STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION**

IN THE MATTER OF:

*Rulemaking to Amend Regulations Governing
the Power Source Disclosure Program*

DOCKET NO. 21-OIR-01

RE: Power Source Disclosure

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S COMMENTS ON THE
REVISED NOTICE OF AVAILABILITY AND OPPORTUNITY TO COMMENT ON
PROPOSED REVISIONS TO THE RULEMAKING TO AMEND REGULATIONS
GOVERNING THE POWER SOURCE DISCLOSURE PROGRAM**

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The California Community Choice Association¹ (CalCCA) submits these comments pursuant to the *Notice of Availability and Opportunity to Comment*, dated October 1, 2024 (Notice), and *Revised Notice of Availability and Opportunity to Comment – 45-Day Updated Language*, dated October 4, 2024 (Revised Notice). The Notice provides the California Energy Commission’s (Commission) additional proposed amendments to the Power Source Disclosure (PSD) Program regulations (Amendments). The Revised Notice makes clerical corrections to typographical errors and internal references in proposed sections 1391, 1393(a), and 1393(c).

I. INTRODUCTION

The PSD program was first established by Senate Bill (SB) 1305² in 1997, adding sections 398.1 through 398.5 to the Public Utilities Code. On May 17, 2024, the Commission

¹ California Community Choice Association represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Ava Community Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance of Southern California, CleanPowerSF, Desert Community Energy, Energy For Palmdale’s Independent Choice, Lancaster Energy, Marin Clean Energy, Orange County Power Authority, Peninsula Clean Energy, Pico Rivera Innovative Municipal Energy, Pioneer Community Energy, Pomona Choice Energy, Rancho Mirage Energy Authority, Redwood Coast Energy Authority, San Diego Community Power, San Jacinto Power, San José Clean Energy, Santa Barbara Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

² SB 1305 (Figueroa, Ch. 796, Stats. 1997).

issued proposed amendments to its PSD regulations to incorporate new legislation – Assembly Bill (AB) 242³ establishing deadlines for the Power Content Label (PCL), and SB 1158⁴ adding the reporting of hourly data in addition to the current requirements to report calendar year data.⁵ It also proposed other changes to the regulations to further clarify the PSD and PCL requirements, and ensure accuracy and consistency.⁶ The Amendments issued on October 4, 2024, propose additional changes to the proposed express terms offered on May 17, 2024.

CalCCA appreciates the continuing opportunity to provide input on the Amendments and makes four recommendations in these comments. *First*, the Commission should adopt the Amendments that begin calendar-year reporting of loss-adjusted load on January 1, 2026. This change ensures the new guideposts for PSD and PCL reporting apply only prospectively. In addition, to the extent the proposed PSD regulations are not adopted until after January 1, 2025, the Commission should further delay the reporting requirement until January 1, 2027, to ensure retail sellers can plan their procurement according to the adopted loss percentage reporting requirement. *Second*, the Commission should use Energy Information Administration (EIA) data to source the default loss factor calculations, as proposed in the Amendments, to provide more stable values and enhance each load-serving entity’s (LSE’s) ability to anticipate needed procurement. *Third*, the Commission should simplify the Amendments by describing the PCL’s description of “unspecified power” as “primarily fossil fuels but may include other sources.” If the Commission retains the proposed Amendments’ requirement to describe the percentage of unspecified power provided by fossil fuels or renewables/zero-carbon resources, the Commission

³ AB 242 (Holden, Ch. 228, Stats. 2021).

⁴ SB 1158 (Becker, Ch. 367, Stats. 2022).

⁵ Prior to opening the current formal rulemaking to incorporate SB 242 and SB 1158, the Commission issued two sets of pre-rulemaking amendments on September 20, 2023, and January 31, 2024, and on which parties, including CalCCA, provided comments. *See* Docket 21-OIR-01.

⁶ Docket 21-OIR-01, *Initial Statement of Reasons + Economic Analysis*, at 1-2 (May 17, 2024).

should: (1) clarify the Amendments to make clear the Commission will provide the calculations of these percentages; and (2) provide both percentages for fossil fuels and renewable/zero-carbon resources as separate line items in the PCL, rather than only providing the percentage for whichever is greater. *Fourth*, the Commission should issue revised templates as soon as possible prior to the adoption of the proposed regulations, and/or with a new set of revised regulations to allow LSEs to see how the proposed regulations translate into reporting requirements.

Accordingly, the Commission should:

- Adopt the Amendments that begin calendar-year reporting of loss-adjusted load on January 1, 2026, and delay further to January 1, 2027, if the proposed regulations are not adopted until 2025;
- Use EIA data to source the default loss factor calculations, as proposed in the Amendments, but clarify the methodology Commission staff will use to calculate the loss factors;
- Simplify the Amendments by describing the PCL’s description of “unspecified power” as “primarily fossil fuels but may include other sources” or modify the process for calculating and communicating the percentages of each source; and
- Issue revised templates as soon as possible prior to the adoption of the proposed regulations, and/or with a new set of revised regulations.

II. THE COMMISSION SHOULD ADOPT THE AMENDMENTS’ REQUIREMENT TO BEGIN CALENDAR-YEAR REPORTING OF LOSS-ADJUSTED LOAD ON JANUARY 1, 2026

The amendment in Section 1393(b)(2)(B) delaying until January 1, 2026, calendar-year reporting of losses and other end uses associated with retail sales should be adopted. CalCCA applauds the Commission for adopting this request set forth in CalCCA’s July 3, 2024, Comments on the PSD Amendments.⁷ As CalCCA noted, this revision will prevent the inequitable and retroactive application of the calendar year loss reporting requirement in 2025

⁷ *California Community Choice Association’s Comments on Proposed Amendments to Power Source Disclosure Program Regulations*, Docket No. 21-OIR-01 (July 3, 2024) (CalCCA July 2024 Comments).

for procurement already complete for 2024. It will also allow retail sellers adequate opportunity to adapt to the new requirement, which must only be applied prospectively.

To this end, if the regulations are not adopted until sometime in 2025, the Commission should further delay the requirement until the next reporting period (i.e., 2027 for the reporting year 2026) given procurement for at least part of 2025 will be complete and retail sellers will not have known for certain what loss requirements are being applied. As noted below, the reporting percentage for losses is still in flux, and therefore retail sellers will not have certainty until the percentages are adopted. To the extent adoption of the regulations occurs beyond January 1, 2025, the Commission should further delay the reporting on losses associated with retail load until 2027 for the procurement year 2026.

III. THE COMMISSION SHOULD ADOPT THE AMENDMENTS REQUIRING THE USE OF EIA DATA TO SOURCE THE DEFAULT LOSS FACTOR CALCULATIONS

CalCCA appreciates the Commission’s careful attention to the best data source for accurate loss factor calculations for both the calendar year and hourly reporting. The Amendments modify the source of the loss factor calculations from the *Integrated Energy Policy Report Demand Forecast to the United States Energy Information Administration (EIA)*, collected pursuant to 15 U.S.C. 722(b), via EIA Form-861 (Annual Electric Power Industry Report).⁸ CalCCA supports this change, along with the following requirements for the loss factor calculations:

- “A retail supplier’s transmission and distribution losses shall be determined by applying a loss factor to each specified resource and to unspecified power”;⁹
- Commission staff will calculate the “default loss factors” annually based “on the losses and total energy disposition reported in the most recent final data” released by the EIA;¹⁰ and

⁸ Amendments § 1392(a)(8).

⁹ *Id.* § 1392(a)(8)(A) (emphasis added).

¹⁰ *Id.* § 1392(a)(8)(B) (emphasis added).

- Loss factors for in-state and imported resources shall be weighted according to the ratio of specified in-state and unspecified resources versus specified imports from the prior year as reported under” the EIA program.¹¹

The Commission’s framework for calculating losses associated with retail sales, including basing the loss factor not on each retail seller but on EIA statewide factors for specified resources and unspecified power, will provide statewide, stable values. The framework will also enhance LSEs’ ability to anticipate needed procurement. The Commission should, however, clarify its methodology for providing the various loss factors based on the information available in the EIA state data.

IV. THE AMENDMENTS IMPROVE THE DEFINITION AND EXPLANATION OF “UNSPECIFIED” POWER, BUT SHOULD BE SIMPLIFIED OR MODIFIED TO PROVIDE GREATER CLARITY ABOUT THE SOURCES OF UNSPECIFIED POWER

The May 17, 2024, amendments included a parenthetical after the term “Unspecified Power” of “(primarily fossil fuels)”¹² despite an earlier mock-up of the PCL stating, “unspecified power is primarily fossil fuel generation but may include other resources.”¹³ In response to the May 17, 2024, change to the description of “Unspecified Power,” CalCCA July 2024 Comments recommended using the language in the mock-up as a more accurate description of “unspecified power” on the PCL.¹⁴ This change would acknowledge that such unspecified power is primarily from fossil fuels but also includes other (including renewable) resources to ensure consumers are not misled.

CalCCA continues to support its recommendation in its July 2024 Comments as a simple, yet accurate way to describe unspecified power. While more complicated than CalCCA’s

¹¹ *Ibid.* (emphasis added).

¹² See Docket 21-OIR-01, *Express Terms* (May 17, 2024) § 1393.1(c)(1)(j): <https://efiling.energy.ca.gov/GetDocument.aspx?tn=256446-3&DocumentContentId=92270>.

¹³ See Docket 21-OIR-01, *Summary of Changes and FAQs*, Fig. 1, at 9 (Jan. 31, 2024) (emphasis added): <https://efiling.energy.ca.gov/GetDocument.aspx?tn=254272&DocumentContentId=89637>.

¹⁴ See Docket 21-OIR-01, *California Community Choice Association’s Comments on Proposed Amendments to Power Source Disclosure Program Regulations* (July 3, 2024) at 15: <https://efiling.energy.ca.gov/GetDocument.aspx?tn=257594&DocumentContentId=93481>.

preferred approach, the Amendments do improve the definition and explanation of “Unspecified Power.” They remove “is derived primarily from natural gas and other fossil fuels” from the definition and instead require that:

[t]he display of unspecified power on the power content label shall be annotated to identify whether the unspecified power was provided primarily by either ‘Fossil Fuels’ or ‘Renewables and Zero Carbon Resources’ as those groups are described in 1393.1(c)(2), whichever group was greater for the previous year.¹⁵

Further, the Amendments require that:

[b]eginning in 2026, the annotation of unspecified power shall include the percentage of unspecified power provided by either “Fossil Fuels” or “Renewables and Zero Carbon Resources” as those groups are described in 1393.1(c)(2), whichever group was greater for the previous year.¹⁶

If the Commission requires the reporting of whichever group of unspecified power sources is greater, the Amendments must be modified in three ways to ensure the sources are calculated accurately and communicated clearly.

First, if the Commission does not adopt the reporting requirement for the percentage fossil fuel generation or renewables/zero-carbon resources until 2026, the Commission should adopt CalCCA’s original proposal set forth in its July 3 Comments for 2025. This proposal, originally agreed to by Commission Staff, would include a footnote stating that “Unspecified Power” is comprised of “primarily fossil fuels but may also include other resources.” This language would replace the proposed requirement in section 1393.1(c)(1)(j)(i) to identify whether the unspecified power was provided primarily by either fossil fuel or renewables/zero-carbon resources, whichever group was greater, to ensure the Commission only requires the reporting of whichever group is greater on a prospective basis.

¹⁵ Amendments § 1393.1(c)(1)(j)(i) (emphasis added).

¹⁶ *Id.* § 1393.1(c)(1)(j)(ii) (emphasis added).

Second. for the requirement in section 1393.1(c)(1)(j)(ii) beginning in 2026 to include the percentage of unspecified power provided by either fossil fuels or renewables/zero-carbon resources, the Commission should require percentage reporting for both fossil fuels and renewables rather than for only whichever group is greater. Both percentages, the percentage of unspecified resources made up of fossil fuels and the percentage made up of renewables/zero-carbon resources, should be reported in their own separate rows on the PCL. This will ensure the sources of unspecified power are documented clearly and transparently. CalCCA therefore supports the recommendations of CMUA to remove the phrase “whichever group was greater for the previous year” from the Amendments, and to document the percentages for both fossil fuels and renewables/zero-carbon resources on the PCL.

Third. the Commission should add language to the Amendments that clarifies that the Commission, and not retail sellers, will calculate the percentage of unspecified power that came from fossil fuels versus renewable/zero-carbon resources. It should also clarify what data will be used and how it will be used to determine the primary source and when the calculations and percentages will be provided. This clarification is necessary because retail sellers do not have the information necessary to perform these calculations on their own. A transparent calculation performed by the Commission will ensure retail sellers are confident that the information they are required to report is accurate.

V. THE COMMISSION SHOULD ISSUE REVISED TEMPLATES AS SOON AS POSSIBLE PRIOR TO THE ADOPTION OF THE PROPOSED REGULATIONS, AND/OR WITH A NEW SET OF REVISED REGULATIONS

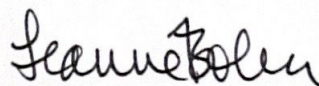
The Commission issued a 2025 Annual Reporting Template¹⁷ and 2028 Consolidated Reporting Template¹⁸ on June 10, 2024, following the issuance of the May 17, 2024, amendments. The Commission should revise and publish these templates as soon as possible to reflect the current Amendments prior to the adoption of the proposed regulations, and/or with a new set of revised regulations. Given the Amendments advance changes that will likely significantly impact retail sellers' PSD reporting, revised templates are needed to allow LSEs to see how the proposed regulations translate into reporting requirements.

If the Commission adopts the proposed regulations for implementation in 2026, the Commission should issue revised templates by the end of 2024. LSEs are in the process of procuring and optimizing their portfolios for 2025 now. Understanding how 2025 procurement will be reflected in the templates is a key factor affecting those procurement and optimization decisions.

VI. CONCLUSION

For all the foregoing reasons, CalCCA respectfully requests consideration of the comments herein.

Respectfully submitted,



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¹⁷ See Docket 21-OIR-01, *2025 Annual Reporting Template* (June 10, 2024): <https://efiling.energy.ca.gov/GetDocument.aspx?tn=256774&DocumentContentId=92590>.

¹⁸ See Docket 21-OIR-01, *2028 Consolidated Reporting Template* (June 10, 2024): <https://efiling.energy.ca.gov/GetDocument.aspx?tn=256775&DocumentContentId=92591>.