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**on Staff Pre-Rulemaking Workshop on Updates to the Power Source Disclosure Regulations**

*Additional submitted attachment is included below.*

STATE OF CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of:

AB 1110 Implementation Rulemaking

Docket No. 16-RPS-05

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**COMMENTS OF THE  
CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION  
ON STAFF PRE-RULEMAKING WORKSHOP  
ON UPDATES TO THE POWER SOURCE DISCLOSURE REGULATIONS**

The California Municipal Utilities Association (“CMUA”) appreciates the opportunity to provide comments to the California Energy Commission (“Commission”) on the *Staff Pre-Rulemaking Workshop on Updates to the Power Source Disclosure Regulations* (“Workshop”) and the *Workshop Supplemental Materials* (“Scoping Questions”), dated February 21, 2017.

Implementing AB 1110 presents a unique challenge because it creates a new reporting requirement dealing with a matter of great public concern. AB 1110 seeks to provide customers with a better understanding of their electric utility’s relative performance regarding the intensity of its greenhouse gas (“GHG”) emissions. To guide the Commission in this process, CMUA recommends that the Commission adopt regulations consistent with the following principles:

- **The Primary Purpose of AB 1110 is Increasing Customer Understanding.** All the data reported, as well as any new methodologies or assumptions developed, should be designed with this intent in mind. This proceeding should not be viewed as an opportunity to develop new requirements that do not serve this purpose.
- **The Commission’s Regulations Should Not Interfere or Diminish the Value of Renewable Energy Credits (“RECs”).** In compliance with the Renewables Portfolio Standard (“RPS”) and other state mandates, electric utilities have built and procured extensive amounts of renewable generation. As discussed further below, the

Commission's regulations should not in any way reduce the value associated with that procurement.

- **The Commission's Regulations Should Be Consistent with Related State Programs.** There are numerous existing Programs that overlap with the requirements of AB 1110, including the RPS, the GHG reduction requirement, energy efficiency targets, and the integrated resource plan requirements. The Commission should limit potential confusion by ensuring that, to the greatest extent possible, the data and assumptions used in this proceeding are consistent with the appropriate related proceedings.
- **The Commission Should Minimize Administrative and Reporting Burdens.** Retail suppliers have a host of existing reporting requirements that already strain resources and staff time. To the greatest extent possible, the Commission should rely on existing data to streamline these new requirements.

## I. RESPONSES TO SCOPING QUESTIONS

### A. Annual Sales

#### 1. What should be the programmatic definition of "annual sales"?

As stated above, the Commission should ensure that customers are presented with clear and easily comprehensible information. In particular, this information should be consistent with the Power Content Label ("PCL"), because customers will likely look at these two pieces of information at the same time. A customer should be able to assume that the same resources and data in the PCL are consistent with the data used to calculate the GHG emissions intensity. Therefore, the "annual sales" used to calculate the GHG emissions intensity should be the same number and data source that is used to derive the PCL.

#### 2. What should be the programmatic definition of "electricity portfolio"?

Consistent with CMUA's recommendation in the previous question, "electricity portfolio" should align with the comparable concept used for the PCL, which is an "electricity product." Aligning these two definitions will be essential to ensuring that a customer is comparing consistent information between the GHG intensity information and the PCL.

3. What should be the programmatic definition of “electricity offering”?

Based on the plain language used throughout Public Utilities Code section 398.4, it is clear that “electricity offering” should not be treated as a separate term from “electricity portfolio.” Section 398.4(d) states: “The disclosures required by this section shall be made separately for each **portfolio offering** made by the retail supplier.” Similarly, section 398.4(k)(1), states in part: “Each retail supplier shall disclose both the greenhouse gas emissions intensity of any **electricity portfolio offered** to its retail customers . . . .” It is therefore clear that the Legislature did not intend an “offering” to be a distinct concept separate from a “portfolio.” Further, nothing in the new statutory language added by AB 1110 suggests that there is a need for “electricity offering” to be separately defined or measured.

**B. Renewable Energy Credits**

1. Should retail suppliers be required to report the purchase of eligible renewable energy resources based on the year that the renewable electricity was generated or based on the year that the REC is retired, if the two years differ?

In general, Retail Suppliers should report purchases of eligible renewable energy resources in the year that the electricity was generated. This practice would best align with the existing Power Source Disclosure reporting requirements. Additionally, reporting based on the year of generation, rather than retirement, would be most consistent with the expectations of customers. Further, different retail suppliers have differing retirement practices. Because the RPS is structured with multi-year compliance periods, a retail supplier might retire RECs in bulk near the end of a compliance period, rather than on a continuous basis. A Retail Supplier might do this for administrative reasons, or to ensure that they do not retire too many RECs in a single compliance period. If the GHG emissions intensity were measured based on retirement, this

could lead to over-reporting in some years and under-reporting in others, both of which would provide misleading information to customers.

However, there will be circumstances where reporting based on the year of generation will be impossible. Pursuant to Public Utilities Code section 399.21(a)(7), a REC may be retired up to 36 months after it is generated and still be eligible for the RPS. Because of this flexibility, a Retail Supplier may have surplus RECs from previous years that were not used to serve retail sales or a Retail Supplier may also purchase an unbundled REC well after the initial date of generation. In either case, it may be too late for the Retail Supplier to report that REC in the year of generation for purposes of calculating the GHG emissions intensity. In such a case, the Retail Supplier should report based on the year that the REC was either retired (if surplus to retail sales) or purchased (if unbundled). The frequency and magnitude of this occurring should be small enough that it would be unlikely to have a significant impact on any Retail Supplier's GHG emissions intensity data. This is largely driven by the limits on the amount of portfolio content category ("PCC") 3 RECs that RPS-obligated entities can count towards compliance in any single compliance period, as of January 1, 2017,<sup>1</sup> as well the limited sales of surplus RECs by Retail Suppliers.

One challenge presented by reporting based on the year of generation or purchase, rather than retirement, is that it is theoretically possible for a Retail Supplier to procure a REC (bundled or unbundled) in one year, report the associated MWh for GHG emissions intensity, and then resell the REC (unbundled) in a subsequent year. If the subsequent purchaser of that REC also counted that REC for GHG emissions intensity reporting, the result would be a double counting.<sup>2</sup>

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<sup>1</sup> See Cal. Pub. Util. Code § 399.16(b)(3).

<sup>2</sup> This would not occur if a Retail Supplier had procured surplus RECs (of whatever PCC) that were surplus to the Retail Supplier's retail sales' needs and thus not reported pursuant to the Power Source Disclosure requirements.

The risk of this occurring is likely very small, but must be addressed in order to ensure the integrity of the Commission’s GHG emission reporting regulations. In this proceeding, the Commission should evaluate verification methodologies that protect against such double counting.

2. How should firmed and shaped electricity products be categorized for the power-mix percentage calculations? Specifically, should these products be categorized based on the fuel-type of their REC or the fuel-type of their substitute electricity?

Firmed and shaped transactions are expressly treated as RPS eligible pursuant to statute<sup>3</sup> and are recognized under the California Air Resources Board’s (“ARB”) existing Cap-and-Trade regulations.<sup>4</sup> The Commission’s GHG emission intensity regulations should treat firmed and shaped electricity products consistent with these related programs. Therefore, all MWh of electricity delivered to California under a firmed and shaped transaction should be treated as having zero GHG emissions.

3. How should greenhouse gas emissions intensities be calculated for firmed and shaped electricity products? Specifically, should the greenhouse gas emissions intensity for these products be calculated based on the emissions profile associated with the generation source of their REC or based on the emissions profile of their substitute electricity?

Consistent with the answer to the previous question, the GHG emissions intensity should be based on the REC that is associated with the imported electricity, not the substitute electricity.

4. Should unbundled RECs (PCC 3) be reflected in the power mix or disclosed separately on the Power Content Label? What factors should be considered in making this determination?

Pursuant to Public Utilities Code section 399.12(h)(1), a REC includes “all renewable and environmental attributes associated with the production of electricity from the eligible

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<sup>3</sup> Cal. Pub. Util. Code § 399.16(b)(2).

<sup>4</sup> 17 CCR § 95852(b)(4).

renewable energy resource . . . .” Additionally, California Public Utilities Commission’s (“CPUC”) Decision (“D.”) 08-08-028 further clarifies that a REC also includes:

any avoided emission of pollutants to the air, soil or water; any avoided emissions of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or any other greenhouse gases that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of global climate change. . . .<sup>5</sup>

Based on these definitions, it is clear that the reporting of zero-GHG emissions should flow with the REC. If the Commission’s regulations sought to carve up the environmental attributes associated with a single MWh such that one entity would count that MWh towards the RPS while another would count that same MWh for GHG emissions reporting purposes, the result would diminish the integrity of the Commission’s RPS accounting system. Further, such a division would deprive the owner of a REC of the contracted value associated with that REC and would provide a windfall benefit to the ultimate purchaser of the underlying electricity. This is true regardless of the PCC of the underlying REC.

For purposes of both the PCL and the GHG emissions intensity reporting, a PCC3 REC should be categorized and counted pursuant to the underlying generating resource.

5. How should null power be categorized for the power-mix percentage calculations? How should the greenhouse gas intensity of null power be calculated?

Any purchase of electricity that has been unbundled from the associated REC should be treated as null power and assigned a default emission factor. The Commission should utilize a default emission factor consistent with the appropriate default emission factor adopted by the ARB.

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<sup>5</sup> D.08-08-028 further clarifies that “[a]voided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the definition of the REC, this definition does not create any right to use those avoided emissions to comply with any GHG regulatory program.” *Id.* at footnote 77.

### C. GHG Intensity Factor Data and Calculations

1. AB 1110 defines “greenhouse gas emissions intensity” as the “sum of all annual emissions of greenhouse gases associated with a generation source divided by the annual production of electricity from the generation source.” Are there any reasons to consider calculating GHG emissions intensities using greenhouse gases other than those accounted for in both MRR and the EPA’s Greenhouse Gas Reporting Program?

As discussed above, the Commission’s regulations should seek to be consistent with all related state programs and rely on existing data. This is particularly true for the sources of data at issue in this question. The Commission should rely on the expertise and processes of the ARB in determining which GHGs are accounted for in the MRR. Any difference here would be very confusing to customers seeking to understand their electric utility’s performance towards the state’s environmental goals. The Commission should not consider GHGs other than what is reported in the MRR.

2. What are the concerns, limitations, and benefits of relying on GHG emissions reported to the MRR program for the development of GHG emissions intensities for in-state and out-of-state facilities?

Relying on the ARB’s MRR reported data would reduce the administrative burden for both the Retail Suppliers and for Commission staff. Additionally, consistency with other state programs would increase the value of this information for customers.

3. Should GHG emissions classified as non-covered or exempt under the Cap and Trade Program be included in PSD greenhouse gas intensity calculations?

Consistent with the ARB’s existing Cap and Trade regulations, the Commission should exclude non-covered or exempt emissions from the GHG emissions intensity calculation.

4. Should the Power Disclosure Program adopt ARB’s default factor as the greenhouse gas intensity for unspecified power?

The Commission should use the same default factor for unspecified power as the ARB. Additionally, the Commission’s regulations should directly reference the appropriate ARB sources of data, such that the Commission’s regulations would not need to be modified if the ARB updates the relevant default factor.

5. Energy procured through the Energy Imbalance Market (EIM) is reported under the MRR program as specified electricity. What greenhouse gas intensity factor should be assigned to electricity procured through the Energy Imbalance Market (EIM)?

The Commission should postpone any determination on this issue. First, the magnitude of the emissions involved is likely small and would not have a significant impact on the overall numbers. Second, the California Independent System Operator (“CAISO”), in coordination with the ARB, is in the process of developing mechanisms that will address these issues. That CAISO process will almost certainly be completed prior to 2019, the first year where data will need to be collected to support the 2020 GHG emissions intensity reporting. The Commission will have sufficient time to revisit this issue after the CAISO process is complete.

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## II. CONCLUSION

CMUA appreciates the opportunity to provide these comments and looks forward to working with staff in this proceeding.

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Respectfully submitted,



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