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**The Alliance for Retail Energy Markets ("AReM") Comment re PSD Pre-Rulemaking Workshop**

*Additional submitted attachment is included below.*

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California Energy Commission  
Dockets Office, MS-4  
Re: Docket No. 16-OIR-05  
1516 Ninth Street  
Sacramento, CA 95814-5512

Re: Comments of the Alliance for Retail Energy Markets on the Proposed Pre-Rulemaking Updates to the Power Source Disclosure Regulations

The Alliance for Retail Energy Markets (“AReM”)<sup>1</sup> provides these comments on the California Energy Commission’s (“Commission”) preliminary scoping questions concerning the next update to the Power Source Disclosure (“PSD”) program. AReM recommends that the Commission work closely with the California Public Utilities Commission (“CPUC”), the Air Resources Board (“ARB”) and impacted load serving entities (“LSEs”) to ensure regulatory consistency between the PSD program, the renewables portfolio standard (“RPS”) program, the Mandatory Reporting Regulation (“MRR”) and Cap-and-Trade programs. Fostering regulatory consistency across these programs and agencies will improve clarity around relevant data, improve regulatory certainty to LSEs and ease reporting and compliance burdens through improved administrative efficiencies.

## **I. Responses to Scoping Questions**

### **A. Annual Sales**

#### **1. What should be the programmatic definition of “annual sales”?**

Consistent with the historical PSD requirements and to provide transparency to retail customers, “annual sales” should be defined as the California retail load served for the year by an LSE. “Annual sales” should not include wholesale “sales for resale”, whether to other California LSEs, into the CAISO market, or as exports, since such resales at wholesale are not used to serve the LSE’s customer demand.

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<sup>1</sup> AReM is a California mutual benefit corporation formed by electric service providers that are active in California’s direct access market. The positions taken in this filing represent the views of AReM but not necessarily those of individual members or affiliates of its members with respect to the issues addressed herein.

**2. What should be the programmatic definition of “electricity portfolio”?**

The “electricity portfolio” refers to the collection of electric energy procurement used to serve an LSE’s retail load during the compliance period. This could include contracted supply or supply produced by owned resources. Consistent with the definition of “annual sales”, the “electricity portfolio” should look only at those procured energy resources, including energy purchases from CAISO markets, that are used to cover an LSE’s retail sales obligations.

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

Under the PSD program, an “electricity offering” is the retail electricity product offered by the LSE that serves specific retail customers. If an LSE offers multiple product options to customers based on, for instance, percentage of renewables content or greenhouse gas intensity, then each differentiated product would constitute a separate offering and may be supported by a different subset of resources within the LSE’s electricity portfolio.

**B. RECs**

**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?**

Renewable purchases should be reported based on the year that RECs are retired to create closer consistency with the annual reporting made regarding existing RPS program compliance. Under the RPS program, RECs need not be retired in the year the energy is generated, but may be retired up to 36 months after generation and still qualify for use in the RPS program. It is the REC retirement data that is compiled and reported to both the CPUC and CEC annually to show progress toward the multi-year compliance period, subject to changes around the final compliance reports made for the corresponding multi-year compliance period. This means that data from WREGIS retirement reports can be used to support the submissions. This flexibility is important to ensure that LSEs have flexibility in meeting RPS procurement obligations and to account for any resales of renewable energy that may take place.

To avoid confusion for customers, and to simplify reporting for LSEs, the PSD requirements should allow LSEs to report renewable purchases based on the year that RECs are retired. This will ensure that RPS reports and PSD reports (and Power Content Labels (“PCLs”)) show the same renewable procurement and REC retirement data. Further, this will help align any GHG reporting to the ARB. While the ARB’s Cap-and-Trade program allows the RPS Adjustment to be carried forward and applied to subsequent years, in order to claim the RPS Adjustment RECs must be retired. Therefore, the PSD report (and any requirements for PCLs) should use REC retirement data, rather than the year of generation, as retirement data is used for

the RPS and GHG programs.<sup>2</sup> This will provide consistency across regulatory agencies and the RPS, GHG, and PSD programs.

If the Commission determines that the PSD requirements should utilize the year renewable electricity was generated, instead of retired, then the PSD report and the PCL should clearly and explicitly state that the PSD/PCL reports are unlikely to reflect the actual RPS or GHG compliance reporting of the LSE, since the “final” compliance reporting in both those programs is done after multiple years, rather than annually. This clarification is important to ensure that customers do not conflate the PSD report with separate RPS and GHG procurement obligations that may be managed by the CPUC or the ARB. Moreover, care should be taken to not cause LSEs to make public certain market sensitive data regarding RPS compliance that are currently protected under the CPUC confidentiality rules.

**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?**

These questions require close coordination between the Commission, CPUC, and ARB to ensure that a consistent methodology for valuing firmed and shaped products is implemented. Currently, procurement of firmed and shaped imported renewable energy products qualifies for the RPS program and such procurement is treated as RPS-eligible. However, under the ARB’s interpretation of its regulations, the GHG benefits associated with a renewable resource underlying a firmed and shaped transaction may not always transfer to the LSE that procures the firmed and shaped product. If the null power from the renewable facility involved in a firmed and shaped transaction is remarketed and delivered into California to a different entity than the one that purchased the firmed and shaped product, then the purchaser of the firmed and shaped product may be denied the ARB RPS Adjustment, which results in a carbon cost in addition to the RPS premium already paid. Instead, under the ARB’s regulations, an LSE that receives the null power directly delivered into California gains the GHG-free benefits of the renewable energy despite not having legal ownership of the renewable attributes reflected in the REC. If, however, the null power is not directly delivered into California, then the purchaser of the bundled firmed and shaped RPS product may correctly claim the RPS Adjustment, and avoid an additional carbon compliance cost for the underlying import.

Given that a firmed and shaped product may sometimes qualify for the ARB’s RPS Adjustment and other times may not, and that an LSE will not know whether the ARB will deny the RPS Adjustment until after the fact, the best course of action is to permit those LSEs procuring the firmed and shaped import products to report a carbon intensity consistent with the application of the RPS Adjustment, even if the ARB ultimately denies them the RPS Adjustment because of a direct delivery of null power by an entity that does not own the environmental attributes. This means the LSE will make a carbon intensity report on PCC-2 volumes that

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<sup>2</sup> The timing of when a LSE retires its WREGIS Certificates for purposes of the multi-year RPS compliance submissions may result in emissions intensity changes year-to-year if the PSD/PCL methodology determines emissions intensity based upon the volume of retired RECs associated with bundled energy products.

reflects the RPS Adjustment calculations. This approach will allow LSEs to make their PSD/PCL submissions based on anticipated compliance submissions to the ARB without having to wait for the annual review and verification of those submissions to the ARB. Moreover, to the extent the LSE making the retail sale is not the same as the entity that imported the power (e.g., where a power marketer is the first deliverer), this approach will ensure that the emissions imputed to the retail product mirrors the emissions level used for determining the Cap-and-Trade compliance burden.

While this approach may sometimes conflict with an ARB final determination, this approach is entirely consistent with RPS requirements and the WREGIS Operating Rules, which fully value the renewable attributes of the firmed and shaped product. Further, this approach provides regulatory certainty to reporting LSEs and promotes rational procurement in renewable generation facilities without limiting renewable procurement strictly to imports that can be simultaneously imported into California. This approach is administratively consistent with the RPS eligibility and procurement policies as well as the ARB's recognition of PCC-2 imports. This will harmonize RPS reports and PSD reports, reduce compliance reporting that first requires ARB verification, and can help customers understand the results of LSE procurement decisions.

**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?**

For the reasons described in response to question 2, above, firmed and shaped products should be assigned a GHG emissions intensity based on the adjusted emissions profile of the imported power as contemplated by the current RPS Adjustment at the ARB. This will maximize consistency across agencies and programs, while providing regulatory certainty and administrative simplicity.

**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?**

Unbundled REC purchases are part of an LSEs procurement and are applied towards RPS procurement obligations. Accordingly, unbundled RECs should be included for reporting purposes in the power mix, to minimize confusion between PCL and RPS reporting. However, as unbundled RECs do not include any energy procurement, the overall carbon intensity of the LSE's power mix would not be adjusted down based on a volume of retired, unbundled RECs.

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

As described in response to question 2, above, regulatory certainty, consistency, and simplicity dictate that null power be categorized as an “unspecified” purchase. Null power has no value under the RPS program since, by definition, the environmental attributes have been conveyed to the holder of the WREGIS Certificate/REC. While null power purchasers may, under the ARB’s Cap-and-Trade program, receive the emissions-free benefit of renewable energy sourced null power imported into California without actually owning the REC, that should not be the default policy toward null power for PSD/PCL reporting. Accordingly, null power should be categorized as “unspecified” power.

**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 described above, it may be preferable to assign GHG emissions intensities for firmed and shaped products differently than currently calculated by the ARB. Specifically, firmed and shaped products should be assigned a GHG emissions intensity associated with the substitute power that is imported as part of the firmed and shaped transaction after application of the RPS Adjustment. Similarly, null power from a renewable facility that is otherwise providing a firmed and shaped product should be classified as unspecified power. Apart from this distinction for firmed and shaped products, GHG emissions intensities should be calculated consistent with the ARB’s existing methodologies.

**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?**

Apart from the distinction that should be made for firmed and shaped products, it is appropriate to rely upon GHG emissions data reported to the ARB. This will also reduce the administrative burdens of reporting, as reports can reflect the same data reported to the ARB.

AReM does note, however, that the MRR program includes all GHG emissions attributable to an LSE, whether used to serve retail load or for wholesale energy sales. The PSD program, on the other hand, is only focused on procurement used to serve retail load. Accordingly, the PSD program should not include any GHG emissions associated with wholesale sales by LSEs. Moreover, there will be instances where the LSE making the ultimate

retail sale to end users is not the same entity with the MRR reporting obligation as first deliverer for those imports. This is most likely to occur in transactions where the LSE is at the end of a wholesale power transaction chain with a number of links. In such cases, however, the PSD should mirror an emissions level similar to that applicable under the Cap-and-Trade obligation, such as with the RPS Adjustment.

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

Any exemptions recognized by the ARB, such as emissions from biomass or geothermal facilities, should similarly be recognized by the Commission under the PSD program.

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

Yes. This will ensure consistency across agencies and various programs.

**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 emissions factor of the EIM resource designated as specified should be used to determine the emissions factor for PSD reporting purposes. The PSD regulations should not include unrelated EIM imports (or "secondary dispatch").

**D. POU GHG Intensity Adjustment**

**1. What quantities of electricity have been generated in previous years that stakeholders believe would qualify for this adjustment?**

AReM provides no recommendation in response to this question.

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## II. Conclusion

AReM appreciates this opportunity to provide input on the PSD program revisions and looks forward to working with the Commission and other stakeholders to update the PSD program.

Respectfully submitted,

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/s/

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