

## DOCKETED

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*Additional submitted attachment is included below.*

July 28, 2017

Via E-Mail

California Energy Commission  
1516 Ninth Street  
Sacramento, CA 95814-5512

Re: Docket No. 16-OIR-05: Comments of Shell Energy North  
America (US), L.P. on AB 1110 Implementation Rulemaking

To: Energy Commission:

In accordance with the “Notice” issued in the above-referenced proceeding on June 27, 2017, Shell Energy North America (US), L.P. (“Shell Energy”) provides initial comments on the Commission Staff’s proposed updates to the regulations for the Power Source Disclosure (“PSD”) program to implement AB 1110. Shell Energy is a “retail supplier” as defined in P.U. Code Section 398.2(b).

## I.

### INTRODUCTION

The starting point for any “update” to the PSD regulations must be the statute itself. The statute (P.U. Code Section 398.1(b)) provides that the purpose of the PSD program is to have retail suppliers disclose “accurate, reliable and simple to understand information on the sources of energy, and the associated emissions of greenhouse gases, that are used to provide electric services.” (Emphasis added.) In other words, a retail supplier must disclose energy sources and associated GHG emissions for the portfolio of resources offered for sale to its retail customers.

In its proposal, the Staff repeatedly explains that the purpose of the PSD program is to provide customers with an accurate picture of the sources of energy in (and GHG intensity of) the retail supplier’s electricity portfolio in the previous year. The Staff proposal states: “[T]he PSD Program is intended to provide a snapshot of the electricity resource type and GHG emissions characteristics of the electricity portfolios sold to retail customers.” Proposal at p. 4. The Staff states further that “the purpose of the original PSD Program and AB 1110 is to provide transparency to customers about the electricity they consume.” *Id.* at p. 11.

Notwithstanding the Staff's expressed desire to provide customers with an "accurate picture" of the sources of electricity sold by a retail supplier to its retail customers, the Staff proposal ensures that the retail supplier's report will not match the sources or GHG intensity of the electricity portfolio offered for sale by the retail supplier to its retail customers. Contrary to the statute, and contrary to the Staff's stated objective, the Staff proposes that "electricity from eligible renewable energy sources should be reported according to the year in which it was generated." Proposal at p. 11 (emphasis added). The Staff proposes that retail suppliers "[r]eport[] eligible renewable electricity according to the actual generation of electricity (and the associated RECs) . . . ." Id.

As the Commission is aware, not all energy and RPS products generated or procured in a particular year are included in a retail supplier's portfolio in that year. To meet statutory RPS compliance requirements, RPS products purchased by a retail supplier in one year may be applied in another year for RPS compliance. For example, a retail seller may procure RPS energy in 2015 that it sells to its customers in 2016. A "snapshot" of a retail supplier's portfolio (and GHG intensity) in a particular year must include the RPS products that are applied for compliance in that year, whether or not the products were "purchased" or "generated" in that year. The Staff proposal fails to comply with the statutory directive to require a retail supplier to report the energy sources in the portfolio used to serve its customers.

The Staff's proposal, if adopted, would provide a distorted and inaccurate view of the sources of power (and the GHG intensity) of a retail supplier's portfolio. The Staff's proposal does a disservice to the legislature's directives and a disservice to California electricity customers. The Staff proposal must be modified to reflect, in a retail supplier's report, the electricity sources in (and the GHG intensity factor for) the portfolio offered for sale to its retail customers in the previous year, regardless of the year in which the energy was generated or procured.

The Staff proposal also fails to include a template that provides the "inputs" for a retail supplier's PSD report. The Staff should provide retail suppliers with the template that resulted in "Figure 1: Proposed Power Content Label" (Proposal at p. 21). Providing the template would better inform retail suppliers about the Staff's intent and would allow retail suppliers to provide additional constructive input on the proposed reporting requirement. It is difficult to assess how a retail supplier's Power Content Label would appear, without the ability to input existing data to test output accuracy.

## II.

### COMMENTS ON SPECIFIC PROPOSALS

#### A. Program Definitions

The Staff proposal provides that “the terms electricity portfolio and electricity offering be considered synonymous and mean a portfolio of electricity sources offered to some or all retail customers in a retail supplier’s service area over a calendar year.” Proposal at p. 6. Shell Energy agrees with this definition. A retail supplier’s reporting obligation should be based on the portfolio of electricity sources (and GHG intensity) that is offered -- sold -- to retail customers in that year. The retail supplier’s report should reflect “sales,” not “generation.” By reporting on sales, a retail supplier’s PSD report will complement its RPS compliance report for the particular year.

The Staff proposal also provides that “a retail supplier’s general or default electricity portfolio shall include the aggregated generation sources and associated GHG emissions from private contracts, rather than reporting separately for each private contract.” Proposal at p. 6. This proposal must be explained further, and with examples. Some direct access customers rely upon their own RPS procurement or ownership arrangements to meet load, separate and apart from the retail supplier’s portfolio. A retail supplier should not include customer-owned RPS supplies in its retail sales portfolio. The Staff should explain whether or how customers’ voluntary portfolios should be reflected in a retail seller’s portfolio.

The Staff also proposes that “annual sales should include transmission and distribution line losses associated with delivering electricity to retail customers . . . .” Proposal at p. 6. This proposal is not correct. The amount of a retail supplier’s “sales” should be calculated based on retail customer consumption, net of losses.

A retail supplier’s RPS procurement obligation is based on its customers’ consumption, net of losses. The Staff’s proposal would result in double counting line losses by including line losses with annual sales as well as with imported electricity and unspecified sources of power. The Staff’s proposal to increase the emissions by an additional two percent for transmission losses as outlined in Staff’s proposal (pp. 14, 16) would result in double counting.

#### B. Greenhouse Gases

The Staff proposes that “retail suppliers should report and disclose fugitive GHG emissions from geothermal generators in their Power Content Labels . . . .” Proposal at p. 8. A retail supplier is not the “generator” (in most cases) and does not have access to this information.

The Commission should populate the template with the GHG emissions factor for geothermal generation facilities as obtained from CARB (or directly from geothermal generators that apply to the CEC for renewable eligibility). The Commission should be able to compile this information without the need for a retail supplier to obtain it. One of the objectives of the PSD requirement is to “minimize the reporting burden on retail suppliers.” Staff Proposal at p. 4.

In this connection, the Staff proposes to “calculate generator-specific GHG emissions intensity factors by dividing total GHG emissions of CO<sub>2</sub>e by the annual net generation reported to EIA.” Proposal at p. 9. In order to minimize the burden on retail suppliers, the Commission should publish the GHG intensity for each generation resource so that all retail suppliers can rely upon a consistent set of information in their reports.

### **C. Specified Sources of Power**

#### **1. REC Reporting for the Power Mix**

The Staff proposes that “electricity from eligible renewable energy sources should be reported according to the year in which it was generated.” Proposal at p. 11. This proposal, if adopted, would create a mismatch between the reporting of energy sources (as well as the reporting of GHG intensity) and the sales of RPS products to retail customers. Reporting based on the year of generation will not reflect what is sold to retail customers, or what is paid for by retail customers. The Staff’s proposal, if adopted, would guarantee that a retail supplier’s PSD report does not accurately reflect the energy sources or the associated emissions in the retail supplier’s portfolio.

The Staff notes that the Mandatory GHG Reporting Regulation (“MRR”) requires entities to report annual emissions for in-State generation and electricity imports. Proposal at p. 5. Reporting emissions from “generation” is not the purpose of the PSD report. The PSD program is intended to disclose the power mix and GHG intensity “associated with the electricity portfolios used to serve retail load.” Proposal at p. 3.

A retail supplier will only bill its customers for RPS energy when the RPS product (RPS energy and/or REC) is sold to the customer. The sale of that RPS product may or may not be in the year in which the energy is generated. As recognized by Staff, a retail supplier has 36 months from the date of generation in which to retire the RECs associated with RPS generation. The Staff proposal must be modified to require a retail supplier to report the power mix and the GHG intensity factor in the portfolio of energy supplies sold to its retail customers -- regardless of when the power was procured or generated.

## 2. GHG Emissions of Firmed-and-Shaped Electricity Products

The Staff proposal provides that “[f]or determining a retail supplier’s GHG emissions intensity (but not its power mix), . . . firm-and-shaped transactions [should be categorized] based on the emissions profile of the substitute electricity.” Proposal at p. 12. This proposal should be rejected. Under the Staff proposal, the GHG intensity of a retail supplier’s portfolio would not reflect the retail supplier’s power mix. Under the Staff proposal, the GHG intensity of PCC2 RPS-eligible energy would reflect brown power in the year in which a customer pays a premium associated with procurement from a PCC2 resource.

The Staff’s proposal on the treatment of PCC2 products, if adopted, would create a distortion in the reported power mix and GHG intensity factor. The GHG emissions intensity factor for a PCC2 product is zero. The Staff provides that “any adjustments to GHG emissions for the retirement of RECs from firm-and-shaped electricity products would prevent a more accurate accounting of the GHG emissions associated with a retail supplier’s electricity portfolios used to serve retail customers.” Proposal at p. 13. To the contrary, PCC2 products should be reflected in a retail supplier’s portfolio in the year in which the PCC2 products are sold to retail customers. The GHG intensity for a PCC 2 product should reflect zero emissions from the RPS product in that same year. CARB provides an RPS adjustment to recognize the premium that customers pay for renewable energy that cannot be delivered as produced. The result is the emissions factor of the generator; not the default emissions rate.

## 3. Null Power

The Staff also proposes that “null power should remain categorized as unspecified power for the power mix of an electricity portfolio.” Proposal at p. 13. The Staff proposal continues: “For the calculation of the GHG emissions intensity factor of an electricity portfolio, staff proposes . . . that null power would be assigned the emissions intensity factor of the specific generator from which it was derived.” *Id.* This proposal contradicts the direction of the statute by assigning emissions to a source that has no emissions. If null power is to be treated as “unspecified power,” the PSD will inaccurately reflect sales of “clean” resources showing a positive GHG emissions intensity factor.

## 4. Unbundled RECs

The Staff also proposes that because “unbundled RECs do not represent an electricity source nor convey an emissions profile under California’s GHG emissions programs, . . . unbundled RECs should not be included in the power mix or GHG emissions intensity calculations.” Proposal at p. 14. The Staff continues: “Under this proposal, a retail supplier would report its unbundled RECs separately in its PSD filing and reflect the percentage of retail sales associated with unbundled RECs on the Power Content Label as a footnote.” *Id.*

Disclosure of a retail supplier's unbundled RECs as a part of its PSD report satisfies the requirement, in P.U. Code Section 398.4(h)(7), that "[t]he portion of annual sales derived from unbundled renewable energy credits shall be included in the disclosures . . . ." Shell Energy supports the Staff's proposed treatment of unbundled RECs, as long as the report reflects the unbundled RECs applied by the retail supplier for RPS compliance in the previous calendar year.

## **5. Transmission Losses from Imported Electricity**

The Staff also proposes to "adopt MRR's treatment of transmission losses from imported electricity." Proposal at p. 14. The Staff continues: [E]ach quantity of specified imports would be increased by 2 percent unless the retail supplier can provide documentation that these transmission losses have been accounted for. The transmission loss correction factor for imports would be used to calculate the power mix and GHG emissions intensity factor of a retail supplier's electricity portfolio." *Id.* at pp. 14-15.

The Commission should treat line losses consistently. The Staff cannot reasonably include lines losses in the calculation of annual sales and then add another two percent for imported electricity.

## **D. Unspecified Sources of Power**

The Staff proposes that "CARB's default emissions factor would be used for all sources of unspecified power." Proposal at p. 16. The Staff acknowledges, however, that "CARB's default emissions factor for unspecified power applies only to imports of unspecified power." *Id.*

CARB's default emissions factor for out-of-State unspecified power should not be applied to in-State generation. First, CARB's default emissions rate is calculated based on generation resources outside of California. Second, CARB has GHG intensity information associated with in-State generation; that data should be published. Third, the CAISO provides annual information on generation by fuel type in its Annual Market Performance Report (p. 36).<sup>1</sup> Because all imports are "tagged," the Commission could request that the CAISO provide fuel type information for all imports as the tag identifies the source with an associated emissions profile.

Finally, the Staff states that it is "not aware of a simple and reliable method of distinguishing between in-state and imported sources of unspecified power . . . ." Proposal at p. 16. However, the information is readily available from both CARB and the CAISO. The Staff

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<sup>1</sup> [http://www.caiso.com/Documents/May9\\_2017\\_DMM\\_2016\\_AnnualReport\\_MarketIssues\\_Performance\\_ZZ17-4.pdf](http://www.caiso.com/Documents/May9_2017_DMM_2016_AnnualReport_MarketIssues_Performance_ZZ17-4.pdf)



can and should adopt a default emissions rate based on the information available from these two agencies. To randomly assign a default emissions factor that represents only out-of-State unspecified sources of energy would be misleading.

### III.

#### CONCLUSION

If the updated PSD regulations are adopted as proposed, retail suppliers' annual reports will inaccurately reflect the power sources and emissions intensity associated with the electricity retail suppliers sell to their customers. Modifications must be made to the Staff's proposed reporting requirement to comply with the statute and with Staff's objectives.

Thank you for your consideration of these comments. If you have questions regarding the issues raised in these comments, please do not hesitate to contact the undersigned.

Best regards,



John W. Leslie  
of  
Dentons US LLP  
on behalf of  
Shell Energy North America (US), L.P.