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3Degrees Comments on Docket No. 16-OIR-05 â€“ Assembly Bill 1110 Implementation Proposal for Power Source Disclosure (PSD)

Please find 3Degrees Inc's comments on Docket No. 16-OIR-05 â€“ Assembly Bill 1110 Implementation Proposal for Power Source Disclosure (PSD) attached.

Additional submitted attachment is included below.

3Degrees 407 Sansome St., 4th floor
San Francisco, CA 94111

Jordan Scavo
Renewable Energy Office
California Energy Commission
1516 Ninth Street, MS 45
Sacramento, CA 95814-5512

August 11, 2017

RE: DOCKET NO. 16-OIR-05 – ASSEMBLY BILL (AB) 1110 IMPLEMENTATION PROPOSAL FOR POWER SOURCE DISCLOSURE (PSD) SUBMITTED JUNE 27, 2017

Dear Mr. Jordan Scavo,

3Degrees Inc. ("3Degrees") appreciates this opportunity to comment in response to the California Energy Commission's (CEC's) Implementation Proposal for Power Source Disclosure (PSD) ("PSD Proposal"). 3Degrees is a leading provider of comprehensive clean energy and carbon services that enable organizations and individuals to transition towards a low-carbon economy. 3Degrees is one of the largest buyers and sellers of renewable energy credits (RECs) in the country and serves hundreds of businesses, utilities, and other load serving entities. Specifically, 3Degrees works closely with a number of California utilities on their green power offerings to residential and commercial customers.

3Degrees applauds California's efforts to update customer disclosures regarding electricity offerings, and appreciates the hard work CEC staff has undertaken in implementing AB1110. In line with the stated goals of AB1110, we support a PSD program that that provides customers with transparent, concise, and understandable information about the sources of energy and corresponding greenhouse gas (GHG) emissions associated with the electricity they receive.

3Degrees' comments on the PSD program are based on a customer oriented-perspective informed by over a decade of experience working directly with customers—commercial, institutional, and residential—providing support and guidance in purchasing renewable energy and meeting carbon reduction goals. Based on this experience, 3Degrees believes that customers will interpret PSD as a description of the resource mix and emissions that have been delivered to them as customers, rather than the generation portfolio of the load-serving entity (LSE). As a self-proclaimed "consumer transparency"[1] program, 3Degrees believes that it is also the intent of the PSD regulation to provide customers with information on the energy they have consumed. For instance, if a customer chooses to purchase a 100% renewable energy offering, it would be confusing for this customer to receive information about the LSE's portfolio of resources, including emitting generation resources. It would also be confusing for this customer to see that the greenhouse gas intensity of the electricity they have chosen to purchase is not zero.

Below we outline two primary principles that we believe California's PSD program should adhere to, and include a few recommended updates to the PSD Proposal that would be needed in order to achieve this goal.

1 - PSD SHOULD REPRESENT ELECTRICITY DELIVERED TO CUSTOMERS, AND SHOULD ALIGN WITH OTHER POLICIES AND STANDARDS RELATED TO DELIVERED ELECTRICITY AND CONSUMER REPORTING OF ELECTRICITY USE.

From the perspective that PSD is meant to provide customers with information about the resource mix and emissions of the electricity they have consumed, and not the electricity that the LSE is generating, PSD should align with other standards and state policies related to end-use electricity consumption and claims. Paramount to this is a requirement that renewable energy certificates (RECs) must be retired in association with all renewable energy reported on PSD. Across state policies and voluntary standards governing delivery of renewable electricity, RECs are the common contractual instrument used to represent all of the non-power attributes of one MWh of renewable energy and to track and trade renewable energy.

Importantly, California's Renewable Portfolio Standard (RPS), a policy that mandates a certain amount of renewable electricity be delivered to customers, requires retirement of RECs in association with eligible renewable energy resources as proof of purchase and delivery to LSE customers. RECs are recognized in California statute as the contractual instrument that represents and tracks renewable energy generation, including all of the renewable and environmental attributes associated with that electricity. As a program meant to disclose energy procured on behalf of customers, PSD should include all purchases made on behalf of customers under the RPS.

Proper reporting of RECs within PSD is important to customer transparency and prevention of double claims of renewable energy and GHG attributes. Looking beyond

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[1] Draft Proposal, p.4.

California state policy, voluntary purchases of renewable energy and neighboring states with delivery-based renewable portfolio standards also use RECs as the means of tracking and trading renewable energy on the grid. If the PSD program requires an LSE to report that it has delivered renewable energy from a wind farm to its customers without actually owning and retiring RECs from that project, this makes a claim on the renewable energy and devalues the RECs from this project. As such, the PSD program would likely cut California LSEs off from the wider WECC renewable energy market. California LSEs would not be able to sell their RECs, as they would have no value to voluntary customers or other utilities who wish to have a sole claim on the renewable energy, and they would not be able to purchase electricity without RECs from outside of the state, as they would not be able to commit to their counterparty that they will not claim renewable energy usage despite not having the REC. A PSD program structured in this way would therefore go against the PSD statute's goal of ensuring no double-counting:

> "[E]nsure that there is no double-counting of the greenhouse gas emissions or emissions attributes associated with any unit of electricity production reported by a retail supplier for any specific generating facility or unspecified source located within the Western Electricity Coordinating Council when calculating greenhouse gas emissions intensity."[2]

In addition to separating California from the wider renewable energy market, a policy of not requiring RECs in association with a claim to renewable energy delivery would require that California LSEs contradict Federal Trade Commission (FTC) guidance. Without a REC, a California LSE has no legal right to claim renewable energy delivery. In a 2014 letter to Vermont utility Green Mountain Power Corporation, the FTC warned utilities against making claims to renewable energy without RECs:

> "[P]roviders that sell null electricity to their customers, but sell RECs based on that electricity to another party, should keep in mind that their customers may mistakenly believe the electricity they purchase is renewable, when legally it is not… Therefore, a utility should avoid unqualified or poorly qualified representations that state or imply that its customers will receive renewable electricity from its renewable facilities when, in fact, the utility has sold or will sell RECs from those projects elsewhere."[3]

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[2] Cal. Pub. Util. Code § 398.4(k)(2)(E).

[3] U.S. Federal Trade Commission (FTC). (February 5, 2015). Letter from James A. Kohm, Associate Director, Division of Enforcement, Bureau of Consumer Protection, to R. Jeffrey Behm, Esq.,

In order to prevent double counting and provide customers with useful information related to their renewable energy purchase, the following changes must be made to the PSD Proposal:

+ **RECs must be reported to customers in the year they are retired, not the year they are generated.** If RECs are reported in the year they are generated there is no guarantee that these RECs will not be traded again. A claim on a REC, such as a claim to renewable energy delivery in PSD, must be associated with a retired REC or else the claim is inaccurate.[4]
+ **Do not allow LSE's to include the aggregated generation sources and associated GHG emissions from private contracts in a single PSD of the general or default electricity portfolio delivered to all customers.** LSEs should either be required to: (a) provide distinct a PSD for each product offering; or (b) only provide a PSD for their default offering, which would not include resources sold to customers of distinct product offerings, such as green power programs or green tariffs. Allowing LSEs to include these resources on the default PSD will lead to double counting, de-value private contracts for renewable energy, and could lead to legal issues with those entities who legally own the RECs associated with the generation.
+ **Do not limit deliveries of zero-emissions renewable energy to bundled power purchase contracts.** On a shared grid where tracking of specific generation sources delivered to consumers is not possible, RECs sold separately from their underlying electricity ("unbundled RECs") are functionally equivalent to RECs sold together with their underlying electricity ("bundled RECs") in terms of consumer claims to renewable energy and associated emissions. While there may be value in identifying to customers via a footnote what percentage of renewable energy was delivered via unbundled RECs, these unbundled RECs should also be included within the PCL according to their generating resource.

2 - GREENHOUSE GAS (GHG) EMISSIONS OF ELECTRICITY SHOULD ALIGN WITH DELIVERED ELECTRICITY.

Since PSD is meant to represent the sources of energy associated with the electricity an LSE has delivered to its customers, the GHG emissions intensity factor reported to

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Sheehey, Furlong & Behm, P.C., pp.3-4. Available at: https://www.ftc.gov/system/files/documents/public_statements/624571/150205gmpletter.pdf.
[4] U.S. Environmental Protection Agency (EPA). Green Power Partnership: Making Environmental Claims. Available at: https://www.epa.gov/greenpower/making-environmental-claims.

customers should also represent the power delivered and not the GHG emissions associated with the utility's generation. As such, the GHG calculations used by ARB under the MRR to monitor and control GHG emissions are not appropriate or relevant to customers in this context. From our experience, customers use the information provided in supplier-provided emissions disclosures to calculate and report their emissions associated with purchased electricity. Customers do this reporting according to existing international best practices and protocols, such as the GHG Protocol Scope 2 Guidance ("Scope 2 Guidance"), developed by the World Resource Institute and the World Business Council on Sustainable Development through a multi-year stakeholder consultation process. 3Degrees encourages California to align with the internationally agreed upon methods for calculating carbon emissions for delivered electricity. California can benefit from the consensus method that has been developed to achieve the purposes of PSD. Furthermore, not aligning with these practices would be confusing and detrimental to customers in California.

The Scope 2 Guidance actually identifies supplier-provided fuel mix disclosures as a potential source of data that customers should use to calculate their scope 2 emissions and describes the ideal characteristics of the disclosure. It specifically calls out that customers should make sure that the "supplier-specific emission factor includes emissions from all the energy delivered by the utility, not just the generation assets owned by the supplier"[5]. The Scope 2 Guidance also specifies that customers should ensure that certificates associated with differentiated products should not be included in a default product disclosure, but that it is appropriate for supplier-specific emissions rates to "reflect certificates retired for compliance purposes (such as U.S. state RPS programs) which also convey attributes for public benefit and claims"[6]. 3Degrees encourages PSD alignment with the principles of scope 2 GHG reporting—including that PSD should represent only the resources delivered to those customers receiving the specific PSD, and that renewable energy and its associated emissions should only be claimed if and when RECs are retired on behalf of the customer.

Disclosure of underlying generation and production-based GHG accounting for the purposes of MRR is important to identify who is responsible for producing which emissions, and informs efforts to reduce global GHG emissions. However, this is separate from information on who is consuming those emissions on the grid. The use of RECs in PSD will have no (and should have no) bearing on the emissions profile that generators

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[5] Sotos, M. (2015). GHG Protocol Scope 2 Guidance: An Amendment to the GHG Protocol Corporate Standard. World Resources Institute. p.56. Available online at: http://www.wri.org/sites/default/files/Scope_2_Guidance_Final.pdf.
[6] Ibid.

must report under MRR. Reporting RECs as renewable energy to customers would not allow the generator to report these RECs as zero emissions generation under the MRR. There may well be reason to inform customers of the GHG emissions associated with an LSE's electricity generation, but it should be separately reported out and not included in association with disclosure related to delivered electricity.

The current PSD Proposal conflates delivered electricity and emissions with electricity production and associated GHG emissions. While this is not only inaccurate, it is also extremely confusing to customers.

3Degrees appreciates this opportunity to provide feedback to the CEC on California's PSD Program. 3Degrees would be happy to discuss our recommendations in more detail or answer any questions on this topic. Please do not hesitate to reach out with any questions or comments.

Sincerely,

Maya Kelty

Regulatory Affairs Manager