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San Diego Gas and Electric Comments on AB 1110 Implementation Proposal

Additional submitted attachment is included below.



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August 11, 2017

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

RE: Docket No. 16-OIR-05, Update to the Power Content Label to Comply with AB 1110

Dear Commissioners:

The California Energy Commission (“CEC”) provided its *Assembly Bill 1110 Implementation Proposal for Power Source Disclosure Staff Draft Paper* (“Draft Paper”), which proposes updates to the Power Source Disclosure (“PSD”) format, on June 27, 2017. The updates outlined in the Draft Paper are intended to comply with Assembly Bill (“AB”) 1110, enhance transparency, and provide consistent information across Retail Suppliers (“RSs”) regarding the power mix used to serve customers. The Draft Paper also introduces a new PSD element, the greenhouse gas (“GHG”) emissions intensity, and proposes a method for measuring and reporting this data point on the PSD for any power mix.

San Diego Gas & Electric Company (“SDG&E”) submits these written comments in response to the Draft Paper in an effort to ensure that the ultimate PSD format both provides customers with the correct information regarding the power they consume, and provides RSs with the appropriate incentives for reducing emissions. Before discussing specific proposals within the Draft Paper in detail, it is important to first address several key issues: (i) recognition of the beneficiaries of reliability resources; (ii) consistency with Air Resources Board (“ARB”) and CEC regulations; and (iii) accounting for the power generated by one RS to serve the load of other RS’s. SDG&E believes these issues are critical to address in order for the PSD to reflect the intent of AB 1110.

Treatment of Resources Providing Reliability or GHG Reductions to All Customers in a Service Area

The Draft Paper does not address the concerns raised by SDG&E in its March 14, 2017 comments regarding the treatment of the GHG emissions intensity of resources procured for reliability and policy-driven purposes. Each Investor Owned Utility (“IOU”) has procured reliability resources on behalf of all bundled customers and all non-IOU customers (i.e. customers of other RSs) in its service area. The IOUs have also executed contracts with combined heat-and-power (“CHP”) facilities, as required, to implement ARB’s scoping plan measure for the benefit of all customers, not just their own. Similarly, the IOUs have procured bioenergy resources to address the Governor’s emergency

proclamation.¹ These resources are paid for proportionately by all benefiting customers, who then receive their proportionate share of Resource Adequacy (“RA”) credit. It would be inequitable to assign the benefit of RA to non-IOU RSs without also assigning them the associated GHG emissions (or GHG benefits in the case of BioRAM), yet the Draft Paper currently proposes to do just that by assigning the full GHG emissions intensity of these resources to the purchasing IOU only. If adopted, this approach will result in a PSD that does not accurately reflect the usage of these resources. This can be remedied through a simple calculation whereby the proportionate share of GHG emissions for each reliability resource is calculated and assigned to each RS using the relevant RA allocation. The PSD must make an adjustment for these resources to ensure that the information provided to customers is both accurate and complete.

GHG Intensity Should Parallel the PSD Recording of Generation

AB 1110 requires the CEC to consult with ARB to adopt a methodology for calculating the GHG emissions intensity for each electricity purchase.² However, AB 1110 does not require the GHG intensity calculation on the PSD to mimic ARB’s Mandatory Reporting Regulations (“MRR”) in instances where the MRR is not consistent with legislative intent, the CEC’s own regulations, and the goal of the PSD which is to provide transparency to customers. Mimicking the MRR could encourage resource shuffling through the import of null power, thereby providing less incentive to build new renewable resources to reduce GHG emissions. The Draft Paper in some instances³ perpetuates ARB GHG accounting obscurities (e.g., deviating from the Renewable Portfolio Standard (“RPS”) program in its treatment of product content category (“PCC”) 0 and PCC 2 resources) that could result in a PSD that specifies a high level of RPS procurement and at the same time a GHG intensity higher than the State average – a result that is both internally inconsistent with the CEC’s regulations and confusing for customers. The CEC is solely responsible for implementation of the AB 1110 requirements, and it should ensure that adverse outcomes such as this are avoided.

Treatment of Excess Generation

Given the expansion of new RSs, it is entirely plausible that a RS may be required to dispatch its owned and/or contracted resources beyond its own needs in order to serve the grid. This could result in a situation where the electricity from owned and/or contracted-for generation reported by a RS exceeds its annual sales. The Draft Paper should address this issue. To include the GHG emissions intensity of this excess generation in a RS’s PSD, as would occur under the Draft Paper, would unfairly penalize a RS for owning generation that may be serving others beyond its customers at certain times of the year. This energy would be reflected in the purchasing RS’s PSD as unspecified power purchased from the California Independent System Operator (“CAISO”) market, and should not also be included in the PSD for the RS that generated this power from an owned or contracted-for facility.

¹ On October 30, 2015, Governor Brown issued a Proclamation of a State of Emergency (“Proclamation”) to address the tree mortality crisis in California. The result of the CPUC’s implementation of this requirement is known as the “BioRAM”.

https://www.gov.ca.gov/docs/10.30.15_Tree_Mortality_State_of_Emergency.pdf.

² 398.4(k)(2)(A).

³ Draft Paper, pp. 12-13.

Comments on Specific Proposals in the Draft Paper

Below are additional comments on the specific proposals of the Draft Paper.

RECs

With respect to the treatment of products qualifying under the Renewable Portfolio Standard (“RPS”) program, the Draft Paper proposes that the numerical table within the PSD only include data from contracts where both the renewable energy credit (“REC”)⁴ and the underlying power have been purchased together.⁵ SDG&E supports this proposal as the PSD is intended to provide information to customers regarding the energy they consume so that they can make informed decisions. To achieve this goal, it is important that the PSD reflect only those transactions that result in the actual delivery of power to customers – indeed, the label is called the **power** content label. REC-only agreements, which are paper transactions whereby no electricity is provided to the purchaser, have no impact on the composition, or GHG content, of a RS’s portfolio. Incorporating REC-only data into a table designed to capture delivered generation would therefore create inconsistencies within the PSD and confuse customers. The Draft Paper strikes the proper balance by adding a footnote to capture REC-only transactions⁶ – even though these products do not result in the purchase or delivery of electricity, they are eligible to be used for compliance under the RPS program, and customers should be informed of their usage.

Annual Sales

Several aspects of the PSD as proposed would result in the provision of incomplete information regarding the electricity provided by each RS to its customers.

First, as SDG&E explained in its March 14, 2017 comments, the portfolio composition of each RS’s electricity offering is clear, but the volume of customers participating in each electricity offering is not. As a result, the actual composition of the portfolio provided to all customers of a RS on an aggregated basis is unknown. The law recognizes that information on both a consolidated and electricity offering by electricity offering basis is valuable (398.5(a)), and that transparency is required to enable informed consumer decisions (398.4(b-d)). The CEC itself will receive information from RSs on a consolidated and electricity offering by electricity offering basis (398.5(a)), and there is no reason to not also provide the same level of transparency to customers.

Second, the Draft Paper proposes to exclude from the PSD any electricity used by the RS for water pumping, self-consumption, or municipal load.⁷ This allows a RS the opportunity to assign electricity with the highest GHG emissions intensity to these excluded activities, thereby artificially lowering the GHG emissions intensity reflected in its PSD. To avoid this adverse outcome, all RS’s should either be required to report the GHG emissions intensity for all excluded loads as proposed for private contracts, or required to calculate GHG emissions intensity on a pro-rata basis.

⁴ Unbundled REC purchases have no underlying electricity, see Draft Paper, p. 14.

⁵ Draft Paper, pp. 13-14.

⁶ Draft Paper, p. 14.

⁷ Draft Paper, p. 6.

CHP

The Draft Paper proposes to use the EIA 923 form data to estimate the GHG emissions intensity of CHP facilities, an approach that would utilize the emissions rate of the underlying electric technology.⁸ SDG&E is concerned with this approach as it would not account for the efficiency benefits provided by the joint production of electricity and thermal load. The proposal would overestimate the heat rate of the facility, thereby overestimating the emissions assigned to the electric generation portion of the CHP. This is inconsistent with the approaches used by California State agencies. The CEC should instead use the double benchmark calculation used by the CPUC, as approved in D.10-12-035, to allocate the CHP efficiencies equitably.⁹ The double benchmark calculates the emissions split between electric and thermal based on the standard electric and gas standalone technologies, which would recognize the benefits provided by the joint production and provide a more accurate heat rate and emissions calculation.

Firmed-and-Shaped Products

The Draft Paper proposes to treat firmed-and-shaped products¹⁰ in two distinct ways within the PSD – placing the generation in the relevant renewable technology row in the numerical table, while at the same time using the emissions profile of the substitute energy when calculating the GHG emissions intensity of the resource.¹¹ If adopted, this treatment would not only be inconsistent with the CEC’s own rules and existing law, but would also be confusing for customers.

First, the CEC has already determined that any grandfathered firmed-and-shaped products are eligible renewable resources delivered to California. The second CEC RPS guidebook edition, which was adopted prior to the RPS contract “grandfathering” date,¹² determined that RPS-eligible renewable “electricity is deemed delivered if it is either generated at a location within the state or is scheduled for consumption by California end-use retail customers.”¹³ This language was then clarified to apply to firmed-and-shaped products in the CEC’s third edition issued in 2008 (and maintained in the fourth edition, notably issued in December 2010, following the grandfathering date).¹⁴ The PSD therefore must be consistent with the CEC’s own determination that grandfathered firmed-and-shaped products do indeed result in the delivery of renewable energy to California.

Second, the CEC has also acknowledged that firmed-and-shaped products are eligible renewable resources, and should be given the same treatment as in-State resources, through its reference to Public Utilities Code Section 399.11, most recently in its ninth RPS guidebook edition.¹⁵ The PSD must conform to 399.11, which would preclude classifying firmed-and-shaped products in one way for purposes of recording generation and in another way for calculating GHG emissions.¹⁶ In other words, the law does

⁸ Draft Paper, p. 9.

⁹ D.10-12-035, page 18.

¹⁰ Resources with variable delivery schedules which may be backed up or supplemented with delivery from another source to meet customer load.

¹¹ Draft Paper, pp. 12-13.

¹² June 1, 2010, per Public Utilities Code Section 399.16(d).

¹³ CEC RPS Guidebook, Second Edition, p. 26.

¹⁴ CEC RPS Guidebook, Third Edition, p. 23; Fourth Edition, p. 36.

¹⁵ CEC RPS Guidebook, Ninth Edition, p. 87.

¹⁶ 399.11(c)(2).

not support actions that would dis-incentivize the purchase of firmed-and-shaped products by penalizing the buyer.

Third, allocating a GHG emissions intensity to generation from firmed-and-shaped resources would also undermine the Energy Imbalance Market (“EIM”). The import and export of electricity is central to the EIM. It enables electricity to be used more efficiently through regional coordination, which benefits ratepayers and should be encouraged. Dis-incentivizing the purchase of a particular product through inconsistent treatment on the PSD would unnecessarily restrict this market, thereby reducing the benefits it is intended to create.

Finally, if the Draft Paper’s proposal is adopted, a situation could occur in which a RS’s PSD would show a large volume of renewable procurement based on firmed-and-shaped contracts, but a GHG emissions intensity that is well above the State average by relying on the substitute power. This would be both confusing to customers and inaccurate. The treatment of these products should be looked at through the lens of the PSD’s focus on the sources of power. The RPS program is intended to reduce GHG emissions,¹⁷ and any procurement undertaken for this program that results in delivered energy furthers this goal. The procurement of firmed-and-shaped products pursuant to the State’s RPS, which are considered delivered to California, and required to be treated no differently than resources within the State, should be considered zero-GHG for purposes of the PSD.

The PSD should treat firmed-and-shaped power as renewable in both the numerical table and GHG emissions intensity calculation. This is consistent with the CEC’s own determination and existing law, and would ensure that customers receive accurate information about the actual GHG reductions attributable to the portfolios used to serve them.

Null Power

As with firmed-and-shaped products, the Draft Paper proposes to treat null power in two distinct ways within the PSD – placing it in the “unspecified” row when listing the generation volume, while at the same time treating it as renewable when calculating its GHG intensity.¹⁸ This is problematic for several reasons.

First, inconsistent treatment of null power creates a disconnect between the power sources listed for a particular portfolio, and the accompanying GHG emissions intensity calculated for that portfolio. If the null power is treated as unspecified for the power mix, it should likewise be treated as unspecified in the GHG intensity calculation. Although this solution would be inconsistent with ARB Staff’s interpretation of its regulations, treating null power as unspecified is consistent with the general treatment of null power nationwide.¹⁹

¹⁷ 399.11(b)(4).

¹⁸ Draft Paper, p. 13.

¹⁹ From James A. Kohm, Associate Director Division of Enforcement of the Federal Trade Commission in a letter dated February 5, 2015: “In addressing these issues in the Green Guides, the Commission did not provide specific guidance on the content of REC-related claims made by power producers who generate renewable energy as a substantial portion of their business. However, it did warn that power providers 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. Accordingly, it advised such generators to exercise caution and qualify claims about their generation by disclosing that their electricity is not renewable.”

Second, like California's RPS program, the surrounding states assume the environmental attribute is associated with the REC. For example, if null power originated from an out-of-state renewable generator is treated as specified within the PSD, this could lead to significant double-counting when that out-of-state renewable power is imported into California as this generation would be counted twice – once in the state where the REC is retired and once by a RS importing the null power as a specified import into California.

Finally, treating null power from renewable facilities outside of California as zero-GHG could also encourage significant resource shuffling. A RS with no existing long-term contracts (and therefore not subject to the resource shuffling provisions of ARB's Cap-and-Trade program) would be able to contract for large volumes of existing out-of-state null power (from a renewable source) and report it as zero-GHG. In addition to creating this loophole, considering null power zero-GHG for purposes of calculating the GHG emissions intensity of a portfolio would result in confusion for customers. Under this structure, a RS's PSD may show 100 percent unspecified power, but a very low GHG intensity compared to the State average.

The PSD should treat null power as unspecified in both the numerical table and GHG emissions intensity calculation. This is consistent with industry best practices, and would discourage double-counting and resource shuffling.

In-State Unspecified Power

The Draft Paper proposes to utilize ARB's default emissions factor, which is specific to unspecified imported power, for unspecified in-State power. The rationale being, there is no known clear and reliable method for determining which unspecified sources are imported and which are in-State.²⁰ This is problematic as the unspecified import rate is likely not an accurate reflection of the power mix within California, especially as the State approaches levels of renewable energy that are much higher than the surrounding states. SDG&E believes this issue can be addressed in a way that enhances accuracy by using a two-step process to determine an overall emissions factor for unspecified CAISO market purchases. First, the weighted average emissions factors of the in-State facilities not dedicated to serve a particular RS's load (those facilities not under contract to deliver energy to a RS plus all excess dispatchable generation above the load of a RS from facilities in that RS's portfolio) would be calculated. Second, the result of this calculation, an in-State default factor, could be weighted with the default factor for out-of-state emissions using the portion of imports used to serve the CAISO market over the prior few years. This would result in a more accurate overall emissions factor for unspecified purchases from the CAISO market. It should be noted that treating all market purchases with the same GHG intensity does create an inaccuracy. When market prices are low (due to a high level of renewable generation), a RS may buy from the market rather than generate using combined cycle gas turbine ("CCGT") generation. Under this scenario, the RS would be assigned an emissions rate (the default rate) higher than the CCGT rate, while at the same time purchasing a power mix that includes a significant portion of renewable power (and therefore has a much lower associated emissions rate).

²⁰ Draft Paper, p. 16.

LSE-Based GHG Accounting

In its comments submitted on July 28, 2017, Pacific Gas and Electric (“PG&E”) proposed a new GHG accounting method to be used for the PSD, the Clean Net Short (“CNS”). As SDG&E understands this proposal, each RS’s GHG emission intensity would be calculated using the portion of market power it purchases from the market, tracked on an hourly basis. The basis for this proposal is that a RS may rely heavily on market purchases, yet buy GHG-free generation to offset these purchases, thereby falsely lowering its GHG emission intensity value.²¹ PG&E’s proposal is both transparent and fair, and SDG&E supports it.

Thank you for the opportunity to provide these comments.

Sincerely,

/s/ Tim Carmichael

Tim Carmichael
Agency Relations Manager

²¹ PG&E Comments, pp. 3-4.