

## DOCKETED

<b>Docket Number:</b>	16-OIR-05
<b>Project Title:</b>	Power Source Disclosure - AB 1110 Implementation Rulemaking
<b>TN #:</b>	221204
<b>Document Title:</b>	Peninsula Clean Energy Comments Peninsula Clean Energy Comments On Assembly Bill 1110 - Implementation Draft Proposal for Power Source Disclosure
<b>Description:</b>	N/A
<b>Filer:</b>	System
<b>Organization:</b>	Peninsula Clean Energy
<b>Submitter Role:</b>	Public
<b>Submission Date:</b>	9/18/2017 2:00:16 PM
<b>Docketed Date:</b>	9/18/2017

*Comment Received From: Peninsula Clean Energy*

*Submitted On: 9/18/2017*

*Docket Number: 16-OIR-05*

**Peninsula Clean Energy Comments On Assembly Bill 1110 - Implementation Draft  
Proposal for Power Source Disclosure**

*Additional submitted attachment is included below.*



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September 18, 2017

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

**Re: Peninsula Clean Energy Comments on Assembly Bill 1110 Implementation Draft Proposal for Power Source Disclosure**

Peninsula Clean Energy (“PCE”) hereby submits its comments on the Draft Staff Paper Assembly Bill 1110 Implementation Proposal for Power Source Disclosure (“Draft Proposal”) filed on June 27, 2017. PCE appreciates the California Energy Commission (“Commission” or “CEC”) staff’s (“Staff”) consideration of these comments and hard work on implementation of AB 1110. While PCE supports several of the policy choices made in the Draft Proposal, numerous other elements of the Draft Proposal are troubling and do not conform to the requirements of AB 1110 or other aspects of California law, and could lead to customer confusion, stranded costs, and other problems. PCE also wishes to respond to the alternative proposal made by Pacific Gas & Electric Company (“PG&E”) regarding how greenhouse gas (“GHG”) emissions intensity should be calculated. As discussed below, we encourage the Commission to carefully consider the numerous comments submitted on the record and the concerns raised therein, and to incorporate these recommended changes into its forthcoming draft regulatory language.

**I. Background on PCE**

PCE is the fifth Community Choice Aggregation (“CCA”) program formed in the State of California pursuant to Section 366.2 of the Public Utilities Code. PCE is a Joint Powers Authority formed on February 29, 2016 pursuant to the California Government Code by the County of San Mateo and each of the twenty incorporated cities therein. PCE commenced service in October 2016 and, as of April 2017, PCE supplies electricity to all of its approximately 300,000 customers.

**II. Comments on the Draft Proposal**

PCE strongly supports the comments made by the California Community Choice Association (“CalCCA”), of which PCE is a member, and numerous other stakeholders on the following issues:

**A. To Avoid Double-Counting, the Purchase of Renewable Resources Should Be Reported Based on the Year the Associated REC is Retired.**

Under the current Draft Proposal, a REC has to be reported in the same year that the associated power is generated.<sup>1</sup> PCE respectfully recommends that this element of the Draft Proposal be modified so that retail suppliers are required to disclose the purchase of eligible renewable energy resources based on the year the REC is *retired*. This modification was supported in comments on this record by 3Degrees, Alliance for Retail Energy Markets (“AREM”), Bear Valley Electric Services (“Bear Valley”), CalCCA, Center for Climate Protection, Center for Resource Solutions (“CRS”), Liberty Utilities (CalPECO Electric) LLC (“Liberty Utilities”), Sempra Energy Services (“Sempra Services”), the San Francisco Public Utilities Commission (“SFPUC”), and The Climate Registry.

The Draft Proposal is inconsistent with the Renewables Portfolio Standard (“RPS”) program, which requires a REC to be reported in the year it is retired and provides a three-year compliance period.<sup>2</sup> The Draft Proposal would make RPS reports and RPS Adjustments under the California Air Resources Board’s (“ARB”) Cap-and-Trade program inconsistent with Power Source Disclosure (“PSD”) reports, leading to customer confusion. As CalCCA pointed out, the Draft Proposal’s position would also create untenable reporting requirements for load-serving entities (“LSEs”) where portfolio contracts are often delivered over multi-year periods.<sup>3</sup>

The most significant problem with the approach taken in the Draft Proposal is that could lead to lead to double counting of RECs. As the CRS explained, if a REC is not properly retired, it can be sold off and used for other state RPS programs or for other environmental attribute claims, either in California or elsewhere.<sup>4</sup> The Draft Proposal would thus violate AB 1110, which requires the CEC to “ensure” that there is no double-counting of emissions attributes associated with electricity production for GHG emissions intensity reporting.<sup>5</sup> As CalCCA and others explained, this would mislead consumers and could lead to illegal environmental marketing claims by LSEs.<sup>6</sup>

Thus, PCE recommends that the draft regulatory language provide that all types of RECs are reported in the year the REC is be retired.

**B. The GHG Emissions Intensity of Firmed-and-Shaped Products Should Be Based on the Emissions Profile of the Resource Type of the Transacted RECs.**

While the Draft Proposal would rightly categorize firmed-and-shaped electricity products in the power mix according to the resource type of the transacted RECs,<sup>7</sup> it takes and inconsistent and incorrect position that, with respect to GHG emissions intensity, firmed-and-shaped

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<sup>1</sup> Draft Proposal at 11. The Draft Proposal correctly finds that *unbundled* RECs should be reported in the year they are retired. *Id.* at 14. The reasoning behind this element of the Draft Proposal should apply to all RECs.

<sup>2</sup> Cal. Pub. Util. Code § 399.21(a)(7).

<sup>3</sup> CalCCA Comments on Assembly Bill 1110 Implementation Draft Proposal for Power Source Disclosure (Jul. 28, 2017) (“CalCCA Comments on Draft Proposal”) at 2.

<sup>4</sup> CRS Comments on proposed Pre-Rulemaking Scoping Questions to PSD Regulations (March 15, 2017) (“CRS Scoping Comments”) at 3.

<sup>5</sup> Cal. Pub. Util. Code § 398.4(k)(2)(E).

<sup>6</sup> *See, e.g.*, CRS Scoping Comments at 2.

<sup>7</sup> Draft Proposal at 13.

transactions are to be categorized based on the substitute electricity.<sup>8</sup> PCE joins in the critiques of this approach made by AReM, American Wind Energy Association California Caucus, Bear Valley, CalCCA, Northern California Power Agency (“NCPA”), Pacific Gas & Electric (“PG&E”), Sonoma Clean Power, San Diego Gas & Electric (“SDG&E”), Sempra Services, Shell Energy North America (US), L.P., Sacramento Municipal Utilities District (“SMUD”), The Climate Registry and the Turlock Irrigation District with respect to this issue.

As other parties have pointed out, assigning positive GHG emissions to firmed-and-shaped products would be inconsistent with the RPS, which expressly permits the use of such products for compliance<sup>9</sup> and prohibits discrimination against out-of-state electricity,<sup>10</sup> the RPS Adjustment rules,<sup>11</sup> as well as the GHG Protocol Scope 2 Guidance for the accounting and reporting of GHG emissions.<sup>12</sup> The Draft Proposal’s position on this issue would have the consequence of de-valuing already-contracted firmed-and-shaped electricity products and their associated RECs, leaving ratepayers with stranded costs.

The AB 1110 regulations should treat firmed-and-shaped products in a manner that is consistent with the Draft Proposal’s approach to the power mix disclosures. For purposes of reporting GHG emissions intensity, firmed-and-shaped products should be categorized according to the emissions profile of their transacted, bundled RECs, and the draft regulatory language should reflect this.

### **C. The Generation Resource Type Associated with Unbundled RECs Should Be Reported in the Power Mix, and Generation Associates with the RECs Should Count as Emissions-Free**

The Draft Proposal would exclude unbundled RECs from the eligible renewables category of the power mix.<sup>13</sup> The PSD regulations should instead account for the fact that unbundled RECs provide proof of renewable electricity generation from an eligible renewable resource and legally include the associated environmental attributes resulting from the use of renewable generation.

PCE does support the staff’s Draft Proposal to reflect the percentage of retail sales associated with unbundled RECs on the PCL as a footnote.<sup>14</sup> It would be fair, and consistent with AB 1110, to disclose this information to customers.

With respect to reporting of an LSE’s power mix, however, AB 1110 does not provide that unbundled RECs be excluded from the PCL.<sup>15</sup> As CalCCA noted, excluding unbundled RECs from the eligible renewables category in the PCL would provide consumers with an inaccurate and misleading emissions profile of the power mix of its retail supplier.<sup>16</sup> The inconsistency with the RPS statute would also create customer confusion. Instead, an LSE’s

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<sup>8</sup> *Id.* at 12.

<sup>9</sup> Cal. Pub. Util. Code § 399.16(b)(2), (c).

<sup>10</sup> *See* § 399.11(e)(2).

<sup>11</sup> 17 CCR § 95852(b)(4).

<sup>12</sup> World Resources Institute, *GHG Protocol Scope 2 Guidance: An Amendment to the GHG Protocol Corporate Standard*, available at [http://www.wri.org/sites/default/files/Scope\\_2\\_Guidance\\_Final.pdf](http://www.wri.org/sites/default/files/Scope_2_Guidance_Final.pdf).

<sup>13</sup> Draft Proposal at 14.

<sup>14</sup> *Id.*; *see also* SMUD Pre-Rulemaking Scoping Comments at 5.

<sup>15</sup> *See* Cal. Pub. Util. Code § 398.4(h)(7).

<sup>16</sup> CalCCA Comments on Draft Proposal at 6.

customers should see information about the renewable attributes of RECs purchased on their behalf in the power mix.

PCE joins in the comments made in this docket thus far by 3Degrees, AReM, Bear Valley, CalCCA, California Municipal Utilities Association, CRS, Los Angeles Department of Water & Power, Liberty Utilities, NCPA, SFPUC, Sierra Club, SMUD, The Climate Registry, and The Utility Reform Network/ Coalition of California Utility Employees (“TURN/CUE”)<sup>17</sup> supporting the concept that the generation source type associated with unbundled RECs should be reported as renewable in the power mix.

Staff further proposes that unbundled RECs not be included in GHG emissions intensity calculations.<sup>18</sup> PCE joins in the arguments made by CalCCA, CRS, NCPA, SFPUC, SMUD and The Climate Registry that the clean, emissions-free environmental attributes associated with unbundled RECs are purchased on behalf of LSE customers and should be reflected in the GHG emissions disclosures under the PCL. Thus, Staff’s initial position on this issue should be reversed in the draft regulatory language.

#### **D. An Asset Controlling Supplier’s Specific System Mix Should be Used for Categorization under the Power Mix**

Staff’s Draft Proposal makes the right policy choice by assigning ACS-specific GHG emissions factors to ACS resources, as determined under the ARB’s Mandatory Reporting Regulation (“MRR”).<sup>19</sup> This element of the Draft Proposal is supported by CalCCA, the Center for Climate Protection, PG&E, Powerex, and Sonoma Clean Power.

Although the Draft Proposal determined that it was able to assign ACS-specific emissions factors based on data submitted by the suppliers for purposes of GHG emissions intensity reporting, it would categorize purchases from ACSs as *unspecified power* for purposes of the power source disclosure.<sup>20</sup> These two positions are inconsistent. Staff’s proposal would fail to make use of data which are available, and are important for accurate customer disclosure, as required by AB 1110.<sup>21</sup> Instead, ACS products should be categorized based on the ACS-specific sources, which are knowable and reported. Further, as CalCCA pointed out in its comments, under the MRR, once an ACS is approved and an emissions factor assigned by ARB, “ACS power procured from an ACS’s system is considered specified source power.”<sup>22</sup> PCE supports the comments made by CalCCA, Center for Climate Protection, Powerex, and Sonoma Clean Power recommending that electricity sourced from ACSs be categorized within the power mix as specified power.

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<sup>17</sup> TURN/CUE argued in comments on the scoping questions in this docket that unbundled RECs should be under the “renewable” category in the power mix, but separately categorized as “REC only.” Matthew Freedman Comments: The Utility Reform Network and The Coalition of California Utility Employees PSD Pre-Rulemaking Workshop (March 15, 2017) at 9.

<sup>18</sup> Draft Proposal at 14.

<sup>19</sup> *Id.* at 16.

<sup>20</sup> *Id.*

<sup>21</sup> See Cal. Pub. Util. Code § 398.1(b) (requiring disclosure of “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.”).

<sup>22</sup> CalCCA Comments on Draft Proposal at 7 (citing California Air Resources Board, ARB Specified Source Electrical Imports Greenhouse Gas Reporting, Frequently Asked Questions (May 23, 2014) at 5, *available at* [https://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep-power/specified\\_source\\_acs\\_faqs.pdf](https://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep-power/specified_source_acs_faqs.pdf)).

### III. Comments on PG&E’s “Clean Net Short” Proposal

In its comments on the Draft Proposal, PG&E suggests that the methodology for calculating and reporting GHG emissions intensity as provided in AB 1110 and the Draft Proposal should be entirely revised. It suggests a new methodology (the “Clean Net Short”) that would assign system-wide GHG emissions, calculated on an hourly basis, to individual LSEs.<sup>23</sup> PCE asserts that this proposal is both inconsistent with and unable to be implemented under existing California law.

First, PG&E’s Clean Net Short proposal requires the calculation of *hourly* electric system GHG emissions by the Commission.<sup>24</sup> PG&E does not explain how this could be accomplished or what hourly data the Commission would use to make this calculation. For example, the MRR requires reporting of annual emissions only.<sup>25</sup> The Clean Net Short concept also requires the use of hourly generation source data for each LSE. It is unclear how the Commission would obtain this data under existing law. AB 1110 does not require the reporting by LSE of its purchased generation on an hourly basis. Instead, AB 1110’s directive with respect to GHG emissions intensity reporting requires annual data.<sup>26</sup> Thus, PG&E’s proposal is inconsistent with state law as well as impracticable.

PG&E’s proposed Clean Net Short methodology is further inconsistent with AB 1110 because it assigns GHG emissions from the entire electric system to an individual LSE (after subtracting “owned or contracted GHG-free and non-dispatchable resources”). This turns the GHG emissions intensity reporting requirement under AB 1110 on its head. 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*.”<sup>27</sup> The statute requires each applicable retail supplier to disclose “*its* electricity sources and *the associated greenhouse gas emissions intensity* for the previous calendar year.”<sup>28</sup> And finally, AB 1110 requires the Commission to adopt a methodology for the calculation of GHG emissions intensity “*for each purchase of electricity* by a retail supplier to serve its retail customers.”<sup>29</sup> Thus, the Legislature was very specific in providing that GHG emissions intensity is derived based on a specific generation source. PG&E’s proposal would completely alter what is required by statute in the PCL by assigning system-wide hourly emissions to individual LSEs.

Moreover, it is not reasonable or accurate to attribute system-wide emissions to individual LSEs because such entities are serving loads in different locations and use specific resources to serve their load. For instance, a peaking plant operating in one region serving local grid operations should not impact GHG emissions reporting by an LSE in another region. By

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<sup>23</sup> Pacific Gas & Electric Comments on Proposed AB 1110 Implementation (July 28, 2017) (“PG&E Draft Proposal Comments”) at 4-5.

<sup>24</sup> PG&E Draft Proposal Comments at 4.

<sup>25</sup> See, e.g., 17 CCR § 95111(b)(1), (2).

<sup>26</sup> Cal. Pub. Util. Code § 398.2(a) (defining “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.”) (emphasis added); §398.4(a) (“Every retail supplier that makes an offering to sell electricity that is consumed in California shall disclose its electricity sources and the associated greenhouse gases emissions intensity *for the previous calendar year*.”) (emphasis added).

<sup>27</sup> § 398.2(a) (emphasis added).

<sup>28</sup> § 398.4(a) (emphasis added).

<sup>29</sup> § 398.4(k)(2)(A) (emphasis added).

aggregating system impacts without regional distinctions, this methodology would inaccurately assign GHG emissions to LSEs.

PG&E's proposal backs out hourly generation from "owned or contracted GHG-free and non-dispatchable resources."<sup>30</sup> It is unclear what this term means and what counts as "owned or contracted." If this calculation excludes unbundled RECs (which PG&E argues should not qualify as emissions-free resources), then this calculation would portray an inaccurate calculation of the GHG-emissions associated with the LSE's portfolio. Further, if the Commission were to not calculate the emissions intensity of firmed-and-shaped transactions according to the emissions intensity of the contracted renewable energy (as evidenced by the RECs), then this would further lead to an inaccurate and unfair allocation of GHG emissions to an LSE.

Finally, and most importantly, PG&E's proposal would be confusing to customers, which is contrary to the stated purpose of AB 1110 to ensure that entities offering electric service "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 service."<sup>31</sup> For these reasons, PCE recommends that the Clean Net Short proposal not be adopted by the Commission in its regulation.

#### **IV. Conclusion**

PCE respectfully requests that the Commission's draft regulatory language incorporate these and other parties' comments on the Draft Proposal, as articulated above, to be consistent with existing California law and the statutory purpose of AB 1110.

Respectfully submitted,

/s/

Joseph Wiedman  
Director of Regulatory and Legislative Affairs

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<sup>30</sup> PG&E Draft Proposal Comments at 4.

<sup>31</sup> Cal. Pub. Util. Code § 398.1(b).