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NCPA Comments re Revised Staff Proposal on AB 1110 Implementation

Comments of the Northern California Power Agency on the Revised Assembly Bill 1110 Implementation Proposal For Power Source Disclosure Program Draft Staff Paper And Workshop.

Additional submitted attachment is included below.

BEFORE THE CALIFORNIA ENERGY COMMISSION

**In the matter of:
AB 1110 Implementation Rulemaking**

Docket No. 16-OIR-05

COMMENTS OF THE NORTHERN CALIFORNIA POWER AGENCY ON THE REVISED ASSEMBLY BILL 1110 IMPLEMENTATION PROPOSAL FOR POWER SOURCE DISCLOSURE PROGRAM DRAFT STAFF PAPER AND WORKSHOP

The Northern California Power Agency¹ (NCPA) submits these comments to the California Energy Commission (CEC or Commission) on the *Revised Assembly Bill 1110 Implementation Proposal for Power Source Disclosure Draft Staff Paper* (Revised Staff Paper) issued on January 17, 2018 and the February 1, 2018 pre-rulemaking workshop hosted by Commission staff. Like the initial Staff Paper issued last year,² the Revised Staff Paper is intended to set forth a proposal for amendments to the current Power Source Disclosure (PSD) program to implement the mandates of Assembly Bill (AB) 1110 and provide consumers with meaningful data about their utility's electricity procurement. NCPA urges the Commission to incorporate further revisions into the Revised Staff Paper to address the seeming disconnect between the way in which information would be displayed on the Power Content Label (PCL) and the manner in which the same data is used to determine load serving entities' compliance obligations under existing environmental and energy regulations and mandates.

I. Introduction

NCPA has long been a proponent of ensuring that the PCL and PSD regulation ensure that consumers are provided with timely and accurate information regarding the generation resources utilized by their respective electric utilities. This information must reflect the full panoply of utility electricity procurement. In order to avoid consumer confusion, the information

¹ NCPA is a nonprofit California joint powers agency established in 1968 to construct and operate renewable and low-emitting generating facilities and assist in meeting the wholesale energy needs of its 16 members: the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, Shasta Lake, and Ukiah, Plumas-Sierra Rural Electric Cooperative, Port of Oakland, San Francisco Bay Area Rapid Transit (BART), and Truckee Donner Public Utility District—collectively serving nearly 700,000 electric consumers in Central and Northern California.

² *Assembly Bill 1110 Implementation Proposal for Power Source Disclosure, Draft Staff Paper* (Initial Staff Paper), dated June 27, 2017.

provided must acknowledge the fact that electricity delivered in any given hour comes from a number of different generation sources, is transported through a complex system of distribution and transmission lines, and is the result of long-term procurement planning decisions that factor in myriad regulatory and operational mandates and constraints. To that end, NCPA has supported the guiding principles and considerations upon which the initial staff proposal was based. NCPA reiterates its support for a revised PSD program that 1) relies on the most recent verified greenhouse gas (GHG) emissions data in developing GHG emissions intensity factors for specified and unspecified sources of power, while ensuring that these factors are made available to retail suppliers with sufficient notice to permit timely reporting under PSD, 2) ensures there is no double-counting of GHG emissions or environmental attributes, 3) minimizes the reporting burden on retail suppliers, and 4) aligns with other state energy and GHG emissions programs.³

NCPA appreciates the efforts that staff has taken to reach out to stakeholders and solicit comments on the Initial Staff Paper. Unfortunately, as set forth more fully below, the Revised Staff Paper fails to respond to many of the concerns raised by several stakeholders in the first round of comments, including those highlighted by NCPA. This includes the fact that the proposed PSD amendments do not align with or meet the objectives set forth above, and without further revisions, will result in consumer confusion about their utility's procurement practices. NCPA also remains concerned that the treatment of renewable energy credits (RECs) and unbundled RECs set forth in the Revised Staff Paper is inconsistent with existing statutory provisions dealing with RECs, and the manner in which the renewable energy markets function.

In order to avoid redundancies, NCPA does not reiterate the information set forth in its August 11, 2017 comments⁴ or during the February 1st workshop, except to note that the staff presentation and revisions to the current proposal do not address the complexities that were raised in those comments. NCPA echoes the numerous stakeholder requests for Commission staff to engage in further discussions with stakeholders to address these deficiencies. There is definitely value in further discussing the substantive issues raised by stakeholders, both in the first round of comments, and again at the February 1st workshop.

³ See Guiding Principles, Initial Staff Paper, p. 4, Revised Staff Paper, pp. 4-5.

⁴ See [Comments of the Northern California Power Agency on the Assembly Bill 1110 Implementation Proposal for Power Source Disclosure Program Staff Paper and Workshop](#), dated August 11, 2017.

II. The Current Staff Proposal Will Create Confusion for Consumers and Policymakers.

The PSD regulation is separate from procurement and emissions compliance obligations, yet it cannot be denied that the “label” will be used by many to assess such compliance. Therefore, it is within this context that the Commission should consider revisions to the regulation. The myriad factors that go into resource planning and procurement are based on both current and past policies and mandates; implementation of AB 1110 must safeguard against the creation of any adverse impacts on the complex electricity markets due to the manner in which this information is conveyed to the public or used by state policymakers. It is important that revisions to the way electricity generation and carbon intensity information is conveyed in the PSD not drive changes in the renewable procurement markets.

As NCPA has noted, the state’s electric utilities and electricity service providers are charged with providing “safe, reliable, and reasonably priced electricity to their customers while complying with a myriad of programs and measures that impact the manner in which they must do so.” The increasing overlap between environmental regulations and programs administered by different state agencies necessitates greater collaboration between agencies such as the Commission and the California Air Resources Board (CARB), as well as the California Public Utilities Commission. Implementing legislation like revisions to the PSD cannot be done in a vacuum.

NCPA raised concerns that the proposed changes to the PSD would result in a PCL that creates confusion among consumers seeking to understand the relationship between a utility’s resource mix and the carbon footprint of that resource. Nothing in the Revised Staff Paper alleviates those concerns and in fact, as drafted, the label seems almost destined to ensure that consumers will be unable to truly understand their utility’s electricity supply, and certainly not in the context of the utility’s compliance with the panoply of environmental and procurement mandates that are administered by the Commission and its sister agencies. In order to address this, NCPA believes that there should be further discussions addressing stakeholder concerns, as well as the manner in which the current staff proposal can accurately reflect the legislative intent in enacting the revisions to the PSD rules.

NCPA was active in the legislative process leading up to the amendments at issue. It is incumbent upon the Commission to ensure that the amendments to the regulation correctly

reflect the intent behind the legislation.⁵ This includes the objective to harmonize the information provided in the PCL with existing reports and regulations.⁶

III. The Staff Proposal Should Not Ignore the Full Range of Renewable Energy Investments Authorized by the Legislature.

NCPA was one of several stakeholders that expressed concerns that the staff’s proposed treatment of renewable resources that are firmed and shaped incorrectly characterizes the true value and non-GHG nature of these resources.⁷ This restriction also fails to recognize that the legislature specifically authorized utilities to use RECs and imported renewable energy to meet their renewable energy compliance mandates.⁸ Staff’s proposal to omit the use of unbundled RECs from the label ignores industry practices that recognizes that “unbundled RECs represent all of the environmental attributes – including the emissions profile – of the underlying resource that produced them, and are acquired at a premium for that reason.” This approach also presents the same problem as double-counting emissions reductions or environmental attributes. The Commission’s Guiding Principles for implementing the provisions of AB 1110 speak to avoiding counting of GHG emissions twice.⁹ Under the current staff proposal, renewable resources delivered into California via firmed and shaped contracts will likely never be counted as zero- or low-emissions resources, since it is likely that no one will count the GHG-free attribute of those sources, because the buyer of the null power will not have an emissions reporting requirement. Additionally, even those emissions that are reported under a different regime, those reporting guidelines (unlike the CEC proposal) are likely to require reporting of the null power purchase as having a system power emissions profile. The proposal should be revised to avoid such inconsistencies.

Although separate, GHG and RPS programs are interrelated, and the PSD should not create a reporting paradigm that fails to recognize this interaction. The legislature specifically authorized the use of unbundled RECs and imported renewable energy for RPS compliance. In

⁵ See also, [Comments of the California Municipal Utilities Association on Staff Pre-Rulemaking Workshop on Updates to the Power Source Disclosure Regulations](#), dated August 11, 2017.

⁶ See August 28, 2016, Assembly member Ting's Letter to the Daily Journal (excerpt); http://docketpublic.energy.ca.gov/PublicDocuments/16-OIR-05/TN215755_20170203T095647_Jordan_Scavo_Comments_Assemblymember_Ting's_Letter_to_the_Daily.pdf.

⁷ See NCPA August 2017 comments, pp. 4-5.

⁸ Public Utilities Code sections 399.16 and 399.30.

⁹ See Guiding Principles, Revised Staff Paper, pp. 4-5.

fact, the legislation went so far as to specifically recognize that such renewable energy investments pre-dated the increased RPS mandates. The Revised Staff Proposal disregards this express authorization and clear legislative intent. The disconnect between the long-term procurement decisions and the annual report, if displayed in a manner that does not recognize the differences, has the potential to adversely impact the public perception of a utility's compliance with the state's energy and climate mandates, and undermine the value of resources that were procured consistent with policies and mandates in existence at that time. Because of this, it is critically important that the Commission take steps to ensure that the PSD is not represented as a measure of compliance with any of these programs or measures, or a reflection of reasonableness of a utility's procurement practices. Nor should utility procurement practices be driven by or skewed by holding out the PSD as a measure of compliance with any particular climate mandate.

Staff's stated rationale for continuing to advance the proposal fails to respond to the concerns raised by stakeholders. As such, NCPA urges the Commission to continue dialogue with stakeholders on revisions to the proposal to ensure that renewable resources, including unbundled RECs, are reported in the PSD in a way that accurately captures the true value of these resources procured by the utility for the benefit of its ratepayers.

IV. Greater Alignment Between Data Sources is Needed.

In its August 2017 comments, NCPA noted that state agencies must treat emissions from the same sources in the same manner. For example, requiring the reporting of fugitive emissions from geothermal resources in the PSD is inconsistent with determining a utility's emissions compliance obligation under the cap-and-trade program. Such disparate treatment should be avoided in order to ensure that those looking at a utility's electricity supply do not see "compliance" as measured by one agency as "noncompliance" when viewed by another agency.

Similarly, the PSD must recognize the limitations in the data reported to CARB under the mandatory reporting regulation (MRR). As previously noted "the data provided by the utility that is responsible for completing the PSD is not always going to align with the data submitted by the reporting entity under the MRR."¹⁰ One way to help ensure that the data obtained from the MRR is aligned with the PSD in light of the fact that the two reports serve significantly different purposes, is to recognize any resource that is a considered a zero-carbon resource in the

¹⁰ NCPA August 2017 comments, p. 3.

cap-and-trade program as a zero-carbon resource for purposes of calculating GHG emission factors under the PSD. NCPA urges Commission staff to further revise the AB 1110 proposal to include this tracking metric.

V. CONCLUSION

NCPA urges staff to convene additional meetings with interested stakeholders and to draft further changes to the AB 1110 implementation proposal to reflect the written and oral comments of NCPA and other stakeholders to ensure that the power source disclosure provides the state's consumers with accurate and meaningful information about the electricity procured by their utility. Please do not hesitate to contact the undersigned or Scott Tomashefsky at 916-781-4291 or scott.tomashefsky@ncpa.com with any questions.

Dated this 23rd day of February 2018.

Respectfully submitted,



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