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LADWP Comments on AB 1110 Implementation Proposal for Power Source Disclosure, Third Version

Additional submitted attachment is included below.

**BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA**

In the matter of:)	Docket No. 16-OIR-05
)	
AB 1110 Implementation Rulemaking)	NOTICE OF AVAILABILITY AND
)	REQUEST FOR COMMENTS
_____)	RE: AB 1110 Implementation

**COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) TO THE
CALIFORNIA ENERGY COMMISSION (CEC) ON ASSEMBLY BILL 1110 IMPLEMENTATION
PROPOSAL FOR POWER SOURCE DISCLOSURE, THIRD VERSION (OCTOBER 2018)**

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Dated: October 25, 2018

**BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA**

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The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to review and comment on the proposed changes to the Power Source Disclosure (PSD) Regulation and Power Content Label in response to Assembly Bill 1110 (Ting, 2016): *Greenhouse gases emissions intensity reporting by retail electricity suppliers*.

The LADWP is a vertically-integrated publicly-owned electric utility of the City of Los Angeles, serving a population of over 4 million people within a 465 square mile service territory covering the City of Los Angeles and portions of the Owens Valley. The LADWP is the third largest electric utility in the state, one of five California balancing authorities, and the nation’s largest municipal utility. The LADWP’s mission is to provide clean, reliable water and power in a safe, environmentally responsible, and cost-effective manner.

Below are LADWP’s comments on the CEC’s staff paper titled *Assembly Bill 1110 (AB 1110) Implementation Proposal for Power Source Disclosure, Third Version* that was posted on October 9, 2018.

1) Support the use of Renewable Energy Credits (RECs) to substantiate retail-level renewable energy claims, treating null power as unspecified power, and grandfathering existing firmed-and-shaped imported renewable energy as zero emission.

LADWP agrees with and supports the following changes described in the Executive Summary section of the October 2018 AB 1110 implementation proposal staff paper:

- Use of RECs to track retail-level renewable energy claims: RECs are tracking instruments that include all the renewable and environmental attributes associated with renewable electricity production. The summary states that “direct deliveries of renewable generation must include the procurement of the associated renewable energy credits for fuel type and greenhouse gas emissions accounting in Power Source Disclosure.” We agree it is appropriate to require the procurement of the

associated RECs with the energy in order to claim the delivered electricity as zero emission, and support this approach.

- Null Power: the summary states that “null power will be assigned the fuel type and GHG emissions profile of unspecified electricity.” We agree because RECs track ownership of the renewable generation attributes, so energy without the RECs should be treated as unspecified.
- Grandfathering Adjustment: the CEC staff “proposes a temporary provision for historical firm-ed-and-shaped contracts that will allow a retail supplier to claim the fuel type and emissions profile of the procured renewable energy credits.” We agree that firm-ed-and-shaped delivery of renewable energy in conjunction with ownership of the RECs should be treated as zero emission. We disagree with the proposed expiration of this provision. There should be no end date for grandfathered procurement (power purchase agreements) or owned renewable energy facilities.

In addition, LADWP agrees with the following statement in the Proposed Accounting Methodology, Fuel Mix Reporting section of the staff paper: “Staff further proposes that a retail supplier’s electricity transactions may be classified as renewable fuel types if the electricity is matched with RECs through a directly delivered or firm-ed-and-shaped transaction. Renewable electricity must be transacted with the associated RECs to substantiate a retail supplier’s retail-level claim on renewable generation. Renewable generation that is not transacted with the associated RECs (null power) will be classified as unspecified electricity for the fuel mix and assigned the default emissions factor of unspecified electricity.

In the Greenhouse Gas (GHG) Emissions Accounting section, the CEC staff is proposing that the emissions associated with firm-ed-and-shaped imports reflect the GHG profile of the substitute electricity. This treatment should apply only to new procurements of firm-ed-and-shaped products after December 31, 2018 or the effective date of the regulations, whichever is later, and does not apply to grandfathered investments in firm-ed-and-shaped products.

2) No sunset date for grandfathering of firm-ed/shaped imported renewable energy

California utilities made investments years ago in out-of-state renewable generating facilities to comply with California’s Renewable Energy Portfolio Standard (RPS). For out-of-state renewable generating facilities, it is common for the local Balancing Authority in which the generating facility is located to balance the intermittent output of the renewable generating facility, then an equivalent amount of firm-ed-and-shaped energy is delivered to the California utility. The original energy procured (e.g. wind) is zero emission, and the firm-ed-and-shaped delivery is for transmission purposes and does not change the nature of the original zero emission energy procured.

The staff paper correctly recognizes these investments in out-of-state renewable generating facilities by proposing a grandfathering provision that would classify firm-ed-and-shaped imports under existing contract, according to the emissions profile of the renewable

generator and the associated RECs. LADWP appreciates this proposal to treat existing investments in firmed-and-shaped renewable energy (in conjunction with the associated RECs) as zero emission. However, the staff paper states “The grandfathering provision will expire by the end of the initial firming-and-shaping contract or by December 31, 2024, whichever occurs sooner.”

This grandfathering provision should have no expiration or end date. LADWP has ownership in one wind farm and long term power purchase agreements with three other wind farms located in the Pacific Northwest, where the only practical means of delivery of the energy produced by the wind farms is by firming-and-shaping. Variable energy resources such as these wind farms cannot be directly delivered down the Pacific Northwest Direct Current (DC) transmission line because dynamic tags are not allowed on the DC line. These power purchase agreements were entered into in 2008 and 2009 with duration of 15 to 20 years, with the last contract expiring in 2029. Of course, ownership does not have an expiration date. This grandfathering provision should apply to the retail supplier’s power purchase agreement with, or ownership in, the renewable generating facility rather than the firming-and-shaping contract, because the retail supplier may contract with several different firming-and-shaping contractors to deliver the energy over the course of a 20-year power purchase agreement.

There is no reason for the Power Source Disclosure Program to attempt to influence business decisions (e.g. means of delivering renewable energy) or strip away benefits of investments in out-of-state renewable generating facilities made years ago. The grandfathering provision should not expire, but rather should apply for the lifetime of the relationship between the California retail supplier and the out-of-state renewable generating facility. It makes no sense to stop recognizing in 2024 the zero emission energy procured from out-of-state renewable generating facilities, given that Senate Bill 100 (De Leon, 2018) *California Renewables Portfolio Standard Program: emissions of greenhouse gases* requires California retail electricity suppliers to achieve a 60% RPS target by December 31, 2030, and a 100% eligible renewable energy resources and zero-carbon resources target by December 31, 2045.

3) Recommend reporting unbundled RECs as a separate category under “Eligible Renewables” and including unbundled RECs in the total Eligible Renewable percentage on the Power Content Label rather than in a footnote.

AB 1110 requires the disclosure of unbundled RECs, but does not require that unbundled RECs be excluded from the total Eligible Renewables percentage on the Power Content Label. The Power Content Label is a tool to convey information to customers in an easy-to-understand format, including the percent Eligible Renewable products procured by the California retail supplier on behalf of its customers each year. Historically, the renewable energy percentage on the Power Content Label has been approximately the same as the renewable energy percentage required by the RPS program because it included all Eligible Renewable products procured (including unbundled RECs). The proposal to exclude unbundled RECs from the Eligible Renewables section of the Power Content Label would fail

to recognize the utility's procurement of an RPS eligible product, and make it appear to customers that the retail supplier fell short of achieving the RPS target, despite the footnote that "The Power Content Label does not demonstrate compliance with California's RPS."

To avoid the appearance that the retail supplier fell short of achieving the RPS target, thus creating the potential for customer concern or confusion, LADWP recommends adding a sixth category called "Unbundled RECs" in the Eligible Renewable section of the Power Content label rather than placing that data in a footnote. We believe this approach will provide the desired transparency while still recognizing that unbundled RECs are an RPS eligible product, so that the total Eligible Renewables percentage reflects all RPS eligible products procured during the year.¹

Historically, unbundled RECs have been included in the Eligible Renewable section of the Power Content Label. The addition of GHG emissions intensity to the Power Content Label should not result in excluding unbundled RECs from the total Eligible Renewables percentage. The treatment of unbundled RECs in the Eligible Renewable percentage should be independent from treatment of unbundled RECs in the Greenhouse Gas (GHG) emissions intensity calculation.

4) Unbundled RECs should not have to be retired to be reported on the Power Content Label.

LADWP disagrees with the proposed requirement that unbundled RECs be retired prior to including them on the Power Content label. The Power Content Label is supposed to reflect procurement of electricity to serve retail customers during the previous calendar year. If the Power Content Label does not demonstrate compliance with California's RPS, why impose a requirement that unbundled RECs be retired (which is an RPS compliance requirement) prior to showing them on the Power Content Label? In addition, there is a timing issue with this proposed requirement, because the deadline to retire RECs for RPS compliance is July 1 which is after the June 1 due date for the Power Source Disclosure report. Furthermore, RECs may not be retired every year, but rather held and retired in a later year when the retail supplier knows how many RECs need to be placed in the retirement account to satisfy the RPS compliance obligations for the previous years. Therefore, the proposed requirement that RECs be retired before reporting them on the Power Content Label could result in a mismatch between when the unbundled REC was procured and when it was reported on the Power Content Label. For example, RECs can be held for up to 3-years before retirement, therefore the Power Content Label may show zero unbundled RECs for the first two years, and then three years' worth of unbundled RECs in the third year if the third year is the end of the RPS compliance period. This proposed requirement is unsupported in its proposal and would confuse the customer-citizen; therefore, it should be removed.

¹ Unbundled RECs are eligible RPS energy products certified and verified by the CEC and are counted towards the electric utility's renewable targets under state legislation as administered under the CEC's RPS program. RECs represent the generation attributes and emission profile of energy whether bundled or unbundled.

5) Revising previously submitted Power Content Labels

In the Proposed Accounting section of the staff paper, it states that “if a retail supplier subsequently sells RECs from directly delivered electricity or firmed-and-shaped imports in a quantity that exceeds one percent of the relevant reporting year’s retail sales, the retail supplier must revise the affected data year’s PSD annual report to reclassify the renewable electricity as unspecified power.” In principle we disagree with applying new requirements retroactively. The new requirements should apply prospectively not retroactively.

The AB 1110 requirements are not retroactive. The plain language of AB1110 states “[b]eginning June 1, 2020, retail suppliers shall be required to report data on greenhouse gas emissions intensity associated with retail sales occurring **after** December 31, 2018.” PUC §398.4(k)(2)(F)(i) (emphasis provided). The “Legislative Counsel’s Digest” to AB1110, as chaptered, states “[t]he bill would require retail suppliers, beginning June 1, 2020, to report data on greenhouse gas emissions intensity associated with retail sales occurring **after** December 31, 2018, except as provided.” (emphasis added). The statutes for AB1110 are devoid of any retroactive legislative mandates for reporting requirements. Consequently, revising previously submitted Power Content Labels are not only unwarranted, but contrary to AB1110.

6) Reporting of biogenic CO₂ and geothermal emissions

In the Excluded Emissions section of the staff paper, it states “staff proposes that retail suppliers report to the PSD Program all GHG emissions, including those from geothermal and biogenic sources”, and “For consistency with electricity sector GHG accounting practices under current California programs and IPCC guidance, staff proposes that reported geothermal emissions consistent with those reported under MRR be included in the overall GHG emissions intensity for each electricity portfolio. Staff proposes that biogenic CO₂ associated with an electricity portfolio be disclosed on the power content label separately in a footnote but not be used in calculating the overall GHG emissions intensity of the electricity offering’s. CH₄ and N₂O emissions associated with biogenic fuels will still be included in the GHG emissions intensity of an electric portfolio. The proposed approach provides an accurate and transparent reporting of the renewable and emissions attributes associated with electricity serving retail customers, while aligning with existing emissions accounting protocols used by California and other national and international organizations.”

To ensure consistency in methods used to calculate biogenic CO₂ emissions and fugitive emissions from geothermal facilities, the CEC should specify the emission calculation methods to be used (e.g. methods in the EPA or CARB GHG reporting rules) when calculating the GHG intensity for the Power Content Label.

As a result of including emissions from biogenic fuels and geothermal, the Power Content Label for most retail suppliers will always show some GHG emissions (i.e. will never get to zero GHG emissions intensity). This is especially true given the biomass procurement mandates the California Legislature has imposed on retail suppliers. If LADWP procures

electricity generated by a biomass generating facility located in Northern California, that electricity does not actually flow to LADWP's service territory in Southern California, however the biogenic CO2 emissions from that procurement will be reflected on LADWP's Power Content Label. This should be explained to consumers so that they do not expect the Power Content Label to show zero emissions in 2045 in response to SB 100.

7) Reporting specified purchases of Asset Controlling Supplier (ACS) power

In the "Specified System Mixes of Asset-Controlling Suppliers" section of the staff paper, it states that "specified procurements of system mix electricity from an ACS (but not procurements for unspecified electricity from an ACS) be assigned the ACS-specific GHG emissions factor reported and verified under MRR. For the fuel mix, specified purchases from an ACS will no longer be reported as unspecified power. Instead, retail suppliers will be allowed to assign the ACS-specific system GHG emissions factor for their system mix as determined under MRR." The staff paper also states "Energy Commission staff will post resource mix factors and system GHG emissions intensity factors for specified procurements of ACS system power by April 1 of each year."

We agree that ACS power should be reported as a specified resource. It is unclear which category of the fuel mix the specified ACS power should be placed in. LADWP recommends adding a separate category for specified ACS power in the fuel mix section of the Power Content label since ACS system power may be composed of multiple resource types (e.g. hydro, wind and biomass).

Respectfully Submitted,

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