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*Comment Received From: Steve Uhler*  
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**OIR-16-05 Staff questions found in the TN227337 AB1110 workshop transcript**

*Additional submitted attachment is included below.*

Staff questions found in the [TN227337 AB 1110 workshop transcript 16-OIR-05](#)

Staff said:

“We've had stakeholders raise a few new issues informally, so we've decided to engage the broader body of stakeholders through this workshop before determining whether changes to the draft regulations are needed. First, we've had questions about revisiting our auditing requirements for public entities. Under Power Source Disclosure, retail suppliers are required to submit an audit for each electricity portfolio reported under the program. Prior to the AB 162 rulemaking in 2015 and 2015, public entities, such as publicly-owned utilities and community choice aggregators, were allowed to forego the audit by submitting in attestation by their governing boards, attesting that the information in the report was accurate.

The AB 162 rulemaking changed that rule, only allowing public entities to provide in attestation in lieu of the audit for one electricity portfolio. Additional portfolios, such as voluntary green portfolio, are now subject to the auditing requirement. We've had stakeholder questions -- we've had stakeholders question with that change best meets the programs intent and needs, so we're asking stakeholders for input.”

“Second, we've become aware of complications in disclosing mixed portfolios to customers. Some retail suppliers off their customers electric service sourced from multiple portfolios. As an example, a customer may receive a certain number of megawatt hours from a green portfolio while any additional load would be served by the default portfolio. Determining a disclosure method that can base this information clearly on the Power Content Label has proved challenging.

In the draft regulations, we included a provision that requires an additional footnote for all labels of retail suppliers that offer these mixed services, indicating that the customers may be served by multiple electricity portfolios. However, we are open to suggestions for alternatives to balance the statutory needs to present information that is accurate and simple to understand. On this subject, too, we're asking for stakeholder feedback.”

My reply:

All public agency electricity portfolios were subject to the auditing requirements prior to [AB 162 rulemaking](#), if that public agency offered more than one electricity product (portfolio), re [20 CCR § 1394 \(b\)](#).

It appears in SMUD's case, staff have allowed SMUD to combine portfolios (specific offers or tariffs) into one portfolio (a specific offer or a tariff), in doing so, staff appears to have ignored the other portfolios, re [20 CCR § 1391 \(b\)](#) definition of “Electricity Product” ([pre AB162 rulemaking](#)) that are a specific offer or a tariff.

SMUD has offered many specific offers or tariffs. Tariffs such as [rate categories RSCH, RWCH, RSEH, RWEH, RSGH and RWGH](#) and green pricing products such as SolarShares and Greenergy are specific offers or tariffs. Staff should have required audits in the past for all of these specific offers or tariffs.

The effect of this error in interpretation of regulations is, staff have waived the advantage in a law for the SMUD customers who would choose or chose a specific offer or a tariff.

A power content label and audit for each specific offer or a tariff should be made available for [rate categories RSCH, RWCH, RSEH, RWEH, RSGH and RWGH](#) and green pricing products such as SolarShares and Greenergy for all years that power source disclosure requirements existed.

As to mixed portfolios offered to customers, sourced from multiple portfolios, they should be combined and given a name so as to be a specific offer or tariff, re [20 CCR § 1391 \(b\)](#).

Please identify where in and what draft regulations, you included a provision that requires an additional footnote for all labels of retail suppliers that offer these mixed services.

Customer's should be supplied with a label for each specific offer or to a tariff, prior to their selection of a specific offer or to a tariff, re [20 CCR § 1391 \(p\)](#).

Please see that each definition in the regulations are given a subdivision reference for use in citations to the definitions.

The amount of total kilowatts consumed and total greenhouse gases for each specific offer or tariff should be shown on the power content label, so a customer can determine the value of choosing one specific offer or tariff over others.

[SMUD rate schedules](#) (tariffs) contain words pertaining to a specific electric service product being offered and are distributed to customers and made available over the internet, re [20 CCR § 1391 \(p\)](#). Staff have failed to enforce the requirement that a power content label be made available with these [rate schedules](#) per [20 CCR § 1393 \(c\)](#), in SMUD's case.

The Legislature finds and declares that there is a need for reliable, accurate, timely, and consistent information regarding fuel sources for electric generation offered for retail sale in California.

Please see that the intent of the state legislature is fulfilled.

Please see that all power content labels and audits are made available to customers and prospective customers for all past years where the staff have allowed SMUD to combine portfolios into to a one portfolio power content label.

Don't forget to review other comments I made to [16-OIR-05](#). You have not explained why [my data reporting form](#) will not work for power source disclosure. A rulemaking agency must consider the substitution of performance standards for prescriptive standards, re [1 CCR § 10, GOV 11346.2 \(b\)\(4\) \(A\)](#), ref [Guide to Public Participation in the Regulatory Process, Office of Administrative Law](#).

take care,

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