

DOCKETED

Docket Number:	16-OIR-05
Project Title:	Power Source Disclosure - AB 1110 Implementation Rulemaking
TN #:	227367
Document Title:	Powerex's Comments on the March 6, 2019 PSD Workshop
Description:	N/A
Filer:	System
Organization:	Powerex
Submitter Role:	Public
Submission Date:	3/20/2019 12:48:44 PM
Docketed Date:	3/20/2019

*Comment Received From: Powerex
Submitted On: 3/20/2019
Docket Number: 16-OIR-05*

Powerexâ€™s Comments on the March 6, 2019 PSD Workshop

Additional submitted attachment is included below.

March 20, 2019

California Energy Commission Docket Office
Docket No. 16-OIR-05
1516 Ninth Street, MS-45
Sacramento, CA 95814

Re: Docket 16-OIR-05: Powerex Corp.'s Comments on the March 6, 2019 Staff Pre-Rulemaking Workshop on Updates to the Power Source Disclosure Requirements

Powerex Corp. ("Powerex") appreciates the opportunity to submit comments on the March 6, 2019 Staff Pre-Rulemaking Workshop on Updates to the Power Source Disclosure Requirements (the "Workshop"). Powerex greatly appreciates all the efforts that the staff have made to include electricity procured from the systems of asset-controlling suppliers ("ACS") in the update to the Power Source Disclosure ("PSD") program. Powerex believes that in including electricity procured from ACS systems, this proposal provides additional transparency to California retail consumers on the emissions intensity and fuel mix of their electricity.

As outlined in the California Energy Commission *Assembly Bill 1110 Implementation Proposal for Power Source Disclosure*, October 2018 (the "Draft Staff Paper"), energy procurement from an ACS system will be assigned the ACS-specific GHG emission factor reported as verified under the California Air Resources Board's ("CARB") Regulation for the Mandatory Reporting of Greenhouse Gas Emissions ("Mandatory Reporting Regulation" or "MRR").¹ Additionally, for fuel mix purposes, energy procured from an ACS system shall have the fuel mix of the underlying ACS system.

As discussed at the Workshop, Powerex understands that staff is proposing that firmed-and-shaped products under a contract executed after February 1, 2018 shall have the emissions intensity of the source of the substitute electricity. It is Powerex's understanding that when the source of the substitute electricity is an ACS system, the firmed-and-shaped product shall have the emissions intensity of the ACS system.

In order to clarify the ACS participation framework and the emissions intensity of physical deliveries of electricity from out-of-state suppliers, Powerex suggests the following changes to the Power Source Disclosure Draft Regulations (the "Draft Regulations").²

Changes to Section 1391 - Definitions

Delivered electricity

The current definition only refers to a "facility", but does not include ACS systems. Therefore, Powerex suggests including a reference to the specified system power of an asset-controlling

¹ The MRR is codified at Cal. Code Regs. tit. 17, §§ 95100-95163.

² The Draft Regulations pertain to Cal. Code Regs. tit. 20, §§ 1390-1394.

supplier. Powerex believes that this edit will clarify, pursuant to section 1393(d)(1)(B),³ that a firmed-and-shaped product will have its GHG emissions reported according the ACS system when substitute electricity meets the requirements of delivered electricity.

Additionally, should a retail supplier be unable to substantiate delivered electricity through purchase agreements executed prior to generation (as well as through e-Tags), Powerex recommends that the Draft Regulations clarify that such electricity shall have the GHG emissions profile of unspecified power.

“Delivered electricity” means electricity from a facility **or from specified system power of an asset controlling supplier** that has one of the following three characteristics:

- 1) has a first point of interconnection within the metered boundaries of a California balancing authority or a first point of interconnection with an electrical distribution system used to serve end users within the metered boundaries of a California balancing authority area;
- 2) is scheduled into a California balancing authority without substituting electricity from another source; or
- 3) is subject to an agreement between a California balancing authority and the balancing authority in which an eligible renewable energy resource is located, executed before the product is generated, to dynamically transfer electricity from that eligible renewable energy resource into the California balancing authority area.

Retail suppliers shall not report behind the meter generation serving onsite load as delivered electricity. Retail suppliers must be able to substantiate delivered electricity through purchase agreements executed prior to generation of the purchased electricity, as well as e-tags for delivered electricity that is imported to a California balancing authority, **otherwise such delivered electricity shall have the GHG emissions intensity of unspecified power.**

Substitute electricity

Powerex suggests adding a reference to “delivered electricity” to the definition of “substitute electricity” to link the definition of substitute electricity to the requirements within the definition of “delivered electricity”.

“Substitute electricity” means the replacement **delivered** electricity that is delivered within the year of generation from outside a California balancing authority into a California balancing authority under a contract for a firmed-and-shaped product.

³ Section 1393(d)(1)(B) uses the defined term “delivered electricity”. Pursuant to § 1392(d)(1)(B), “Retail suppliers with specified purchases of firmed-and-shaped products under a contract executed on or after February 1, 2018 shall report GHG emissions according to the source of the **delivered electricity** pursuant to subdivision (c)(1).” (emphasis added)

Specified system power of an asset-controlling supplier

Powerex suggests the following edit to the definition of “specified system power of an asset-controlling supplier”. This edit will align the definition with staff’s proposed definition of an “asset-controlling supplier” and CARB’s definition of an asset-controlling supplier under the MRR.⁴

“Specified system power of an asset-controlling supplier” means electricity derived from a specific set of generators owned, ~~operated or exclusively marketed by or controlled by~~ an asset-controlling supplier. Purchases of specified system power of an asset-controlling supplier are considered specified purchases if the transactions are documented through an executed contract and e-tags.

Unspecified power

Powerex suggests the following edit to the definition of “unspecified power” to clarify that electricity traceable to an ACS system by an auditable contract trail or equivalent is not unspecified power.

“Electricity from ~~Un~~specified sources of power” or “unspecified power” means electricity that is not traceable to specific generation sources ~~or specified system power of an asset-controlling supplier~~ by any auditable contract trail or equivalent, including a tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once and only once, to a retail consumer.

Change to Section 1393(c)(1)

Powerex’s understanding of the intent of the Staff Proposal is that retail claims of physical deliveries of imported electricity into California have the same emissions intensity under both CARB’s MRR and the PSD program. Therefore, for electricity generated outside of a California balancing authority, in order to ensure that both programs align, Powerex suggests specifically referring to section 95111 of the MRR. This will ensure that physical deliveries of imported electricity have similar treatment, from a greenhouse gas perspective, under both programs.

Additionally, Powerex suggests editing section 1393(c)(1) to change “electricity delivered” to “delivered electricity” in order to align this section with the defined term of “delivered electricity” and the language used in section 1393(d)(1)(B).⁵

⁴ See Cal. Code Regs. tit. 17, § 95102:

“Asset-controlling supplier” means any entity that owns or operates inter-connected electricity generating facilities or serves as an exclusive marketer for these facilities even though it does not own them, and is assigned a supplier-specific identification number and system emission factor by ARB for the wholesale electricity procured from its system and imported into California. Asset controlling suppliers are considered specified sources.

⁵ See *supra* at note 3.

Section 1393(c)(1)

GHG emissions of specified purchases, purchases of firmed and shaped products, and purchases of unspecified power shall be calculated based on ~~electricity~~ delivered ~~electricity~~ to a California balancing authority. ~~For electricity imported into a California balancing authority, the GHG emissions of the delivered electricity shall be calculated pursuant to section 95111 of the Mandatory Reporting Regulation.~~

Change to Section 1393(a)(4) and Section 1394(c)(2)

As discussed in the Draft Staff Paper, there is a two-year lag in the ACS-specific GHG emission factor data and MRR reporting data.⁶ For example, to calculate the emission factor for 2019 ACS deliveries, Powerex reported its 2017 activity to CARB in June of 2018. CARB then published Powerex's 2019 ACS emission factor in November 2018.

In order to avoid any confusion in timing issues, Powerex suggests edits to clarify that a retail supplier shall use the emission factor for the "delivery year" rather than the "most recent GHG emissions intensity" or "most recent reporting." As the ACS report is due in June of each year and CARB generally publishes ACS emission factors in the fall of the same year, using the language "most recent GHG emissions intensity" and or "most recent reporting" may result in differing fuel mixes and emission factors for ACS deliveries within the same year. For example, the proposed language could result in one fuel-mix for ACS deliveries prior to June and another fuel-mix for ACS deliveries after June. Additionally, such language could result in one GHG emission factor for ACS deliveries before CARB publishes the upcoming year's ACS emission factor, and another GHG emission factor after CARB publishes the upcoming year's ACS emission factor.

Finally, the ACS reporting requirement under section 95111(f) of the MRR requires an attestation of an authorized officer. For consistency with the MRR and in order to reduce the administrative burden of participating in the PSD program, Powerex's strongly encourages staff to align the attestation requirements with CARB's requirements.⁷

Section 1393(a)(4)

A retail supplier's purchases of the specified system power from an asset-controlling supplier shall use the ~~most recent~~ GHG emissions intensity assigned to the asset-controlling supplier by the California Air Resources Board ~~for the delivery year~~ pursuant to section 95111(b)(3) of the Mandatory Reporting Regulation. A retail supplier's purchases of the specified system power of an asset-controlling supplier may be categorized according to the fuel mix of the asset-controlling supplier pursuant to Section 1394(c); otherwise, such purchases shall be categorized as unspecified power.

Section 1394(c)(2)

The asset-controlling supplier shall report ~~to the California Energy Commission~~ the fuel mix of its

⁶ Draft Staff Paper, at 32.

⁷ Pursuant to § 95111(f)(5)(F) of the MRR, CARB requires an "[a]n attestation, in writing and signed by an authorized officer of the Applicant" Cal. Code Regs. tit. 17, § 95111.



specified system mix using the fuel types designated under Section 1393 and corresponding to the asset-controlling supplier's ~~most recent~~ reporting to the Mandatory Reporting Regulation for determining the CARB-assigned emissions factor for the delivery year, and provide an attestation by an authorized officer of the asset-controlling supplier ~~its governing body~~ affirming that the ~~report~~ fuel mix in its report to the California Energy Commission is consistent with the report submitted to the California Air Resources Board under the Mandatory Reporting Regulation pursuant to title 17, California Code of Regulations, section 95111(f) ~~is accurate.~~

Powerex thanks staff for their efforts to date and staff's consideration of these comments.

Kind Regards,

/s/

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