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M-S-R Comments re AB 1110 Prerulemaking Amendments

Additional submitted attachment is included below.

**STATE OF CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

In the Matter of:

AB 1110 Implementation Rulemaking

Docket No. 16-OIR-05

**M-S-R PUBLIC POWER AGENCY COMMENTS ON PRE-RULEMAKING
AMENDMENTS TO THE POWER SOURCE DISCLOSURE PROGRAM**

The M-S-R Public Power Agency (M-S-R)¹ provides these comments to the California Energy Commission (CEC) on the Pre-Rulemaking Amendments to the Power Source Disclosure Program (Proposed Changes), dated February 20, 2019.

INTRODUCTION

M-S-R limits these comments to the following issues: first, the Proposed Changes appropriately recognize that pre-February 1, 2018 firmed-and-shaped resources should not be subject to a sunset date on the ability to report using the carbon intensity of the renewable resource; second, the verification provisions of section 1394.2 should be extended for public agencies that offer two or more electricity portfolios; and third, only generators that do not already report to the Energy Information Administration (EIA) should have to report data to their balancing authority under section 1392.

Treatment of Firmed-and-Shaped Resources

M-S-R and its public agency members have invested in RPS-eligible, zero-GHG emitting generation resources for the benefit of their electricity customers and in furtherance of the state's clean energy objectives. This includes considerable investments in firmed-and-shaped resources first entered into prior to June 1, 2010. M-S-R supports staff's recognition in section 1393(d) that the emissions associated with the substitute electricity is excluded from the calculation of emissions intensity for these resources

As detailed in [M-S-R's October 25, 2018 comments](#), these investments in RPS-eligible resources that were fully compliant with the state's renewable energy mandates represent long-

¹ Created in 1980, the M-S-R Public Power Agency is a public agency formed by the Modesto Irrigation District, the City of Santa Clara, and the City of Redding.

term commitments that cannot be readily altered. While Commission staff has suggested the sunset provision based on its understanding that it would motivate the re-negotiation or early termination of these agreements, as M-S-R noted in the October 2018 comments, that is not simply not the case. Even if these existing contracts and ownership interests could be amended, doing so would likely result in significantly altering the value of the resource and adversely impacting the retail seller's electricity customer ratepayers. By choosing not to include the previously proposed sunset provision, the Commission appropriately recognizes the value of these investments, as well as the legislature's intent not to diminish their value even as state moves towards carbon neutrality.

Additionally, it is important that the treatment of these grandfathered firm-and-shaped resources account for the full extent of the underlying investment. Proposals to limit the definition of grandfathered resources or otherwise phase-out the ability to classify these investments as "grandfathered" over time should be rejected. Doing otherwise would have the same deleterious financial impacts as failing to distinguish these resources in the first place. For example, M-S-R's early investment in the Big Horn I wind facility has an initial contract term that goes through 2026, but also includes mandatory extensions to the initial agreement that results in a term through at least September 30, 2031. M-S-R's contract for Big Horn II has a stated term running through October 31, 2035. As M-S-R pointed out in October 2018 comments, these investments date back to 2005 and 2009, respectively. While other additional renewable resources have come available since that time, based the comprehensive studies M-S-R had commissioned to review the viability of retaining these investments, it was determined that it would be costlier for M-S-R – and thus the electricity ratepayers of M-S-R's member agencies – to restructure its existing agreements and replace them with other renewable energy projects. For that reason, these arrangements should be "grandfathered" for the duration of their contractual or ownership commitments, consistent with the treatment of such resources for RPS purposed under PU code section 399.16(d).

For purposes of reporting the emissions from the substitute power to be excluded from the calculation, the regulation should clarify that substitute energy is reported as an unspecified purchase when the underlying agreement does not identify a specific source for the substitute energy. Furthermore, the regulation should clarify that the provisions apply to both contractual and ownership agreements in renewable firm-and-shaped products, and that retail sellers can

demonstrate compliance with the provisions of subsection (d)(1)(A) providing evidence of either the contract or ownership agreement for the underlying resource.

Section 1393(d)(1) Retail suppliers with specified purchases of renewable firmed-and-shaped products under a contract or ownership agreement entered into or executed prior to February 1, 2018 shall report GHG emissions associated with the substitute electricity pursuant to Section 1393.

(A) When calculating the emissions intensity of an electricity portfolio that includes one or more firmed-and-shaped products purchased under a contract executed prior to February 1, 2018 or ownership agreement entered into prior to February 1, 2018 . . . The retail supplier shall furnish a purchase contract or ownership agreement substantiating that a firmed-and-shaped product meets the requirement above for each annual filing claiming the GHG emissions exclusion.”

For these reasons, and as noted in the October 2018 comments, amendments to the PSD regulation should fully recognize “grandfathered” renewable firmed-and-shaped products, without placing restrictions on the agreements themselves – be they contractual or ownership – or sun-setting the ability to exclude the emissions from the substitute electricity when calculating the emissions intensity.

Public Agency Verification

During the March 6 Workshop, Staff asked for stakeholder feedback on improvements to the auditing requirements for public entities. M-S-R supports the recommendation to extend the verification provisions set forth in section 1394.2 for public agencies that offer more than one electricity portfolio. Currently, in lieu of the auditing provisions, the governing board of a public agency can attest to the veracity of the annual report for a single electricity portfolio. M-S-R sees no distinction in the governing board’s attestation regarding the veracity of the annual report as between one, or more than one, electricity portfolio. Furthermore, as noted during the March 6 Workshop, some of the publicly owned utilities may be offering additional electricity portfolios that are relatively small, yet would still be subject to costly auditing requirements that could work to discourage the development of these additional offerings. As such, M-S-R urges the Commission to amend the provisions of 1394.2(a)(2) to remove the limit to utilizing the attestation for only one electricity portfolio.

Reporting to Balancing Authorities

In order to avoid duplicative reporting obligations, the regulation should be amended to require only generators that do not already report to EIA to report data to their balancing authority under section 1392. The information required under section 1392(b) includes extensive amounts of data that most generators report to EIA. Utilizing data that is already reported and publicly available is preferable to requiring generators to provide the information twice, as it avoids additional reporting costs and reduces the potential for inconsistencies in reported data. M-S-R urges the Commission to revise section 1392 accordingly.

CONCLUSION

M-S-R appreciates the opportunity to provide this feedback to the Commission, and urges the Commission to consider these comments when drafting the final proposed amendments to the PSD regulation.

Dated March 20, 2019

Respectfully submitted,



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M-S-R Public Power Agency