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**Comments of California Municipal Utilities Association on Pre-
Rulemaking Draft Amendments to the Power Source Disclosure Program**

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

**COMMENTS OF THE
CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION
ON PRE-RULEMAKING DRAFT AMENDMENTS TO THE POWER SOURCE
DISCLOSURE PROGRAM**

The California Municipal Utilities Association (CMUA) appreciates the opportunity to provide comments to the California Energy Commission (Commission) on the *Pre-Rulemaking Amendments to the Power Source Disclosure Program* (Draft Regulations), issued on February 20, 2019.

I. INTRODUCTION

The Power Source Disclosure (PSD) Program requires electricity retail suppliers to disclose the electricity sources in their products. The PSD Program was initially authorized by Senate Bill 1305 (Sher, 1997), which required electricity retail suppliers to disclose fuel mix information to retail customers in the form of a Power Content Label (PCL). Subsequent to this, Assembly Bill (AB) 162 (Ruskin, 2009) and AB 2227 (Bradford, 2012) authorized amendments to the PSD. AB 1110 (Ting, 2016) authorizes further changes to the PSD, requiring electricity retail suppliers to disclose the greenhouse gas (GHG) intensity of any electric product offered to customers. On February 20, 2019, the Commission issued a revised Pre-Rulemaking Draft of the Proposed Regulatory Changes to the Power Source Disclosure Program. On March 6, 2019, the Commission administered a Pre-Rulemaking workshop to address the proposed changes.

CMUA agrees that these most recent revisions represent a move in the right direction, improving the appearance and transparency of the label. CMUA also agrees with the proposal to remove the sunset date for the grandfather provision of firmed-and-shaped power. However, the Commission should clarify that the owned resources also qualify under the grandfathering proposal. Additionally, the attributes of renewable energy credits (RECs) should be recognized in the PSD by including those megawatt hours in the actual technology type associated with the unbundled REC.

The goal of the Power Source Disclosure regulation is to provide “accurate, reliable, and simple to understand information on the sources of energy, and the associated emissions of greenhouse gases, that are used to provide electric services” to retail electric customers in California. In order to ensure that customers receive valuable and simple to understand information, the Commission must consider the role of the PCL in the context of information that customers receive regarding similarly aligned programs, such as the Cap and Trade program (administered by the California Air Resources Board (CARB)) and renewables portfolio standard (RPS). To the extent that these disparate programs rely on different sources of data, different definitions, different assumptions, and different counting rules, it becomes impossible for a customer to assign any relative value to this information individually or collectively. The more these programs diverge, the greater opportunity for confusion.

II. COMMENTS ON DRAFT REGULATIONS

A. Grandfathering for Firmed and Shaped Resources

1. CMUA Supports the Elimination of the Sunset Date for the Grandfathering Provision.

The *Revised Assembly Bill 1110 Implementation Proposal for Power Source Disclosure, Third Version* (“Revised Staff Proposal”), issued on October 9, 2018, included a proposal for a

“grandfathering provision” applicable to existing firm-and-shaped agreements.¹ Under this provision, “firm-and-shaped imports under contract as of February 1, 2018, may be classified according to the emissions profile of the renewable generator and associated RECs.”² However, this grandfathering provision would sunset on December 31, 2024.³

Several stakeholders, including CMUA, supported this grandfathering provision, but urged the Commission to eliminate the sunset provision. These stakeholders noted that many of the existing firm and shaped resources are owned or under long-term contracts that do not expire until well after 2025. It may be impossible or extremely costly to renegotiate or otherwise terminate one of these contracts early. Taking such a drastic action could expose a publicly-owned utility’s (POU) customers to significant costs.

Section 1393(d)(1) of the Draft Regulations implements this grandfathering provision, but does not include any sunset date. As currently proposed, this provision will protect existing investments in firm-and-shaped resources and protect ratepayers from unnecessary costs. CMUA strongly supports this change and urges the Commission to adopt this provision, subject to the modification describe below.

2. Proposed Section 1393(d)(1) Should be Amended to Clarify that Owned Resources Qualify for Grandfathering Treatment.

Proposed Section 1393(d)(1)(A) states:

When calculating the emissions intensity of an electricity portfolio that includes one or more firm-and-shaped products purchased *under a contract* executed prior to February 1, 2018, the reporting entity shall provide the emissions in the reporting forms and identify these emissions as excluded from the calculation of emissions intensity. The retail *supplier shall furnish a purchase contract* substantiating that a firm-and-shaped product meets the requirement above for each annual filing claiming the GHG emissions exclusion.⁴

¹ Revised Staff Proposal at 36.

² *Id.*

³ *Id.*

⁴ Draft Regulations, Section 1393(d)(1)(A) (emphasis added).

This provision could be narrowly interpreted to only apply to a POU that has a contract with a firm and shaped resource, and consequently, excluded POUs that own a firm and shaped resource. This section should be amended to clarify that owned resources also qualify for this treatment. CMUA understands that the Turlock Irrigation District as well as the Northern California Power Agency will be concurrently filing comments addressing this issue. CMUA supports both comments and urges the Commission to consider their recommendations.

B. Unbundled RECs Should be Categorized as Eligible Renewable Power

CMUA agrees with the earlier comments provided by the Sacramento Municipal Utilities District (SMUD), *Comments of Sacramento Municipal Utility District on Revised Assembly Bill 1110 Implementation Proposal for Power Source Disclosure, Third Version*, (SMUD Comments) that unbundled RECs should not be excluded from PSD power mix calculations.⁵ As stated in comments, “The complex systems created for transacting renewable energy were created because the electric grid is not a system whereby renewable power can generally be purchased and directly delivered to the purchaser or the procurer’s customers.”⁶ This problem will only become more pronounced as California’s retail providers move toward 60 percent renewable power procurement.

Further, California has been a vital contributor to the development of the Western Renewable Energy Generation Information System (WREGIS), an institution established to track renewable energy purchases and to ensure that the attributes of a renewable energy purchase can only be counted once. However, the proposed exclusion contradicts the accounting policy of WREGIS and is inconsistent with California’s RPS. The proposed

⁵ SMUD Comments at 2.

⁶ *Id.* at 1.

exclusion would have California’s retail providers make substantial RPS eligible purchases, on behalf of their customers, while also prohibiting the retail providers from reporting the renewable characteristics of these RPS purchases on their PCLs.

C. Proposed Power Content Label

The purpose of the PCL is to provide “accurate, reliable, and simple to understand information on the sources of energy, and the associated emissions of greenhouse gases, that are used to provide electric services” to retail electric customers.⁷ While the Revised Staff Proposal included several confusing footnotes, the Draft Regulations have made significant improvements. Further, the Draft Regulations have added unbundled RECs to a line on the power mix. However, as described above, CMUA supports including those megawatt hours in the actual technology type associated with the unbundled REC. As the Commission considers stakeholder comments proposing additional changes, the Commission should be guided by considering whether a generally well-informed customer would reasonably understand and interpret the data presented.

III. CONCLUSION

CMUA appreciates the opportunity to provide these comments and looks forward to continuing to work with staff in this proceeding.

Dated: March 20, 2019

Respectfully submitted,

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⁷ Cal. Pub. Util. Code § 398.1(b).

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