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*Comment Received From: Gwendy Azpeitia*  
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*Docket Number: 16-OIR-05*

**LADWP Comments on PSD- AB1110 implementation Rule Making**

*Additional submitted attachment is included below.*

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

In the matter of:	)	Docket No. 16-OIR-05
	)	
Power Source Disclosure – AB 1110	)	NOTICE OF AVAILABILITY AND
Implementation Rulemaking	)	REQUEST FOR COMMENTS
	)	RE: Power Source Disclosure
		Draft Regulations

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**COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) TO THE  
CALIFORNIA ENERGY COMMISSION (CEC) ON POWER SOURCE DISCLOSURE DRAFT  
REGULATIONS (FEBRUARY 20, 2019)**

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Dated: March 20, 2019

**BEFORE THE ENERGY COMMISSION  
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REGULATIONS (FEBRUARY 20, 2019)**

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 (PCL) 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 *Power Source Disclosure – AB 1110 Implementation Rulemaking* that was posted on February 20, 2019.

- 1. LADWP recommends reporting unbundled Renewable Energy Credits (RECs) in a separate category under “Eligible Renewables” and including the unbundled RECs when calculating the Eligible Renewable percentage on the PCL rather than in a footnote.**

AB 1110 requires the disclosure of unbundled RECs, but does not require that unbundled RECs be excluded from the Eligible Renewables percentage on the PCL. The PCL 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 PCL has been approximately the same as the renewable energy percentage required by the Renewable Portfolio Standard (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 PCL 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 which states “Unbundled renewable energy credits (RECs) represent renewable investments that do not deliver electricity to the retail supplier's customers. Unbundled RECs are not reflected in the power mix or greenhouse gas (GHG) emissions intensities above.” LADWP estimates that excluding unbundled RECs would reduce the Eligible Renewables percentage by approximately 3%. This reduction in Eligible Renewables is significant, and customers will be confused over why the percent of renewable energy appears to be going down instead of up and questioning whether their electric utility is achieving the renewable energy percentage required by California's RPS program.

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 Renewables section of the PCL. 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.

Historically, unbundled RECs have been included in the Eligible Renewables section of the PCL given that they reflect actual and verifiable implementation of renewable energy resources. The addition of GHG emissions intensity to the PCL should not result in excluding unbundled RECs from the Eligible Renewables percentage. The treatment of unbundled RECs in the Eligible Renewable percentage should be independent from treatment of unbundled RECs in the GHG emissions intensity calculation.

## **2. Unbundled RECs should not have to be retired within the reporting year to be reported on the PCL.**

LADWP disagrees with the proposed requirement that unbundled RECs be retired prior to including them on the PCL. The PCL is supposed to reflect procurement not retirement of electricity to serve retail customers during the previous calendar year. 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 PSD 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 PCL could result in a mismatch between when the unbundled RECs were procured and when they were reported on the PCL. For example, RECs can be held for up to 3-years before retirement, therefore the PCL 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 that unbundled RECs be retired before showing them on

the PCL is unsupported in its proposal and would confuse the customer; therefore, it should be removed.

### **3. GHG Emissions should not be assigned to Firmed - and - Shaped Renewable Energy**

LADWP disagrees with the CEC's position regarding the treatment of firmed and shaped RPS eligible electricity in the GHG emissions calculation. The intent of the PCL per Assembly Bill 162 (Statute of 2009) and Senate Bill 1305 (Statutes of 1997) is for electricity suppliers to disclose information to California consumers about the energy resources used to generate the electricity they sell. The PCL should focus on what type of energy is procured by the electric utility for its customers rather than the form of delivery of the electricity.

LADWP strongly disagrees with the "Accounting Methodology" described in section 1393 (d)(1)(A) and 1393(d)(1)(B) to 1) report GHG emissions according to the source of the delivered electricity rather than the renewable electricity procured, and 2) exclude these "default" GHG emissions only for purchases of renewable firmed-and-shaped products under contracts executed prior to February 1, 2018.

California utilities made investments years ago in out-of-state renewable generating facilities to comply with California's Renewable Energy Portfolio Standard (RPS) program. 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 firmed-and-shaped energy is delivered to the California utility. The original energy procured (e.g. wind) is zero emission, and the firmed-and-shaped delivery is for transmission purposes and does not change the nature of the original zero emission energy procured. LADWP recommends the CEC treat firmed-and-shaped renewable energy (in conjunction with the associated RECs) as zero emission.

Firming and shaping is an electricity delivery mechanism that should not be restricted or made less desirable by the PSD Regulation and PCL reporting requirements.

#### **Case Study-PDCI Limitation:**

For example, firming-and-shaping is the means of delivering electricity from a variable renewable generating resource (e.g. wind) from the Pacific Northwest to California through the Pacific DC Intertie (PDCI) transmission line. Renewable energy from variable renewable generating resources such as wind farms cannot be directly delivered through the PDCI transmission line because dynamic tags are not allowed on the DC line. By not treating firmed-and-shaped renewable energy as zero emission, the CEC is excluding the zero GHG emission attribute of a significant supply of renewable electricity in other states that is delivered to California through the PDCI transmission line.

There is no reason for the Power Source Disclosure Program to attempt to influence or even prompt business operational decisions (e.g. means of delivering renewable energy) by stripping away benefits of investments in out-of-state renewable generating facilities. Furthermore, it makes no sense to stop recognizing the zero emission energy procured from out-of-state renewable generating facilities, especially since Senate Bill 100 (De Leon, 2018) requires California retail electricity suppliers to achieve a 60% eligible renewable energy target by December 31, 2030, and a 100% zero-carbon resources target by December 31, 2045.

#### **4. Reporting of Firmed – and – Shaped contracts**

The “Accounting Methodology” described in section 1393(d)(1)(A) states the “retail supplier shall furnish a purchase contract substantiating that a firmed-and-shaped product meets the requirement.” Furthermore, these firmed-and shaped-products purchased should have been procured prior to February 1, 2018 and provided to the CEC. Therefore, section is unnecessary due to the already existing requirement for utilities to provide these contracts to the California Energy commission under the RPS reporting. The CEC should not adopt this duplicative requirement that serves no value-added purpose or function.

#### **5. PCL Timing of Disclosure**

The “Retail Disclosure to Consumers” provision in Section 1394.1(b)(2) requires utilities to annually disclose information to customers and the CEC by mail on or before August 30. LADWP recommends that CEC move the deadline for disclosure of the PCL to customers, from August 30 to a date after October 1 when the audited PCL is due. Providing the audited version of the PCL to consumers will align with the intent of the PSD to provide "accurate, reliable, and simple-to-understand information on the sources of energy that are used to provide electric services" to California consumers (Public Utilities Code Section 398.1(b)). It does not make sense to provide the un-audited version of the PCL to customers to meet a deadline of August 30, which does not fit with the PCL auditing schedule. If the audit results in any changes to the PCL, the revised document would also need to be distributed to customers, which would be a duplication of effort. Moving the deadline to after October 1 would allow the audited (rather than the un-audited) version of the PCL to be distributed to customers, thus meeting the intent of providing accurate information to customers. For utilities such as LADWP that use a bi-monthly billing cycle, it would take approximately 60 days to reach all customers from the October 1 deadline.

Furthermore, Section 1394.2 *Auditing and Verification* (a) states that by October 1 of each year retail suppliers need to provide the audited report and proof of service of the annual PCL to consumers. The report by the auditor required in section 1394.2(a), and distribution of the annual PCL to consumers are two separate processes that should not be comingled.

To avoid providing the un-audited version of the PCL to consumers and potential duplication of effort and confusion to customers if the audit results in changes to the PCL, LADWP recommends the following schedule of milestones:

- June 1 - Draft Annual Report: Power Source Disclosure Program (PSD) due to CEC
- Mid July – CEC makes available the CA Total Mix and PCL Template
- October 1 – Independent Audit of the Annual Report and PCL due to CEC
- December 31 - Audited PCL due to customers

Based on this schedule, LADWP recommends revising Section 1394.2 (a) to read as follows:

- (1) By October 1 of each year, all retail suppliers shall provide a report prepared by an auditor who has conducted the procedures identified in subdivision (b) Appendix A of these regulations. The report shall contain a summary of the results of the procedures. ~~and a proof of service of the annual power content label to customers.~~

**6. LADWP disagrees with the requirement to provide “proof of service” of the annual PCL to customers**

Section 1394.2 (a) should not include a requirement to provide “proof of service”. Rather, at most, the utility should be required to establish a procedure that can assure the utility has distributed the PCL to customers or provide legal proceedings that should not, apply to the PCL.

**7. LADWP recommends the CEC to remove the standard of “penalty of perjury” on sections 1394 (a)(2)**

The attestation form should not have the standard of “penalty of perjury.” The annual PCL should not be held to the same standard as testifying in a court of law. The PCL was designed as informative to the customer, not as testimony held to a criminal standard. The audit procedure should be sufficient to provide customers the satisfaction that the numbers have been vetted according to generally accepted government audit standards.

**8. LADWP does not support the Clean Net Short Hourly Methodology for GHG accounting to be incorporated in the PSD program.**

Despite recommendations by several investor owned utilities, the “Clean Net Short” GHG accounting methodology should not be required for the PCL. The PSD is an annual report and, as a result there should not be a requirement to perform hourly calculations. Since the PSD regulation applies to all retail suppliers of electricity within California, the regulation needs to apply in a manner most appropriate and suitable to all retail suppliers, and not



skewed towards those retail suppliers that are set up to calculate GHG emissions on an hourly basis.

**9. LADWP requests clarification of Equation 1 under “Accounting Methodology” described in section 1393 (a)(5)**

It appears (but is not clear) that Equation 1 (Net Purchases) is to be calculated on an annual basis. LADWP recommends there be two equations to calculate Net Purchases - one equation for purchases from specified sources, and another equation for purchases from unspecified sources as shown below:

a. **Equation for Specified:**  $NP_{specified} = GP_{specified} - WS_{specified}$

b. **Equation for Unspecified:**  $NP_{unspecified} = GP_{unspecified} - WS_{unspecified}$

Furthermore, the CEC should expressly confirm that these calculations should be done on an annual basis.

**10. LADWP requests clarification of Section 1393 (d) (2), which uses undefined terms and is potentially premature if in reference to Senate Bill 100**

If this section refers to Senate Bill 100, the term “zero carbon resources” in that legislation has not been defined and, as a result, it would create unnecessary confusion to add yet another term, “zero GHG,” without a definition.

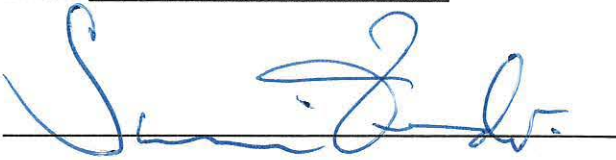
It is unclear whether section 1393(d)(2) is aimed at a single publicly owned utility or would apply to all publicly owned utilities. If this section is meant to apply to a specific publicly owned utility (i.e. San Francisco), the following language should be included: “The Energy Commission shall adjust GHG emissions of a local publicly owned utility that is both a (city) and (county) if the utility demonstrates that it generated zero-GHG electricity in excess of its retail sales and wholesale sales of specified sources in a prior year.”

Thank you for your consideration of these comments.

Respectfully Submitted,

Judean Zewdu for Mark Sedlacek

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