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## **CalCCA Comments on Updates to the Power Source Disclosure Program**

Attached are the comments of the California Community Choice Association (CalCCA) in Docket 16-OIR-05. If any problems please contact me at [jhendry@sfgwater.org](mailto:jhendry@sfgwater.org) or (415) 867-9596.

*Additional submitted attachment is included below.*



March 20, 2018

California Energy Commission  
Docket Unit, MS-4  
**Re: Docket No. 16-OIR-05**  
1516 Ninth Street  
Sacramento, CA 95814-5512

### **CalCCA Comments on the Updates to the Power Source Disclosure Regulations**

The California Community Choice Association (“CalCCA”) submits these comments on the Updates to the Power Source Disclosure (“PSD”) Regulations (“Draft Regulations”) filed on February 20, 2019. CalCCA appreciates this opportunity to comment on the Draft Regulations, offering strong support for certain elements of the current draft while providing various recommendations to California Energy Commission (“CEC”) staff regarding other areas of the regulations that would be problematic, if left unchanged.

These recommendations include;

- Allowing public entities (such as CCAs and publicly-owned utilities (POUs)) to continue attesting to the veracity of their Power Source Disclosure (PSD) report, even if they offer multiple portfolios;
- Supporting the use of the multi-product Power Content Label template;.
- Continuing to assign the GHG emissions of resources to those entities that own and operate an energy resource; the CEC should reject any proposal to assign GHG emissions associated with Cost Allocation Mechanism (CAM) resources to other retail sellers;
- Rejecting PG&E’s proposal to use the flawed Clean Net Short (CNS) methodology to calculate GHG emissions;
- Extending the date for which PCC 2 firmed and shaped resources are classified as zero-GHG and recognizing the increased cost to ratepayers of the CEC’s proposal;
- Clarifying the statutory role of Unbundled Renewable Energy Credits (RECs) in PSD reporting;
- Adopting proposed changes (discussed below) to the Draft Regulations to address specific technical deficiencies and/or errors

**I. CalCCA Supports the Self-Certification Provisions for Public Electricity Retail Sellers which Should be Extended to all Electricity Portfolios offered by these Entities**

CalCCA urges CEC staff to retain the self-certification provisions for public agencies, as previously reflected in PSD, and expand this provision for all electricity portfolios offered by the public agency. As these public agencies (CCAs and POUs) conduct their business activities in public meetings; provide a broad range of accurate documentation and data related to resource planning, procurement, and programs; offer ample opportunities for public comment; are subject to Public Records Act requests, and are overseen by governing boards comprised of locally elected officials, they should not be subject to the same audit and verification procedures that are applicable to their investor-owned counterparts. As CEC staff are aware, the investor owned utilities (“IOUs”) do not conduct business in a similar manner, and despite certain regulatory oversight, much of the business conducted by the IOUs is void of the same public disclosure mandates and public comment opportunities.

**II. The multi-product Power Content Label template provides clear information to the customer on the attributes of the customer’s energy mix.**

CalCCA supports the use of the CEC’s multi-product Power Content Label (“PCL”) reporting template to ensure that customers receive information regarding any supply portfolios that may contribute to the provision of the customer’s retail electric service. To the extent that a customer is being supplied by multiple electric service portfolios, the customer should be made aware of the proportion of supply that is procured from each applicable portfolio.<sup>1</sup> To the extent that each of these service portfolios is addressed within the multi-product PCL provided to this customer, the customer should be able to determine and understand applicable portfolio attributes, including GHG emissions intensity, associated with the various components of such electric service.

**III. The Inclusion of CAM Resources in the PCL Is Neither Legal nor Appropriate**

CalCCA strongly opposes as inappropriate the inclusion of Cost Allocation Mechanism (“CAM”) resources within the Draft Regulations.

First, capacity products by themselves do not create GHG-emissions. The fact that IOUs do not report emissions from RA-only contracts receiving CAM treatment supports this point. According to the

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<sup>1</sup> For example, if the customer subscribed to a retail service product providing 1,000 kWh of wind energy each month with the balance of its energy requirements being supplied via the retail seller’s default service option (which might have a different mix of resources than the wind-exclusive portfolio), then the customer should be aware that the annual resource mix would be dependent upon the total quantity of electricity consumed during the calendar year and that the GHG content of their energy consumption increases as they use more energy from the retail seller’s default service option.

CPUC Energy Division presentation at the March 6<sup>th</sup> Workshop, the acquisition and dispatch of CAM resources is intended to serve Resource Adequacy (RA) needs in each IOU's service territory. Thus, the main benefit of these resources is to provide capacity (which is then allocated proportionately to retail sellers). Furthermore, including CAM resources in the PSD report would conflate a capacity product – that is shared among LSEs – with an energy product that may not be shared.

Second, CAM resources, including electric energy produced by such resources, are not specified purchases by non-IOU retail sellers, and decisions related to the acquisition and electric dispatch of capacity assets are made with limited influence from non-IOU retail sellers.<sup>2 3</sup> As CEC staff shared during the March 6 workshop, IOUs currently claim all generation and emissions from CAM resources.<sup>4</sup> It is the generation from these units, which are initially the responsibility of the contracting IOU which may have associated GHG emissions. Although this energy (as all energy) is scheduled through the CAISO, the IOU retains the ability to have this energy credited towards meeting its own retail needs or if surplus to its needs report it as either an unspecified sale (in which case the purchaser would report the purchase as an unspecified purchase) or sell it directly to another party as a specified sale or through a tolling agreement.

Third, decisions about the types of resources to “CAM” are not voluntary, and at times undesirable for non-IOU retail sellers. Absent a regulatory structure where non-IOUs are able to influence the types of resources procured, The inclusion of CAM resources could lead to the absurd result that non-IOU retailers could never achieve 100% GHG free resource mix no matter what their purchase decisions are. Not only would such attribution not reflect the *retailers' portfolio choices*, but it would mean that non-IOU retailers would have to always explain the major caveat on PSD labelling to customers, leading to a confusing, opaque, and misleading label to customers. Thus, it would be inappropriate to create portfolio relationships when none actually exists between CAM resources and non-IOU retail sellers and would be disingenuous and confusing to customers.

Allocating GHG emissions to the purchaser of a resource also provides an incentive for that purchaser to actively consider GHG emission-intensity in their decision-making. For most of the recent local reliability needs, there is often an option between procuring storage resources as an alternative to fossil-fueled procurement.

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<sup>2</sup> AB1110 (Public Utilities Code Section 398.4(k)(2)(a)) clearly directed the CEC to; “Adopt a methodology, in consultation with the State Air Resources Board, for the calculation of greenhouse gas emissions intensity for each purchase of electricity by a retail supplier to serve its retail customers.

<sup>3</sup> In fact, many of these resources were procured even before the first CCA was established —CAM was established in 2006, and MCE did not start serving customers until May 2010.

<sup>4</sup> Transcript at p.22, lines 14-16, 21-22.

Finally, the inclusion of CAM resources in the PSD would seemingly add unnecessary complexity to an already impacted timeline, requiring the development, debate, and finalization of a recently introduced topic. The accounting and attribution of CAM resources' emissions would also increase the administrative burden for both CEC staff and retail sellers during data compilation and reporting activities. For CAM resources dispatched by the CAISO for system reliability purposes the dispatch could be for as little as 15 minutes, and settled at 5-minute intervals.

#### **IV. The Clean Net Short Methodology Should Not Be Adopted**

PG&E's proposal to use the Clean Net Short (CNS) methodology to calculate GHG emissions should also be rejected for many of the same reasons as the CAM proposal.

First, similar to the CAM proposal, the use of the CNS methodology is precluded by statute, as Public Utilities Code Section 398.2 clearly states that; "Retail suppliers may rely on annual data to determine whether a transaction meets this definition, rather than hour-by-hour matching of loads and resources" as the CNS methodology requires. Even PG&E admits, but glosses over, this statutory requirement in its previous comments advocating the use of CNS.<sup>5</sup> CEC staff also recognize this limitation, noting at the March 6<sup>th</sup> Workshop their interest in examining CNS subject to their statutory requirements.<sup>6</sup>

This statutory prohibition was subsequently reconfirmed with the veto (by Governor Brown) of AB79, which would have directed the CEC to consider the use of hourly GHG emission accounting. In his veto message Governor Brown stated that the current AB1110 process should be allowed to continue prior to making further significant changes. As AB1110 implementation has now passed the statutory date (January 1, 2019) by which the regulations were supposed to be adopted, the CEC should focus its efforts on implementing AB1110 as written.

Second, the fundamental purpose of CNS is as a planning and forecasting tool, not a compliance tool. The current CNS model is used by the CPUC to forecast GHG emissions out to the year 2030, not to actually calculate hourly emissions.

In the IRP proceeding, retail sellers only needed to enter the MW capacity of their resource, and then the RESOLVE model used by the CPUC would assign a "typical" load profile for that type of resource (e.g. wind or solar). This load profile was then modeled not for every week of the year, but only for "representative" weeks (e.g. summer, winter) for planning purposes.

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<sup>5</sup> Docket 16-OIR-05: Pacific Gas and Electric - Supplemental Comments to Add to the Record Regarding Issues Discussed with California Energy Commission Staff (May 17, 2017), p. 2

<sup>6</sup> As Natalie Lee, Renewable Energy Manager for the CEC noted, the CEC has a "commitment made within [its] statutory authority to continue to look at" the CNS. (Transcript of March 6, 2019 Workshop. P. 73).

Extending the CNS model to determine **actual** GHG emissions on an hourly basis represents a quantum increase in reporting and data requirements. Instead of just inputting capacity, retail sellers would now have to input actual generation data for all 8,760 hours of operation for every resource. Then all generation from a retail seller's zero-GHG resources would need to be compared against the retail seller's hourly load profile to determine if the retail seller was long (providing excess zero-GHG energy to the grid) or "short" (i.e. not meeting its load) and hence the name "Clean Net Short." This process would have to be followed for every retail seller, as well as the CEC needing to consolidate this data in order to determine a retail seller's hourly contribution relative to the grid's total electric needs. This would require CEC staff to identify and attribute the specific mix of resources not dispatched during times of excess renewable production if CEC staff were to follow the approach of the CPUC.<sup>7</sup> Clearly, renewable production resulting from non-IOU retailer purchases can and does displace fossil fuel generation and that must also be accounted for, whether the generators not dispatching are located inside or outside of California. Clearly, such an approach borders on intractable, representing an arduous and resource intensive process for CEC staff.

The immense difficulty of truing-up actual as opposed to forecast data (as the CNS is currently used for) is amply demonstrated by PG&E itself in its recently filed (March 12, 2019) request to the CPUC for an "Extension of Time to Comply with Ordering Paragraphs 2 and 5 of Decision 19-02-023."<sup>8</sup> This request involved PG&E's ability to true-up and compare actual energy prices to forecast prices for energy for calendar year 2018., a process similar to, and in many ways simpler than truing-up GHG emissions. In order to perform this calculation, PG&E states it is required to obtain:

Settlement quality CAISO data for 2018 [that] is expressed in hourly and 5-minute increments for each of approximately 400 PCIA-eligible resources, with the number of individual data points totaling in the many millions. Processing the voluminous dataset requires careful review and validation by PG&E to make sure this data is presented correctly as accounting entries recorded to the correct vintage.<sup>9</sup>

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<sup>7</sup> In the ruling adopting the CNS in IRP, the CPUC Modified CNS methodology allows for credit for oversupply that displaces GHG emissions. Administrative Law Judge's Ruling Finalizing Greenhouse Gas Emissions Accounting Methods, Load Forecasts, and Greenhouse Gas Benchmarks for Individual Integrated Resource Plan Filings, R.16-02-007 (May 25, 2018) at 12.

<sup>8</sup> March 12, 2019 letter to Alice Stebbins Executive Director CPUC "**RE:** Pacific Gas and Electric Company's Request for Extension of Time to Comply with Ordering Paragraphs 2 and 5 of Decision 19-02-023, p. 1-2.

<sup>9</sup> March 12, 2019 letter to Alice Stebbins Executive Director CPUC "**RE:** Pacific Gas and Electric Company's Request for Extension of Time to Comply with Ordering Paragraphs 2 and 5 of Decision 19-02-023, p. 1-2.

The magnitude and difficulty of compiling this data is daunting if not impossible, particularly when compared with PG&E's own recent efforts for processing data.

Third, the CNS proposal is both inconsistent and a work-in-progress. While PG&E is proposing that only zero-GHG resources that match a retail seller's load should be credited, the CNS approach approved by the CPUC also allows PG&E, as well as Edison and SDG&E, to carry-forward for future compliance surplus RECs created pre-2015 and to use them toward meeting their respective GHG-reduction targets in the 2025-2030 time-period, almost 15 years later. This option is not available to any other CPUC-regulated retail seller and conflicts with the CEC's incorrect assertions that RECs do not include the corresponding GHG reducing attributes unless claimed in the same year as the underlying generation.

In previous comments to the CPUC, and in the preparation of their filings to the CPUIC, various CCAs have identified numerous problems with the CNS methodology. In its just released proposed decision in the Integrated Resource Planning (IRP) proceeding (R.16-02-007), the CPUC itself recognized these and other problems with the CNS methodology which it planned to address in subsequent proceedings.<sup>10</sup>

Finally, the public information purpose of the PSD program is closely aligned with the wider purposes of the Renewable Portfolio Standard program, and the CNS represents a radical departure from that publicly well-understood approach to annual accounting. Indeed, in the Integrated Resources Planning ("IRP") process, the CPUC itself expressly distinguished its purposes from the purposes of the Energy Commission: "CEC, CARB, and the Commission, as part of this IRP process, have different purposes and different programs to address different goals and compliance obligations associated with RPS and GHG emissions goals. Thus, the CNS addresses our IRP requirements, separate and apart from RPS goals and Cap-and-Trade compliance obligations."<sup>11</sup> In light of the close alignment between retail supplier purchases and the Renewable Portfolio Standards purposes in the minds of customers, the CEC staff should retain an annual basis for accounting the impacts of overall purchasing decisions.

#### **V. The Treatment of Firm-and-Shaped Resources Will Incur Significant Costs for Ratepayers**

CalCCA strongly recommends that the CEC extend the grandfathering date for firmed-and-shaped resources to be treated as zero-emission to allow for a smoother transition and reducing the cost impact to customers.

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<sup>10</sup> Proposed Decision Adopting Preferred System Portfolio and Plan for 2017-2018 IRP Cycle mailed March 18, 2019, p. 150-151

<sup>11</sup> Administrative Law Judge's Ruling Finalizing Greenhouse Gas Emissions Accounting Methods, Load Forecasts, and Greenhouse Gas Benchmarks for Individual Integrated Resource Plan Filings, R.16-02-007 (May 25, 2018) at 12.



Based on recent solicitations completed by MCE and Peninsula Clean Energy, the cost premium associated with firmed-and-shaped resources with carbon-free substitute is considerable, approximating \$3.50-\$4.00 higher than firmed-and-shaped resources with unspecified substitute per megawatt hour. This premium directly relates to the GHG-free substitute/incremental energy component of the firmed-and-shaped product. In terms of aggregate portfolio cost impacts, MCE estimates that transitioning to the exclusive use of firmed-and-shaped products with zero-carbon substitute, which is 25% of a supplier's RPS purchases as allowed by statute, would impose an additional \$25 million cost on its portfolio over a 12 year period, while PCE estimates this change could impose an additional \$30 million in costs that are ultimately borne by energy consumers. Other CCAs serving comparable load would likely incur similar cost impacts.

To ensure that the grandfathering date has real relief impact on retail sellers, and more importantly energy consumers in California, the existing February 1, 2018 exclusion date needs to be extended. The effective date of AB 1110 was deliberately set more than two years after it became law, allowing ample time for affected parties to adapt planning and procurement practices to avoid unintended impacts from the significant emissions accounting changes that would follow.

For example, based on the Draft Regulations, any firmed-and-shaped transaction occurring after February 1, 2018 would require a retail seller that desires to zero-out associated emissions to pursue a contract that provides for GHG-free substitute. CalCCA understands that numerous other retail sellers engaged in similar purchases based on this uncertainty, resulting in considerable cost and rate-related impacts for California energy consumers. Had these retail sellers been aware of CEC staff's intention to create certain emissions exclusions for firmed-and-shaped transactions, many of these costs could have been avoided.

CalCCA recommends that the CEC extend the exclusion date to December 2019 to meaningfully mitigate any unintended cost impacts on energy consumers.

#### **VI. Clarifying the statutory role of Unbundled Renewable Energy Credits (RECs) in PSD reporting;**

CalCCA strongly disagrees with the misrepresentation of Unbundled Renewable Energy Credits ("RECs") within the proposed PCL. As proposed, the PCL selectively excludes RECs from the accounting reflected under the "Eligible Renewables" subheading, leaving the reader with the impression that such purchases are not actually eligible under California's RPS program. Furthermore, the proposed footnote number two as reflected in the multi-product PCL framework, is inaccurate, incomplete, and

inappropriate. Unbundled RECs are eligible renewables under California's RPS statute<sup>12</sup> and representing otherwise would only serve to misinform consumers and perpetuate misinformation regarding the validity of such products in meeting statewide renewable procurement mandates and supporting regional renewable energy infrastructure. As required by AB 1110, the emission attributes associated with renewable energy procured via unbundled REC products will be excluded from the prescribed PSD emissions accounting methodology. However, unbundled RECs produced by CEC-certified renewable generating resources are "eligible renewables" by statute and must be counted within the percentages reflected under the Eligible Renewable subheading of the PCL.

## **VII. Modifications or Clarifications Are Needed for Draft Regulations**

CalCCA believes the following modifications or clarifications are needed for Sections 1391–1394 of the Draft Regulations to address specific technical deficiencies and/or errors and mischaracterizations.

### **a. Section 1391**

- To improve clarity, the firmed-and-shaped product definition<sup>13</sup> should read as follows, "Firmed-and-shaped product means purchases in which substitute electricity, rather than the electricity produced by an eligible renewable generator, is delivered from a source outside of California to a California Balancing Authority, within the year in which the eligible renewable generator produced electricity, providing incremental electric energy to the State." Such changes more accurately and clearly reflect the temporal relationship between renewable energy production and substitute energy delivery associated with a firmed-and-shaped transaction. The suggested changes also acknowledge that substitute energy should be incremental to the state.
- The definition for "Specified system power of an asset-controlling supplier" should remove the e-tag reference. Within the Draft Regulations, there do not seem to be any instructions that would require retail sellers to track, report, or audit e-tags. Therefore, it is not necessary to effectuate an asset-controlling supplier ("ACS") transaction, particularly because these resources already need to be verified by the ARB.

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<sup>12</sup> Public Utilities Code Section 399.16(a)(3).

<sup>13</sup> Draft Regulations at page 4.

**b. Section 1393**

CalCCA raises the need for further clarifications in the Accounting Methodology section, as detailed below.

- It is not clear what documentation or informational source(s) will be used by the retail seller and the CEC to identify the power source associated with the substitute energy. CalCCA recommends that CEC staff clarify in Section 1393(a)(4) that contractual agreements between a retail seller and a wholesale supplier will be used to identify the intended substitute power source(s).
- The exclusion of biomass resources from the calculation of a retail seller's GHG emission intensity should be added to this section. This determination was previously made in the third iteration of CEC's staff proposal
- The power accounting for pumped storage should be accurately reflected in the accounting methodology described in Section 1393(b)(3)(D). Because pumped storage should generally result in a net-negative power balance, meaning that more power is consumed than produced during the netting process, PSD reporting should reflect pumped storage facility operations as accurately as possible. If the balance is negative, then the retail supplier would need account for this deficit in practice with other power sources, which may impact overall emissions accounting.
- The calculation of "Adjusted Net Purchases" needs to be clarified that it only applies to purchases used to serve retail load.
- As discussed above the Draft Regulations should be revised to reflect the inclusion of unbundled REC volumes within the power/fuel mix percentages included within the PCL, even though the emissions attributes associated with such products will be excluded from total emission calculations. The erroneous footnote, number two within the multi-product PCL as previously noted, should be deleted.
- The emission calculation equation in Section 1393(c)(2)(C) seems to suggest that the emissions intensity for certain generators (without assigned emissions factors under MRR) may be expressed as CO<sub>2</sub>, N<sub>2</sub>O or CH<sub>4</sub> per MMBtu - this would seem to create inconsistencies in the resultant emissions calculation, depending upon the pollutant that was selected. CalCCA recommends that the CEC clarify that emissions should only be expressed as CO<sub>2</sub> to promote consistency in data calculations and reporting.

- Section 1393(c)(2)(D) indicates that generators without assigned Mandatory Reporting Requirement (“MRR”) or Energy Information Administration (“EIA”) emissions would be assigned an emissions intensity based on “fleet averages” by fuel type. It is not clear what “fleet averages” means, and CalCCA recommends that the staff provide a more specific definition.
- Section 1393(c)(3) indicates that unspecified power would be assigned the default emission factor for imported electric power, as applied within the MRR, which is currently set at 0.428 metric tons of CO<sub>2</sub> equivalent per megawatt hour. CalCCA cautions against the use of this particular statistic when calculating emissions impacts associated with California system power purchases. This is an inappropriate use of the noted MRR statistic, and CalCCA recommends that CEC staff develop an independent statistic to more accurately express the emissions intensity of California system power purchases for each reporting year, similar to the manner in which annual statistics for ACS portfolios are made available by the Air Resources Board. Furthermore, CalCCA understands that the noted MRR emissions statistic is outdated, reflecting a three-year average of the emissions intensity associated with electric power imports that occurred nearly a decade ago (between 2008 and 2010). As such, the MRR statistics does not seem relevant for use in the PSD Program.
- Lastly, as discussed above, CalCCA recommends modifying Section 1393(d)(1) so that the “exclusion”<sup>14</sup> date for firmed-and-shaped transactions coincides with the Adoption Date of Regulation, which is noted as December 2019 in the staff workshop presentation.

**c. Section 1394**

CalCCA recommends making these modifications to the below sections related to reporting, auditing, and verification.

- References to the retirement of unbundled RECs in Section 1394(b)(2) need to be more specific, otherwise it is unclear whether the retirement date or retirement account is the pertinent point of reference for reporting. CalCCA recommends changing the language to RECs “that are retired within a retirement account associated with the reporting year” to minimize confusion.

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<sup>14</sup> According to the Draft Regulations, emissions associated with firmed-and-shaped transactions entered into before February 1, 2018 shall be excluded from emissions calculations contributing to the transacting retail seller’s emission factor, as reported in the PCL.

- The draft regulations state that public agency retail suppliers are not required to comply with auditing requirements for *one* electricity portfolio but must submit auditing reports for each additional electricity portfolio.<sup>15</sup> Since CCAs are subject to considerable oversight by their boards for all procurement activities, this provision should apply to *all* electricity portfolios that CCAs offer to their customers. Section 1394.2(a) should be modified to exempt public agencies from the subdivision (b) reporting requirements if the board of directors of the public agency approve at a public meeting the submission to the Energy Commission an attestation of the veracity of the annual power content label for each electricity portfolio.
- The exclusion of certain portfolio disclosures under the guise of private contracts, specifically custom electricity portfolios<sup>16</sup>, should not be allowed. Complete disclosure of all electricity portfolios will promote transparency and maintain fair competition in the energy market. As such, this section should be deleted.
- The 36-month reporting stay for new CCAs<sup>17</sup> should be tied to the first full calendar year of operation. For example, if a CCA launches on January 1, 2020, then the first reporting year such CCA would need to disclose GHG emissions would be the calendar year beginning on January 1, 2023.

#### VIII. Conclusion

CalCCA appreciates the opportunity to comment on the Draft Regulations and urges the CEC to adopt the changes proposed above.

Please feel free to contact me if you have any questions.

Thank you,

Beth Vaughan  
Executive Director  
CalCCA

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<sup>15</sup> Section 1394.2(a)2 at page 27.

<sup>16</sup> Section 1394(e) at page 25.

<sup>17</sup> Section 1394(g) at page 25.