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UNIVERSITY OF CALIFORNIA

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October 28, 2019

California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Re: Docket No. 16-OIR-05, The Regents of the University of California's Comments on the Modification of Regulations Governing the Power Source Disclosure Program

Dear Commissioners and Staff,

The Regents of the University of California, in its role as an Electric Service Provider ("UC") respectfully submits the following comments to the California Energy Commission ("Commission") regarding the "*Modification of Regulations Governing the Power Source Disclosure Program*" and associated documents ("Proposed Modifications.")

UC is comprised of ten campuses and five academic medical centers throughout California with over 238,000 graduate and undergraduate students and more than 190,000 faculty and staff. UC's Carbon Neutrality Initiative, announced in 2013, set UC on the path to net zero greenhouse gas ("GHG") emissions by 2025. Campus sustainability goals, including the Carbon Neutrality Initiative, have led to substantial investments in energy efficiency and behind-the-meter renewable generation.

UC registered as an Electric Service Provider ("ESP") in 2014, operating under The Regents of the University of California (CPUC ESP#1389), and began serving load to all Direct Access ("DA") accounts across the UC system in 2015. Approximately 25 percent of UC's total purchased electricity is now supplied by UC's ESP operations. Simply put, UC is both a world-class research and educational institution with aggressive environmental goals and a California Load Serving Entity ("LSE"). As such, we are active in both compliance and voluntary renewable energy markets. UC aims not only to achieve system-wide net carbon neutrality by 2025, but also to inspire and inform widespread carbon reduction efforts by demonstrating replicable and scalable solutions.

Introduction

UC recognizes that California's AB 1110 (2016) imposes a difficult set of tasks on the Commission, by requiring them to develop rules by which retail suppliers will calculate GHG emission intensity and disclose unbundled renewable energy Credits ("RECs") as part of the Power Source Disclosure ("PSD") Program and annual Power Content Label ("PCL"). UC appreciates the Commission's considerable efforts to implement this legislation, but we also have concerns about the Proposed Modifications.

Numerous stakeholder comments to date have addressed, both directly and indirectly, the inherent differences between the principles underlying California's Cap and Trade regulations and California's Renewables Portfolio Standard ("RPS"), and opined as to which principles the PSD program should be in alignment with. Cap and Trade is a California-specific source-based emissions reporting and reduction framework not limited to the electricity sector, whereas the RPS program is a LSE based renewable electricity procurement structure. The Commission should also align the PSD program with widely accepted guidelines and best practices for voluntary GHG reporting. At a minimum, the Commission should avoid contradicting and potentially undermining existing reporting protocols that have been developed through years of consensus-driven research and experience.

General Comments on the Proposed Modifications

- UC is concerned that the complexity of the Proposed Modifications and substantial inconsistencies with existing regulations and guidelines contained therein conflict with the program's purported goal of providing simple and accessible information to consumers. Attempts to integrate these different regulatory frameworks requires a deep understanding of the complex interactions between renewable energy markets, GHG accounting, and state-wide carbon reduction goals. A typical California electricity consumer does not possess this deep level of understanding, and they should not need to in order to make an informed choice about their electricity supply options.

- Renewable Energy Credits ("RECs"), whether bundled with the underlying power or not, convey all environmental and GHG emission attributes of renewable electricity from buyer to seller. RECs are used both A. to demonstrate compliance with RPS standards across the country, including California, and B. to validate voluntary renewable energy use claims in accordance with GHG

accounting best practices. AB 1110 requires the addition of a GHG intensity to the PCL and identification of the portion of annual sales derived from unbundled RECs, but it does not require a change to the treatment of unbundled RECs. PCLs should reflect all RECs that are created and retired, either to meet a compliance mandate such as RPS or to voluntarily further renewable energy or GHG reduction goals, on behalf of and likely funded by electricity customers.

- By positing that physical power delivery is required to make an accurate retail claim, the Proposed Modifications not only contradict statutory definitions and regulatory precedent, but also create a disconnect between compliance and voluntary reporting protocols. The disconnect introduces needless complexity for entities like UC that operate in both markets, and may lead to a number of negative consequences, presumably unintended, for all market participants and consumers. Footnote 1 of the PCL[1] is inconsistent with the statutory definition of RECs found in the California Public Utilities Code[2] and with CPUC Decision 08-08-028, which states that a REC represents proof that "one MWh of electricity was generated by an RPS-eligible renewable energy resource and was delivered for consumption by California end-use retail customers."[3] This footnote, along

[1] Renewable energy credits (RECs) are tracking instruments issued for renewable generation. Unbundled renewable energy credits (RECs) represent renewable investments that do not delivery electricity to the retail supplier's customers. Unbundled RECs are not reflected in the power mix or GHG emissions intensities above. The eligible renewable percentage above does not reflect RPS compliance, which is determined using a different methodology.

[2] CPUC § 399.12(h)(1) "Renewable energy credit" means a certificate of proof associated with the generation of electricity from an eligible renewable energy resource, issued through the accounting system established by the Energy Commission pursuant to Section 399.25 , that one unit of electricity was generated and delivered by an eligible renewable energy resource. (2) "Renewable energy credit" includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, except for an emissions reduction credit issued pursuant to Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of biomass or biogas fuels.

[3] D. 08-08-028 Section 4.2 - Putting all the elements we have discussed together, we find that a REC for California RPS compliance is a certificate of proof, issued through WREGIS, that one MWh of electricity was generated by an RPS-eligible renewable energy resource and was delivered for consumption by California end-use retail customers. A REC includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, including any avoided emission of pollutants to the air, soil or water; any avoided emissions of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, or any other GHGs that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of global climate change; and the reporting rights to these avoided emissions, such as Green Tag reporting rights.

with similar language throughout the Proposed Modifications, should be revised for consistency with applicable statutory definitions and prior CPUC decisions.

- By emphasizing direct delivery of renewable electricity to a grid that already experiences congestion during peak solar hours, the Proposed Modifications if implemented likely increases renewable energy curtailment in California, while sending a signal to neighboring states that could undermine the regional cooperation needed to meet both state and global emission reduction targets. The Proposed Modifications may also raise the cost of electricity in California by increasing competition for resources that are located in, or can be directly delivered to, California. This includes hydroelectricity from existing facilities, which – while it has an important role to play in California's carbon-free electricity future – does not have the same carbon impact as replacing or displacing carbon-intensive resources with new renewable capacity throughout the WECC.

- TURN[4] has argued that AB 1110 was never intended to establish requirements around what LSEs are allowed to procure, and that the Proposed Modifications do not require any LSE to buy or not buy any particular product. While technically true, these comments ignore fundamental tenets held by many California retail suppliers and the important role that the PCL is bound to play within the context of customer choice. As Marin Clean Energy[5] and others have made clear, the Proposed Modifications *will* impact procurement and increase consumer costs.

- The potential implications of the Proposed Modifications to UC are not limited to our unique role as a self-providing ESP. UC campuses purchase power from a broad range of retail suppliers in California, including IOUs, POUs and CCAs. In some cases, UC electricity customers have chosen to pay a premium for electricity offerings with a lower GHG intensity. The Proposed Modifications could diminish the impact of UC's early actions and progress towards carbon neutrality by effectively re-classifying electricity purchases that are considered

[4] Docket 16-OIR-05 Transcript of 10-07-2019 Lead Commissioner Workshop, p.126, lines 18-24

[5] Docket 16-OIR-05 Transcript of 10-07-2019 Lead Commissioner Workshop, p.112, lines 11-20

renewable or carbon free under corporate GHG accounting standards as non-renewable, and assigning them the GHG intensity of unspecified power.

- Large energy consumers in California have increasingly sophisticated energy procurement strategies and know that they have the option to operate exclusively within voluntary reporting standards, using virtual PPAs and REC purchases. While those strategies are legitimate, California's goals would be better served by encouraging consumers to work collaboratively with retail suppliers that have an obligation to support grid capacity, reliability and integration efforts. The Proposed Modifications will discourage such collaboration by putting California out of step with widely accepted corporate GHG accounting principles and increasing both the complexity and the cost to these consumers of working within the PSD framework.

Specific Comments on the Proposed Modifications

- 1391.Definitions: IOUs, POUs and CCAs often have dozens of different rate tariffs, whereas ESPs are free to negotiate fee structures with individual customers. If it is not the Commission's intention for each of these rates or fees to require a separate fuel mix and GHG calculation, criterion (3), under the definition of "electricity portfolio" or "electricity offering" or "electric supply portfolio," should be removed or clarified.

- 1393(c)(1)(A)(2): The requirements applicable to GHG emissions accounting should be revised to clarify that e-tags are not typically created for in-state generation and are therefore not required to count as a specified purchase.

- 1394.1(b)(2): Instructions regarding retail disclosure to customers should be revised to state that "Annual disclosures shall also be displayed on the website of the retail supplier, if applicable, in an easily marked and identifiable location." UC is unique among retail sellers in that we serve power to electricity customers *within* our organization, and as such, we do not have "marketing material" or host a website specific to our ESP activities.

- Section 13945.2(l)(1): As previously addressed in these comments, Footnote 1 of

the PCL should be revised for consistency with statutory definitions and regulatory precedent, and to avoid undermining both voluntary and compliance markets that rely on RECs as contractual instruments that convey environmental and GHG attributes.

- Section 1394.2(l)(2): If the Commission ultimately decides to limit the boundary of PSD reporting to *delivered electricity* from *specified purchases*, as those terms are currently defined in the Proposed Modifications, Footnote 2 should be clarified to explain that unspecified power is electricity that was not purchased in advance of generation and delivered directly to California, which may include imported renewable power and unbundled RECs. Clarification is necessary for accuracy, since electricity that has been purchased via bilateral contract and can be traced to a specific generation source may still be classified as "unspecified power" in certain circumstances, even if the generation source is located in California.

Summary

We ask the Commission to earnestly consider the comments discussed herein and to implement the provisions required by AB 1110 in a way that does not contradict the statutory definition of RECs and potentially undermine their use in both compliance and voluntary programs. The Commission may ultimately decide that the PSD program requires direct delivery of bundled products to California, in order for LSEs to count both the fuel type and GHG intensity of renewable purchases. If so, we urge the Commission be clear that the intention of this requirement is to support state-specific policy objectives, not to re-write established GHG accounting rules that foster renewable energy markets and voluntary action by UC and other stakeholders.

Thank you for the opportunity to comment.

Sincerely,

/s/

Cynthia Clark
Renewable Energy Manager
University of California Office of the President