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**AWEA-California Comments on the Commission's Proposed  
Modification of Regulations Governing the Power Source Disclosure  
Program**

*Additional submitted attachment is included below.*



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

October 28, 2019

*Filed Electronically*

**RE: *Docket No. 16-OIR-05: AWEA California Comments on the Commission’s Proposed Modification of Regulations Governing the Power Source Disclosure Program***

Dear Commission,

The American Wind Energy Association California<sup>1</sup> (“AWEA-CA”) provides the following comments on the September 6, 2019 proposed modifications of regulations governing the Power Source Disclosure (“PSD”) Program, and Initial Statement of Reasons. As discussed below, the PSD program should not impose an arbitrary cut-off date for an adjustment to “grandfathered” firmed and shaped contracts for two primary reasons:

1. The PSD program should avoid devaluing ratepayer investments in carbon-free energy and should be revised to reflect that all firmed and shaped imports are bundled transactions that include both energy and Renewable Energy Credits (“RECs”).
2. The CEC should align the PSD program with the ARB’s recent policy decision to extend the RPS adjustment to all firmed and shaped transactions indefinitely. The CEC should avoid releasing aggregate emissions data that could be compared to the ARB’s publicly available emissions data and lead to the release of confidential, market sensitive information.

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<sup>1</sup> Members of AWEA-CA include global leaders in utility-scale wind energy development, ownership, and operations, and many members also develop and own other energy infrastructure such as transmission lines, utility-scale solar, and energy storage. We are committed to the need for—and widespread economic benefits derived from—a diverse and balanced portfolio in California to reliably and affordably meet state energy demands and environmental goals. AWEA-CA strives to direct the economic and environmental benefits of utility-scale wind energy to California.



## DISCUSSION

### I. Firmed and Shaped Transactions Represent Investments in Carbon-Free Energy by California Ratepayers.

The Proposed Amendments to the PSD program would set a January 1, 2019 cutoff date for claiming firmed and shaped imports as zero-GHG. The cut-off date occurs retroactively, and will have the effect of disrupting transactions that have already occurred. As discussed at the October 7<sup>th</sup> hearing, representatives from Marin Clean Energy and Avangrid Renewables stated that ratepayers will incur considerable additional costs of procuring carbon-free replacement energy that is directly delivered to California. AWEA-CA shares these and other parties' concerns with the potential cost of the proposed grandfather date. The proposed grandfather date will also negatively affect new firmed and shaped transactions.

Under the RPS program, a firmed and shaped contract must be bundled, and the LSE must receive title to both the RECs and the energy from the renewable energy facility (i.e., similar to PCC-1). According to the WREGIS Operating Rules, RECs include all "Environmental Attributes," which are defined to include any and all credits, benefits, emissions reductions, offsets, and allowances-howsoever-titled-attributable to the generation from the Generating Unit, and its avoided emission of pollutants."<sup>2</sup>

It is important to acknowledge that many LSEs that invested in firmed and shaped imports did so in reliance on the RPS rules in effect at the time (which allow firmed and shaped contracts), as well as the RPS adjustment which removes the cap-and-trade compliance cost associated with these transactions. Many LSEs made these investments to reduce their GHG emissions. Investments in firmed and shaped imports provide LSEs with an important degree of flexibility in managing variable resources and transmission availability against their load profiles. The firmed and shaped contract structure also ensures that the RECs cannot be counted twice and that the LSE actually owns the output of the underlying resource. In other words, ratepayers with firmed and shaped resources in their portfolio invested in carbon-free generation that cannot be claimed as RPS eligible in another jurisdiction.

The CEC should ensure that entities who have purchased a bundled firmed and shaped product and have paid for the emissions attributes of the underlying facility receive the value of their investment by being able to claim a firmed and shaped import as a zero-carbon import, irrespective of when the contract was executed. Placing an arbitrary cut-off date - particularly one that occurs in the past - may set the state back in its efforts to drive investment in carbon free-resources throughout the west.

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<sup>2</sup> WREGIS Operating Rules at p. 5, available at: <https://www.wecc.biz/Administrative/WREGIS%20Operating%20Rules%20Comment%20update%20LEAN.pdf>.



## **II. The CEC Should Align the Treatment of the Firmed and Shaped Resources with that of the ARB.**

During the October 7<sup>th</sup> workshop, participants discussed harmonizing various state GHG accounting regimes, including the ARB's Cap-and-Trade program and the CPUC's Integrated Resources Planning process (specifically, the use of the "Clean Net-Short Calculator"). The Proposed Amendments are generally designed to be consistent with the reporting structure of the ARB's Mandatory Reporting Regulation ("MRR"). During the pre-rulemaking activities, parties proposed aligning the PSD program with the CPUC's IRP, but the Proposed Amendments effectively reject those comments by not relying on a clean net-short emissions methodology and instead aligning with Cap-and-Trade / MRR methodology in nearly all respects.

The Proposed Amendments are already structured to be largely consistent with the MRR and Cap-and-Trade. Like the PSD program, the MRR calculates historic emissions and accounts for carbon associated with transactions from a previous emissions year. In 2017 and 2018, the ARB evaluated whether to extend the RPS adjustment for firming and shaped imports and ultimately left that portion of the Cap-and-Trade Regulation un-amended, while at the same time extending the program as a whole to 2030.<sup>3</sup> The effect of these regulatory decisions was to allow electricity importers to claim the RPS adjustment indefinitely, irrespective of when the firming and shaped transaction was executed.

The grandfather cut-off proposed for the PSD program differs from the treatment in the ARB's Cap-and-Trade program. As discussed above, this would lead to considerable ratepayer costs in the form of replacement power, which we do not believe was accounted for in existing contract structures. The inconsistency between the Cap-and-Trade and the PSD program may also lead to issues with inadvertent disclosure of confidential information. The MRR is a detailed filing process that results in publicly available data on each entity's aggregate emissions level. The publicly available data includes the application of the RPS adjustment. If the CEC ultimately adopts a regulation that releases aggregate emissions information that does not include an RPS adjustment for firming and shaped transactions after January 1, 2019, but is otherwise consistent with the MRR, then there would be an inconsistency in LSE-reported emissions data. The delta between the two emissions figures would presumably be the quantity of firming and shaped imports an LSE has entered into since January 1, 2019. This information is market sensitive, confidential business information because it discloses an individual LSE's market position for a particular type of energy product. For these reasons, the CEC should not include a grandfather cut-off date in the PSD program and allow the RPS adjustment to apply irrespective of when an LSE procured the firming and shaped resource.

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<sup>3</sup> See 17 Cal. Code Reg. Sec. 95841; Note no amendments to Sec. 95852(b)(4); See Generally 2018 ARB Cap-and-Trade Rulemaking materials, available at: <https://ww2.arb.ca.gov/rulemaking/2018/california-cap-greenhouse-gas-emissions-and-market-based-compliance-mechanisms>.



## **CONCLUSION**

The proposed treatment of PCC-2 and grandfathered firmed and shaped resources should be revised to remove the arbitrary cut-off date for firmed and shaped imports.

Respectfully submitted,

/s/

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