

**DOCKETED**

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<b>Project Title:</b>	Power Source Disclosure - AB 1110 Implementation Rulemaking
<b>TN #:</b>	230423
<b>Document Title:</b>	Maya Kelty Comments - RE 3DEGREES COMMENTS IN DOCKET NO 16-OIR-05 -- POWER SOURCE DISCLOSURE - AB1110 IMPLEMENTATION RULEMAKING
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*Comment Received From: Maya Kelty*  
*Submitted On: 10/28/2019*  
*Docket Number: 16-OIR-05*

**RE 3DEGREES COMMENTS IN DOCKET NO 16-OIR-05 -- POWER  
SOURCE DISCLOSURE - AB1110 IMPLEMENTATION  
RULEMAKING**

*Additional submitted attachment is included below.*

October 28, 2019

Docket Unit  
California Energy Commission  
Docket No. 16-OIR-05  
1516 Ninth Street, MS-4  
Sacramento, CA 95814  
*Submitted via electronic submission*

**RE: 3DEGREES COMMENTS IN DOCKET NO. 16-OIR-05 -- POWER SOURCE  
DISCLOSURE - AB1110 IMPLEMENTATION RULEMAKING**

3Degrees Group Inc. (“3Degrees”) appreciates this opportunity to provide feedback on the proposed Modification of Regulations Governing the Power Source Disclosure Program (“Proposed Regulation”) put forward by the California Energy Commission (“CEC”) on September 5, 2019. 3Degrees works with a variety of customers in California and across the country, supporting corporate and institutional customers in renewable energy procurement and carbon reduction, as well as working with residential customers across the country through management and support of utility green pricing programs. Specifically, 3Degrees works closely with a number of California utilities on their green power offerings to residential and commercial customers. 3Degrees’ comments focus on ensuring that the Proposed Regulations do not lead to double counting of renewable energy or of the greenhouse gas (“GHG”) emissions associated with delivered electricity, and that the power source disclosure (“PSD”) provide accurate and understandable information to customers.

**(1) 3Degrees supports the requirement that renewable energy credits (“RECs”) be retained in order to report any renewable energy fuel type and the associated GHG emissions of that generation.**

All credible renewable energy purchasing must be supported by RECs. 3Degrees appreciates the provisions in the Proposed Regulation that prevent double counting in the PSD program. This includes the requirement that RECs must be procured by a retail supplier in order for renewable energy to be reported on the power content label (“PCL”), that null power be assigned the fuel type and GHG emissions profile of unspecified power, and the requirement that private contracts not be included in the default PCL. These provisions are required in order to ensure that double-counting does not occur.

**(2) The proposed regulation limits customer choice by limiting supplier options for procuring renewable energy in the region. We recommend revisions that would explicitly allow additional flexibility for retail suppliers providing Portfolio Content Category (“PCC”) 2 and PCC 3 renewables.**

The Proposed Regulation prohibits retail suppliers from providing accurate information to customers about PCC2 and PCC3 resources. Without revisions to the treatment of PCC2 and PCC3 RECs in the PCL, the Proposed Regulations will increase costs to customers, limit renewable energy purchasing options, and negatively impact broader renewable energy markets.

While arguments have been made that the PSD program is not intended to establish requirements around what retail suppliers procure, the reality is that the rules indirectly create requirements. Increasingly, electricity procurement in the state is structured around both voluntary and mandated renewable energy and GHG reduction commitments. The Proposed Regulation impacts the ability of retail suppliers to report out to their stakeholders and customers on achieving these commitments, which have been structured in line with California's policies related to delivered electricity (notably, the renewable portfolio standard) and around best practices in delivery claims for renewable energy and GHG emissions intensity of delivered electricity.

The Proposed Regulation limits the ability of retail suppliers to provide accurate information to their customers about PCC2 and PCC3 renewable energy procurements. In anticipation of the confusion, and in order to avoid it, retail suppliers will likely be forced to restructure their procurement in order to be able to report renewable energy and zero emissions power delivery to customers. This will increase costs of renewable energy procurement *and* decrease the availability of renewable energy options for customers across California.

Hundreds of thousands of customers across the country are enrolled in renewable energy offerings through their retail suppliers. Flexibility in contractual procurement of renewable energy (termed PCC1, PCC2, and PCC3 in California) is an important component of making renewable energy options available to a wide variety of customers. Unbundled RECs (PCC3) in particular are often an important component of residential and small business renewable energy offerings because they provide program flexibility—the retail supplier can offer flexible enrollment (no minimum contract length and no cancellation fees) and right-size their procurement for the program without having stranded costs. As wholesale markets grow, unbundled RECs are only growing in importance for large energy users as well, who often rely on virtual power purchase agreements (“VPPAs”) (unbundled REC contracts with a financial hedge) to support renewable energy development and make renewable energy and zero emissions energy usage claims<sup>1</sup>. The Proposed Regulation undermines these renewable energy purchasing options.

In order to not limit consumer choice, 3Degrees recommends revising the Proposed Regulation to treat all contractual forms of renewable energy procurement equally—allowing PCC1, PCC2, and PCC3 renewable energy to be reported according to fuel type and as zero emissions power. At a minimum, 3Degrees recommends revisions to Section 1394.1(j) and Section 1394.1(l)(1) in order to allow retail suppliers to provide additional, accurate information on the environmental and other generation benefits associated with PCC2 and PCC3 RECs for California customers, in line with California's own definition of a REC<sup>2</sup>.

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<sup>1</sup> To illustrate the importance of VPPAs as a procurement option: a recent review by GreenBiz of corporate PPAs from the second quarter of 2019 found that, of at least 2800 MW of new capacity for which corporates announced power purchase agreements in Q2, at least half (over 1500MW of capacity) were for virtual PPAs. (Golden, S. “Clean Energy Deals Tracker: New models, players shape blockbuster quarter”. July 11, 2019. Accessed at: <https://www.greenbiz.com/article/clean-energy-deal-tracker-new-models-players-shape-blockbuster-quarter>).

<sup>2</sup> According to Section 399.12(2) of the California Public Utilities Code, a 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.”

We recommend revisions to Section 1394.1(j) in order to explicitly allow retail suppliers to seek approval to provide additional information related to the sources of unbundled RECs and describe their environmental benefits:

*“A retail supplier may include additional information related to the sources of unbundled RECs and their environmental benefits on their PCL with CEC approval. If a retail supplier elects to include additional information related to the sources of unbundled RECs on any PCL, the retail supplier shall submit the proposed information to the CEC for review by June 1 annually. The CEC shall review the proposed language to ensure that it is limited to information specifically related to the sources of unbundled RECs and does not conflict with the methodology established by the CEC for the calculation of GHG emissions intensity.”*

This language will allow retail suppliers to provide accurate information to customers that RECs represent a claim to renewable energy usage and consumption of zero emissions power. We also recommend that the CEC work on specific guidance on implementation of this provision with stakeholders that allows retail suppliers to move quickly and with certainty in developing proposed language.

Revisions must also be made to Footnote 1 of the PCL in order to more accurately describe RECs and their use in the PCL as compared to RPS compliance:

*“Footnote 1, which shall read, “Renewable energy credits (RECs) are tracking instruments and certificates of proof that electricity was generated and delivered to the grid by a renewable energy resource. RECs are the contractual representation of all renewable and environmental attributes of renewable generation. The renewable energy and greenhouse gas emissions presented in this label only represent delivered renewable energy where RECs are procured in association with the underlying delivered electricity. RECs can also be purchased ‘unbundled’ from the electricity associated with those credits and matched with delivered electricity to provide a retail renewable energy usage claim and to deliver renewable energy under California’s Renewable Portfolio Standard (RPS). Unbundled RECs are not reflected in the power mix or GHG emissions intensities above. As such, the eligible renewable percentage above does not reflect RPS compliance.”*

Importantly, RECs should *not* be referred to as investments. RECs should be referred to as a commodity or a contractual instrument. Classifying RECs as an investment is both inaccurate, which could lead to customer confusion, and contradicts their treatment by the Commodity Futures Trading Commission and other federal agencies.

3Degrees also requests that the CEC issue additional guidance in relation to Section 1394.1(a)(2) that specifically allows retail suppliers to accurately and clearly discuss the environmental and other generation benefits associated with PCC2 and PCC3 RECs for voluntary renewable energy offerings. If the goal of the PSD Program is to provide accurate and easy to understand information to customers, it is important that these customers be able to access information that is aligned with their expectations for renewable energy delivery and zero emissions claims.

**(3) 3Degrees urges the CEC to revise to the statements in the Initial Statement of Reasons (ISOR), which, as written, undermines RECs and risks disrupting renewable energy markets.**

While we disagree with the treatment of PCC2 and PCC3 RECs in the proposal, and anticipate the proposed plan will be confusing to customers, we also acknowledge that the final proposal must balance multiple stakeholder perspectives and policy goals. In this context, the final program rules are equally as important as the statement of reasons explaining why certain decisions have been made. The language the CEC has provided in the ISOR for treatment of PCC2 and PCC3 RECs inaccurately criticizes RECs in a way that risks undermining important investments made in renewable energy in California and across the country each year.

The statement of reasons criticizes PCC2 and PCC3 procurements as inaccurate and questions their role as valid ways to procure renewable energy and show delivery of zero emissions power. The CEC seems to confuse what is required in order to make a renewable energy claim with what is required to create an offset from a renewable energy project. The ISOR conflates the ability to make a renewable energy usage claim with a requirement that the RECs lead to new renewable energy development<sup>3</sup>. It also conflates the ability to make a claim to zero emissions power delivery with proof that emissions were avoided on the grid<sup>4</sup>. Neither of these criteria are requirements for a claim to renewable energy usage and, if they were, there are likely to be bundled REC contracts that do not meet these criteria.

Renewable energy procurement in compliance markets across the country and in the voluntary market benefit from the ability to source RECs from a project without also contracting for the underlying electricity. Focusing on the voluntary market: according to NREL<sup>5</sup>, in 2018 at least 134.3 million MWh of renewable energy were purchased by voluntary customers, representing about three percent of total US electricity sales. The NREL report indicates that almost half of this renewable energy was purchased through unbundled RECs (63 million MWh). But this number actually under-represents the number of unbundled RECs purchased in the US voluntary market, because many other retail options rely on regionally-sourced unbundled RECs, and a portion of the nearly 24 million MWh sold through power purchase agreements are financial or VPPAs where the customer signs a long-term contract for RECs without physical delivery of the power. This array of options in the voluntary market provides access to renewable energy to many different types of customers, helping spur renewable energy development.

If the CEC chooses to move forward with the proposal as written, it is very important that the final statement of reasons be revised to not bring into question the validity of RECs. It is possible for the CEC to move forward with the Proposed Regulation as written without stating that RECs do not represent a valid claim to renewable energy and zero emissions power usage. It is accurate, and less disruptive to renewable energy markets, to state that the boundary for what renewable energy can be reported in the PCL was chosen in order to more closely align with the boundary of what is reported under the MRR.

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<sup>3</sup> See ISOR pg. 12.

<sup>4</sup> See ISOR pg. 16.

<sup>5</sup> Heeter, J, O'Shaughnessy, E. "Status and Trends in the Voluntary Market (2018 Data)". September 4-6, 2019. Accessed at: <https://www.nrel.gov/docs/fy20osti/74862.pdf>.

3Degrees appreciates this opportunity to provide feedback to CEC staff on the Proposed Regulation. 3Degrees would be happy to discuss our recommendations in more detail or answer any questions. Please do not hesitate to reach out with any questions or comments.

Sincerely,

/s/ Maya Kelty

Maya Kelty

*Director, Regulatory Affairs*