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Sierra Club Comments on Proposed Modification of Regulations Governing the Power Source Disclosure (Docket No 16-OIR-05)

Please see attachment.

Additional submitted attachment is included below.

October 28, 2019

Via online filing

California Energy Commission
Dockets Office, MS-4
1516 Ninth Street
Sacramento, CA 95814-5512

RE: Sierra Club Comments on Proposed Modification of Regulations Governing the Power Source Disclosure (Docket No. 16-OIR-05)

Dear California Energy Commission Staff:

Sierra Club provides these comments on the Commission's proposed changes to regulations governing the Power Source Disclosure Program and in response to discussions at the October 7th workshop. Sierra Club strongly supports the draft regulations and recommends that they be adopted with only minor changes. Sierra Club offers two further areas of discussion here.

First, Sierra Club continues to support the Commission's approach regarding firmed-and-shaped electricity products, but the grandfathering provision for firmed-and-shaped products contracted before January 1, 2019 should be carefully policed and should not be extended.

Second, Sierra Club recommends that the regulations require *all* load-serving entities—not just investor-owned utilities—to report the portion of procurement attributed to resources made under the Cost Allocation Mechanism (CAM).

Following the above change, Sierra Club recommends that the draft regulations be adopted and implemented.

1. Grandfathering emissions reporting for firmed-and-shaped resources is appropriate only for resources procured before January 1, 2019, and should in no circumstances be extended to any modifications, amendments, or extensions of those contracts.

The draft regulations establish in Section 1393(c)(1) a protocol for requiring load-serving entities to report the greenhouse gas (GHG) emissions associated with delivered electricity, which will apply to firmed-and-shaped electricity products as well because firmed-and-shaped products result in substitute sources being delivered to the California balancing authority to serve retail customers, as described in the Initial Statement of Reasons.[1] The draft regulations appropriately require load-serving entities to report the GHG emissions associated with the substitute energy because those emissions are inherently tied to actually serving California customers with electricity. Resource shuffling is an on-going concern with the Western grid, and the Commission is correct that out-of-state GHG emissions accounting is not yet sufficient for California to rely on. Until other states develop similar or better GHG accounting, Sierra Club agrees with the Commission that the best available GHG emission data collection occurs through the Mandatory Reporting Regulation Program, and it remains appropriate to report on delivered energy rather than the REC-associated energy. Sierra Club strongly supports this approach of requiring LSEs to report on the delivered energy associated with firmed-and-shaped products.

The draft regulations also include a grandfathering provision that allows LSEs to exempt contracts for firmed-and-shaped products made prior to January 1, 2019 from the GHG emissions accounting methodology.[2] This is an appropriate compromise between parties seeking full accountability for reporting associated GHG emissions necessary to serve California customers and parties arguing that they will be punished for contracts they made before these regulations were discussed.

The January 1, 2019 grandfathering date should not be extended for any reason. The Commission has made abundantly clear for months that it was considering requiring LSEs to report the GHG emissions associated with the substitute sources of firmed-and-shaped electricity products. Parties can no longer feign a need for additional time to prepare for these regulations and should not be allowed a final few months to scurry contracts in before the regulatory deadline. For all the reasons stated in the Initial Statement, LSEs should report the GHG emissions associated with delivered energy from firmed-and-shaped products, and there is no reason to increase the number of contracts excepted from reporting. Allowing LSEs to sneak in additional contracts before the grandfathering deadline would only represent an attempt to avoid reporting on actual GHG emissions and to undermine transparency and accountability to customers. Sierra Club recommends that the Commission make no further changes to Section 1393(d)(1) and that the grandfathering date for reporting requirements remain January 1, 2019.

2. All load-serving entities should be required to disclose the GHG emissions associated with CAM-based resources.

The draft regulations require that investor-owned utilities report the portion of procurement attributable to resources procured under the Cost Allocation Mechanism (CAM),

[1] Initial Statement of Reasons at 16.
[2] Section 1393(d)(1).

but it does not make any similar requirement for other load-serving entities.[3] Investor-owned utilities procure these resources to meet reliability needs on behalf of all load-serving entities, with costs and resource adequacy (RA) value shared proportionately across load-serving entities. Because the needs, costs, and benefits are shared by all load-serving entities, the regulations should require all entities to report their proportionate share of GHG emissions for these resources.

Sierra Club recommends that the commission assign the GHG emissions of CAM resources to each load-serving entity, and that these emissions be included in the Power Source Disclosure Label. Without revision, the regulations would enable energy service providers (ESPs) and community choice aggregation programs (CCAs) to systematically report lower emissions than investor-owned utilities when the IOUs have no additional flexibility with respect to purchasing CAM resources. This creates an inconsistent reporting structure across entities, leading to a lack of transparency and likely customer confusion. The Power Source Disclosure Label Program should be consistent across entities in order to ensure that customers can easily compare utilities to ESPs and CCAs and vice versa. For these reasons, Sierra Club recommends that the Commission reevaluate Section 1393(a)(5).

Thank you for your consideration of these comments. Sierra Club appreciates the work of Energy Commission staff and other parties in developing regulations that improve transparency, educate consumers, and move California closer to an energy system powered entirely by carbon-free energy.

Respectfully,
/s/ Katherine Ramsey

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[3] Section 1393(a)(5).