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LADWP Comments on Modification of Regulations Governing the Power Source Disclosure Program

Additional submitted attachment is included below.

BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA

In the matter of:

*Modification of Regulations
Governing the Power Source
Disclosure Program*

) **Docket No. 16-OIR-05**
)
) PROPOSED ACTION. Modification of
) Regulations Governing the Power Source
) Disclosure Program
)

**COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) TO THE
CALIFORNIA ENERGY COMMISSION (CEC) ON MODIFICATION OF REGULATIONS GOVERNING THE
POWER SOURCE DISCLOSURE PROGRAM**

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Dated: October 28, 2019

**BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA**

<i>In the matter of:</i>)	Docket No. 16-OIR-05
)	
<i>Modification of Regulations Governing the Power Source Disclosure Program</i>)	PROPOSED ACTION. Modification of Regulations Governing the Power Source Disclosure Program
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**COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND POWER (LADWP) TO THE
CALIFORNIA ENERGY COMMISSION (CEC) ON MODIFICATION OF REGULATIONS GOVERNING THE
POWER SOURCE DISCLOSURE PROGRAM**

LADWP appreciates the opportunity to review and comment on the CEC’s proposed changes to the Power Source Disclosure (PSD) Regulation in response to Assembly Bill 1110 (Ting, 2016): *Greenhouse gases emissions intensity reporting by retail electricity suppliers*.

The City of Los Angeles (City of LA) is a municipal corporation and charter city organized under the provisions set forth in the California Constitution. LADWP is a proprietary department of the City of LA, pursuant to the Los Angeles City Charter, whose governing structure includes a mayor, a fifteen-member City Council, and a five-member Board of Water and Power Commissioners. LADWP is the third largest electric utility in the state, one of five California Balancing Authorities, and the nation’s largest municipal utility, serving a population of over four million people within a 465 square mile service territory that covers the City of Los Angeles and portions of the Owens Valley. LADWP’s mission is to provide clean, reliable water and power in a safe, environmentally responsible, and cost-effective manner.

Below are LADWP’s comments on the *Express Terms* and *Initial Statement of Reasons* that were posted on September 6, 2019.

SPECIFIC COMMENTS

1. LADWP proposes that unspecified power be reported based on transactional data rather than using the method described in Section 1393(a)(4).

Calculation of an entity's unspecified power by finding the difference between retail sales and total specified net purchases can lead to inaccurate information on the PCL. With the proposed calculation method, an entity may purchase unspecified power to serve its customers but would be required to report zero percent unspecified power for its fuel mix. LADWP typically has total net procurement that is greater than its retail sales. As a result, LADWP would be required to report zero percent unspecified power regardless of the amount of unspecified power that it actually procures.

For accuracy, LADWP proposes that transactional data be used as the basis for reporting unspecified power.

2. LADWP proposes a revision to the proportional reduction methodology described in Section 1393(a)(6).

The method of adjusting net purchases that is proposed within the *Express Terms*, Section 1393(a)(6) should be revised as follows:

"If the total procurement of specified net purchases of an electricity portfolio exceeds retail sales, each net purchase of electricity from a generator using natural gas, coal and any other fossil fuel electricity sources shall be proportionally reduced in accordance with Equation 3. If an electricity portfolio has insufficient natural gas, coal and any other fossil fuel electricity sources... large hydro and nuclear shall also be proportionally reduced... with Equation 3."

Natural gas should not be prioritized over coal and other fossil fuel sources for proportional reduction. With the proposed methodology, prioritizing reduction of natural gas purchases could result in an increased percentage of coal on an entity's PCL if the entity's total specified net purchases exceeds its retail sales. This would be a misrepresentation of the entity's actual power mix and associated GHG emissions.

In order to avoid inaccurate disclosure of an entity's power mix, LADWP proposes that all net purchases from non-renewable sources be proportionally reduced. This proposed reduction method ultimately meets the CEC's intent of accounting for specified net purchases in excess of retail sales while maintaining the accuracy of the PCL.

3. LADWP proposes that the deadline for PCL disclosure to customers be moved to a date after the audited PCL is due to the CEC.

As it is currently written, Section 1394.1(b)(2) requires utilities to annually disclose

information to customers and the CEC by mail on or before August 30. LADWP recommends that CEC move the deadline for disclosure of the PCL to customers, from August 30 to December 31 so that the audited PCL can be distributed to customers. Providing the audited version of the PCL to consumers will align with the intent of the PSD to provide "accurate, reliable, and simple-to-understand information on the sources of energy that are used to provide electric services" to California consumers (Public Utilities Code Section 398.1(b)).

It does not make sense to provide the un-audited version of the PCL to customers to meet a deadline of August 30, which does not fit with the PCL auditing schedule. If the audit results in any changes to the PCL, the revised document would also need to be distributed to customers, which would be a duplication of effort. Moving the deadline to December 31 would allow the audited (rather than the un-audited) version of the PCL to be distributed to customers, thus meeting the intent of providing accurate information to customers. For utilities such as LADWP that use a bi-monthly billing cycle, it would take at approximately 60 days to reach all customers after the PCL audit is completed. A deadline of December 31 would give entities sufficient time to prepare and send audited PCL materials to its customers.

Furthermore, Section 1394.2(a) states that by October 1 of each year, retail suppliers need to provide the audited report and proof of service of the annual PCL to consumers. The report by the auditor required in section 1394.2(a), and distribution of the annual PCL to consumers are two separate processes that should not be comingled.

To avoid providing the unaudited version of the PCL to consumers and potential duplication of effort and confusion to customers if the audit results in changes to the PCL, LADWP recommends the following schedule of milestones:

- June 1 – Draft Annual Report: Power Source Disclosure Program (PSD) due to CEC
- Mid July – CEC makes available the CA Total Mix and PCL Template
- October 1 – Independent Audit of the Annual Report and PCL due to CEC
- December 31 – Audited PCL due to customers

Based on this schedule, LADWP recommends revising Section 1394.2(a) to read as follows:

“By October 1 of each year, all retail suppliers shall provide a report prepared by an auditor who has conducted the procedures identified in subdivision 1394.2(b). The report shall contain a summary of the results of the procedures. ~~and a proof of service of the annual power content label to customers.~~”

4. LADWP recommends the definition of “specified purchase” be revised to clarify requirements for electrical transactions from a retail seller’s own facilities and to include agreements other than purchase agreements.

LADWP suggests the definition of “specified purchase” in Section 1391 be revised to read as follows:

“For facilities not owned by the retail seller, specified ~~Specified~~ purchases shall be documented through ~~purchase~~ agreements executed prior to the generation of the procured ~~purchased~~ electricity, as applicable”.

This modification is proposed to clarify that the documented agreement requirement does not apply to electrical transactions from facilities owned by the retail seller, since agreements likely do not exist to procure electricity from a retail seller’s own facilities.

In addition, this modification would allow for electricity procured from agreements other than power purchase agreements to be included under this definition. Specified electricity products may be procured through a number of mechanisms and still remain traceable. For example an entity may have a participation agreement in place for a given facility. The revised definition would allow for electricity procured through this participation agreement to be included, whereas it may have been otherwise excluded due to not being part of an energy “purchase agreement”.

5. LADWP suggests revising the language in Section 1393(a)(3) to clarify wholesale sales.

LADWP proposes Section 1393(a)(3) be revised as follows:

“Net purchases of each specified gross purchase shall be calculated by deducting any ~~specified~~ wholesale sales from each specified gross purchase, as expressed in Equation 1:...”

The term “specified wholesale sale” implies that the source of the energy is named in the agreement. If the source is not named, it could be inferred that the sale would not be considered a “specified wholesale sale” and could not be deducted from the specified gross purchase even if the energy delivered to the wholesale buyer came from the specified facility. Restricting deduction of wholesale sales to only “specified wholesale sales” will lead to overestimation of GHG emissions associated with sales to retail customers.

For instance, LADWP delivers energy to wholesale buyers from its share of a generating station located outside of California, which is the closest generating facility to the point of delivery, in order to minimize losses. The sale is considered LADWP system power because it is not contingent upon any particular generating unit. If the out-of-state generating station is not specified as the source in the wholesale sale

transaction, this transaction would not be considered a “specified wholesale sale”. LADWP would not be able to deduct the energy sold wholesale from its gross procurement from the out-of-state generating station. The result is that LADWP’s PCL would include GHG emissions from energy that never entered California.

6. LADWP recommends that language of Section 1393(c)(1)(A) be revised for more clarity since e-tags are not attributed to all specified purchases

The language of Section 1393(c)(1)(A), as it is currently written, can be interpreted to mean that a retail supplier must meet both requirements 1) and 2) regardless of the applicability of requirement 2 in order for GHG intensity to be assigned for specified electricity. During the October 7 workshop, CEC staff confirmed that this is not the case. LADWP proposes that this section be revised as shown below.

*“...In order for specified electricity to be assigned the GHG emissions intensity of the associated generator, a retail supplier 1) must have executed ~~a~~ **an auditable contract trail for purchase agreement prior to** the generation of the purchased electricity and, **(if applicable)** 2) have e-tags for all delivered electricity that is imported to a California balancing authority. If the specified electricity does not meet ~~both~~ **1) and (if applicable)** 2), it will be assigned the GHG intensity of unspecified power.”*

Note that the above modification, “*must have executed ~~a~~ **an auditable contract trail for purchase agreement prior to purchase agreement prior to***”, is due to comment 4.

7. LADWP requests clarification on the timing and use of MRR data to calculate emissions intensity using Equation 5 in Section 1393(c)(2)(B).

This section states that CEC will calculate the emissions intensity for a given generator using “most recent annual GHG emissions as reported under MRR” and “net electricity production as reported to MRR”. Currently, verified MRR data for a given reporting year is typically not available until August 10 of the following year. LADWP is seeking clarification on which year’s MRR data will be used for the emission intensity calculation for the unaudited and audited PSD reports each year, and whether verified MRR data will be used for both the unaudited and audited PSD reports.

In addition to the seven comments above, LADWP would like to reassert the comments that were previously submitted in response to the CEC’s staff paper titled *Power Source Disclosure Draft Regulations* that was posted on February 20, 2019.

CONCLUSION

In closing, LADWP appreciates the opportunity to participate in the rulemaking process and looks forward to continue working with the CEC to help shape effective regulations that will benefit the health, safety, and security of all California residents. If you have any questions, please contact myself at (213)367-2525, or Mr. Scott Hirashima at (213)367-0852.

Respectfully Submitted,



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