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**COMMENTS OF CMUA ON THE 15-DAY LANGUAGE MODIFYING  
REGULATIONS GOVERNING THE POWER SOURCE DISCLOSURE  
PROGRAM**

*Additional submitted attachment is included below.*

STATE OF CALIFORNIA ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of:

Power Source Disclosure - AB 1110 Implementation  
Rulemaking

Docket No. 16-OIR-05

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**COMMENTS OF THE  
CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION  
ON THE 15-DAY LANGUAGE MODIFICATION OF REGULATIONS GOVERNING  
THE POWER SOURCE DISCLOSURE PROGRAM**

The California Municipal Utilities Association (“CMUA”) appreciates the opportunity to provide comments to the California Energy Commission (“Energy Commission”) on the *15-Day Language Modification of Regulations Governing the Power Source Disclosure Program* (“15-Day Language”).

CMUA is a statewide organization of local public agencies in California that provide electricity and water service to California consumers. CMUA membership includes publicly owned electric utilities (“POUs”) that operate electric distribution and transmission systems. In total, CMUA members provide approximately 25 percent of the electric load in California. California’s POU’s are committed to, and have a strong track record of, providing safe, reliable, affordable and sustainable electric service.

**I. INTRODUCTION**

AB 1110 (Ting, 2016) authorizes changes to the Power Source Disclosure (“PSD”) program, requiring electricity retail suppliers to disclose the greenhouse gas (“GHG”) intensity of any electric product offered to customers. On September 6, 2019, the Commission issued a *Modification of the Regulations Governing the Power Source Disclosure Program* (Draft Regulation). On October 28, 2019 CMUA submitted comments on the Draft Regulation. On

November 25, 2019 the Energy Commission issued 15-Day Language providing further modifications to the Draft Regulation.

CMUA agrees that the 15-Day Language provides needed flexibility to deliver the Power Content Label (PCL) to customers. CMUA also recognizes that requiring retail suppliers to disclose GHG emissions intensity of procurement that occurs on or after January 1, 2020 is a move in the right direction.<sup>1</sup> However, CMUA continues to be concerned that the Draft Regulation and 15-Day Language effectively impose regulatory changes retroactively and that the proposed timeline is inconsistent with the timeline presented in AB-1110.

## **II. COMMENTS ON 15-DAY LANGUAGE**

### **A. CMUA Supports the Modified PCL Delivery Date**

The 15-Day Language mandates that retail suppliers deliver the PCL to customers by “the end of the first complete billing cycle for the third quarter of the year.”<sup>2</sup> Recognizing the rolling utility billing cycles, and based on the Energy Commission publishing the PCL template, this modification should provide retail sellers an appropriate time to develop their PCLs.

### **B. The 15-Day Language Should be Modified to Reflect Retail Sellers’ Procurement Timeline**

The 15-Day Language stipulates that retail sellers shall report GHG intensity in the PCL for procurement on or after January 1, 2020.<sup>3</sup> While CMUA recognizes that this is an improvement over the timeline presented in the Draft Regulation, this schedule still does not reflect the typical utility procurement timeline. The 15-Day Language would require that retail sellers restructure procurement and marketing less than one month after regulatory approval. It is typical for utility programs to be developed well in advance and the

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<sup>1</sup> 15-Day Language, § 1394.1(a).

<sup>2</sup> 15-Day Language, § 1394.1(b)(2).

<sup>3</sup> 15-Day Language, § 1394.1(a).

procurement contracts to be finalized far longer than one month in advance of a program kickoff. AB 1110 establishes a timeline in which the Energy Commission must adopt revised guidelines at least one year before the sales year on which emissions intensity would be first reported. In doing so, the legislature clearly recognized the need for retail sellers to plan for the procurement and marketing required for compliance with the regulation. However, the 15-Day Language does not provide retail sellers the time needed to plan for procurement and marketing for the changes in the PCL. While the 15-Day Language may at first appear to address concerns about retroactive regulation, because it imposes changes on how programs and procurement that have already been structured, the language effectively changes the rules after decisions have been made. In order to implement the regulation consistently with the timeline in AB 1110, CMUA suggests that the regulation be implemented so that the revised reporting applies no earlier than 2022, reflecting 2021 procurement.

### **III. CONCLUSION**

CMUA appreciates the opportunity to provide these comments and looks forward to continuing to work with staff in this proceeding.

Dated: December 10, 2019

Respectfully submitted,

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