

DOCKETED

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M-S-R Comments re PSD Prerulemaking draft

Additional submitted attachment is included below.



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February 21, 2024

California Energy Commission
Docket Unit, MS-4
Re: Docket No. 21-OIR-01
715 P Street
Sacramento, CA 95814-5512

Re: **Comments on Pre-Rulemaking Proposed Amendments to the Power Source Disclosure Regulation**

Dear Commission Staff:

M-S-R Public Power Agency (M-S-R)¹ appreciates the opportunity to provide feedback to staff on the potential changes to the Power Source Disclosure Program Regulations (PSD Regulations). M-S-R's member agencies, who are subject to the annual and proposed new hourly reporting requirements in the PSD Regulations, will be directly impacted by the proposed changes. M-S-R limits these comments to addressing the issue of annual and hourly reporting and accounting for eligible firmed-and-shaped products; namely, that the Commission should ensure that the applicable exemptions from annual accounting for eligible firmed-and-shaped resources also be applied to any new hourly accounting rules. M-S-R also endorses and supports the comments submitted by the California Municipal Utilities Association.²

Introduction

M-S-R is authorized to acquire, construct, maintain, and operate facilities for the generation and transmission of electric power and to enter into contractual agreements for the benefit of any of its members. Currently, M-S-R has contractual arrangements for

¹ Created in 1980, the M-S-R Public Power Agency is a public agency formed by the Modesto Irrigation District, the City of Santa Clara, and the City of Redding.

² Failure to address other issues raised during the workshop should not be seen as a position in support of or against any of those issues.

249.5 megawatts (MW) of California Energy Commission RPS-certified renewable energy from two wind contracts. M-S-R currently contracts for the entire capacity of the Big Horn I Energy Project, rated at 199.5 MW. M-S-R's contract with Big Horn 1 was executed on June 1, 2005 and runs from its initial operation date of October 1, 2006 through September 30, 2031. On December 2, 2009, M-S-R entered into an agreement for the entire 50 MW output of the Big Horn II Energy Project from its initial operation date of November 1, 2010 through October 31, 2035. Both Big Horn I and Big Horn II are 25-year contracts, representing significant financial investments in clean energy resources. Furthermore, as discussed below, Big Horn I and Big Horn II are recognized as Portfolio Content Category 0 resources as defined in the Renewables Portfolio Standard (RPS) Eligibility Guidebook in accordance with Section 3202 (a)(2) of the RPS Enforcement Regulations for Publicly Owned Utilities (RPS POU Regulations).

The PSD Regulation Should Confirm that Eligible Firmed-and-Shaped Resources Report the Emissions Intensity of the Renewable Resource for both Annual and Hourly Accounting

The PSD Regulation currently acknowledges that certain eligible firmed-and-shaped resources report annual emissions using the carbon intensity of the renewable resource. The Commission noted that “rules established by California in implementing the RPS Program where firmed-and-shaped transactions in which electricity delivered to the state paired with an equal amount of eligible renewable generation is characterized by the fuel type of the renewable generator. This treatment of eligible firmed-and-shaped products is necessary to recognize the differing rules, policy objectives and historical treatment of firmed-and-shaped transactions under existing California programs, specifically the RPS Program and statewide GHG emissions accounting.” (September 2019 ISOR, p. 17)

The Commission further confirmed its recognition of these resources when implementing AB 1110 (Stats. 2016, ch. 656), finding that qualified firmed-and-shaped deliveries from contracts or ownership agreements executed prior to January 1, 2019 would be required to report the emissions intensity of the renewable resource. The Commission expressly noted that the “purpose of this provision is to recognize that prior to the implementation of AB 1110, some retail suppliers entered into contracts for eligible firmed-and-shaped products to meet RPS targets or to support voluntary renewable procurement. This approach avoids imposing a

considerable burden on retail suppliers and unfairly penalizing retail suppliers that have made pre-existing investments in firm-ed-and-shaped imports to meet RPS and voluntary renewable goals.” (May 2020 FSOR, p. 38) This treatment aligns the state’s various policy objectives and regulatory requirements. However, as drafted, the proposed provisions of Section 1392(c), regarding hourly reporting, do not carry forward this rationale. In order to ensure that the PSD regulations remain consistent with state policy objectives, including recognition of the renewable portfolio standard, and the California Air Resources Board mandatory reporting regulation and cap-and-trade program, the PSD regulation should expressly recognize that for resources that meet the provisions of Section 1392(b)(6)(A), only the renewable resource would be included in the Retail Supplier’s resource stack. This approach is consistent with the objective of the legislation, and would avoid causing customer confusion when reconciling years of annual reporting with the new hourly requirement.

The Regulation Should Acknowledge the Treatment of Contracts or Ownership Agreements Executed Prior to June 1, 2010.

Portfolio Content Category (PCC) 0 is not otherwise defined in PSD regulation; rather it is a term used by the CEC to refer to electricity products procured under contracts or ownership agreements executed before June 1, 2010, from a facility that met the requirements to be certified as an eligible renewable energy resource according to the Renewables Portfolio Standard (RPS) Eligibility Guidebook in place at the time the contract was executed, in accordance with Section 3202 (a)(2) of the RPS POU Regulations. However, the PCC is relevant for reporting purposes. The current definition of “eligible firm-ed-and-shaped resources” in Section 1391 does not specifically reference PCC 0 resources, but it does acknowledge that for purposes of the PSD “the term shall apply to all products that meet the definitions ~~specified~~ identified above except for the fact that they are the subject of an agreement executed prior to June 1, 2010.” In the May 2020 FSOR, the Commission recognized that “renewables procured prior to legislative requirements for such procurement are eligible for the grandfathering provision under [Section 1393(d)(1)] that allows undelivered renewables to be counted according to the emissions profile of the associated REC.” (May 2020 FSOR, p. 16) For greater clarity, the proposed language of Section 1392(b) should likewise acknowledge the treatment of contracts or agreements executed prior to June 1, 2010.

Conclusion

M-S-R appreciates the work that staff has done to engage stakeholders and ensure that the proposed amendments to the PSD Regulation are consistent with the statutory direction, workable for compliance entities, reflect the oft complex policy landscape that led to this point. M-S-R urges staff to incorporate these comments and suggested changes into the proposed amendments to the PSD Regulation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Hopper', with a long, sweeping underline.

Martin Hopper
General Manager
M-S-R Public Power Agency