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SMUD Comments Re 45-Day Express Terms for the Power Source Disclosure Regulations

SMUD Comments Re: 45-Day Express Terms for the Power Source Disclosure Regulations - 21-OIR-01

Additional submitted attachment is included below.

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

In the matter of:)	Docket No. 21-OIR-01
)	
<i>Rulemaking to Amend Regulations Governing the Power Source Disclosure Program</i>)	SMUD Comments Re: 45-Day Express Terms for the Power Source Disclosure Regulations
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)	
)	July 3, 2024

**Comments of SACRAMENTO MUNICIPAL UTILITY DISTRICT on the
45-Day Express Terms for the Power Source Disclosure Regulations**

The Sacramento Municipal Utility District (SMUD) respectfully submits these comments on the California Energy Commission’s (CEC) 45-day express terms for the Power Source Disclosure regulations (Express Terms)¹ and the accompanying Initial Statement of Reasons (ISOR)² and example reporting templates.³ SMUD appreciates staff’s efforts to implement the new requirements established by Senate Bill (SB) 1158 and supports many elements of the proposed hourly accounting framework. However, SMUD continues to remain concerned that several of the proposed modifications to the Power Content Label (PCL) would not contribute to increased transparency, or ease of understanding. SMUD additionally recommends several clarifications for the purposes of improving accuracy or removing ambiguity. Specifically, SMUD’s comments include the following feedback and recommendations:

- Support the proposed hourly accounting requirements for load matching and oversupply.
- Allow retail suppliers to submit either a single systemwide loss factor or loss factors on a resource-specific basis.
- Support the inclusion of an aggregated Total Power Content mix on the Power Content Label (PCL) but recommend limiting to generation serving retail loads.
- Recommend removing unnecessary modifications to the PCL, such as moving the percentage of unbundled RECs to footnotes, that neither improve transparency, accuracy, nor simplicity.
- Clarify the attestation statement for the Resource Report submitted by retail suppliers’ authorized agents.
- Clarify how procurements from natural gas paired with carbon capture and sequestration will be reduced when specified procurements exceed annual load.

1 Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=256446-3&DocumentContentId=92270>.

2 Available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=256446-2&DocumentContentId=92271>.

3 Example 2028 reporting template available at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=256775&DocumentContentId=92591>; example 2025 template at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=256774&DocumentContentId=92590>.

- Commit to a timeline, within the Final Statement of Reasons, for considering amendments to address emissions associated with emerging resources.
- Modify example reporting templates, prior to finalizing, to allow retail suppliers to assign unbundled RECs to individual electricity portfolios and provide a streamlined mechanism for hourly data reporting.

SMUD's comments are further detailed in the following pages. SMUD additionally supports the comments of the California Municipal Utilities Association (CMUA) submitted July 3, 2024.

A. Support the proposed hourly accounting requirements for load matching and oversupply.

SMUD supports the proposed hourly accounting requirements as specified in section 1392 (c)(3) and (c)(7). Together, these provisions allow retail suppliers to determine the stacking order for hourly load matching and attribute the emissions associated with oversupply that did not serve the retail supplier's load to unspecified power. This framework appropriately recognizes the specific procurement decisions and investments made by individual retail suppliers. At the same time, it promotes transparency and accuracy by ensuring that emissions associated with oversupplied resources are accounted for and attributed to the under-procured retail suppliers that relied on that oversupply, in the form of unspecified purchases, to serve loss-adjusted load.

B. Allow retail suppliers to submit either a single systemwide loss factor or loss factors on a resource-specific basis.

Section 1392 (a)(8)(B) would assign to retail suppliers, by default, the transmission and distribution loss factor for its planning area identified in the most recent Integrated Energy Policy Report (IEPR). Section 1392 (a)(8)(C) allows retail suppliers to separately calculate and report its transmission and distribution loss factor. Currently, SMUD estimates its internal transmission and distribution system losses at 4.55 percent. Losses associated with generation imported to SMUD's system vary based on the posted Open Access Transmission Tariff (OATT) loss rates and/or contractual power purchase agreement losses; however, SMUD believes that the 6.4 percent loss factor identified for the "Northern California Non-CAISO" planning area in the 2022 IEPR may represent a reasonable approximation of all internal and external system losses, assuming it includes losses associated with imported generation, for the generation SMUD will match to its loss-adjusted load.

However, the IEPR planning area loss factor is an approximation and may not always accurately represent SMUD's losses. To that end, SMUD supports the inclusion of a pathway for retail suppliers to calculate and report alternative loss factors but recommends allowing retail suppliers to submit *either* a single loss factor *or* loss factors for specific individual resources.

SMUD recognizes the CEC's concern that retail suppliers may "cherry-pick" reporting of individual loss factors when it is most advantageous⁴; however, SMUD believes this concern is overstated and can be mitigated if the retail supplier's supporting information includes an explanation of why loss factors are reported for specific individual resources. SMUD anticipates the main driver in this decision will be the complexity of determining the loss factor, which can vary based on the applicable transmission path and OATT. For example, the California Independent System Operator (CAISO) includes losses within its locational marginal prices, but it would be extremely challenging to extrapolate a corresponding loss factor. Moreover, SMUD anticipates that retail suppliers may run into similar complexity challenges when estimating a single loss factor that accounts for system-level and import-level losses. To ensure the alternative loss factor pathway is practical, SMUD recommends the CEC reconsider allowing loss factors to be provided on a resource-specific basis. Sample amendments to section 1392 (a)(8)(C) follow:

(C) As an alternative to the loss factors under subdivision (a)(9)(B), a retail supplier may calculate and report a single estimate of its transmission and distribution loss factor or estimated loss factor(s) for one or more individual resources ~~directly~~. The retail supplier must provide substantiating documentation supporting the loss factor claim, including, as applicable, an explanation of why it reported alternative loss factor(s) for only a subset of its resources.

C. Support the inclusion of Total Power Content mix on the PCL but recommend excluding non-retail loads.

SMUD supports the proposed addition of a "Total Power Content" mix that aggregates a retail supplier's general mix and all product offerings, including custom products that are not otherwise included on the PCL. The inclusion of a Total Power Content mix improves transparency by allowing customers to see the aggregate performance of a retail supplier over all the products that they offer.

SMUD recognizes the CEC's desire to align the annual and hourly disclosures required in the existing Power Source Disclosure (PSD) regulation and SB 1158, respectively, by incorporating losses within the annual reporting requirements.⁵ However, to ensure consistency with Public Utilities Code section 398.4, SMUD continues to recommend that the Total Power Content be based on retail sales. Sample amendments to section 1392 (b) follow:

- (1) The fuel mix for each electricity portfolio and for total power content shall be calculated by aggregating net purchases of each fuel type and expressed as percentages of the retail sales of the electricity portfolio or ~~loss-adjusted load for~~ total power content.
- (2) Annual purchases of unspecified power shall be calculated as the difference between a retail supplier's retail sales ~~loss-adjusted load~~ and the sum of its specified purchases, minus any specified resales.

⁴ See ISOR at pp. 50-51.

⁵ See ISOR at p. 50.

D. Recommend removing unnecessary modifications to the PCL, such as moving the percentage of unbundled RECs associated with electricity products to footnotes, that neither improve accuracy, reliability, nor simplicity.

The purpose of the PSD program, as set forth in Public Utilities Code section 398.1, is to provide “accurate, reliable, and simple to understand” information to customers about the electricity sources used to serve retail sales. The PCL is the primary mechanism for that disclosure and should, therefore, reflect these principles. SMUD is concerned that several of the proposed changes to the PCL would have the effect of obscuring the accuracy of the PCL and making it harder for customers to obtain information about the electricity sources serving them.

For example, the proposed changes to section 1393.1 (m)(1) would move the percentages of unbundled RECs retired in association with each electricity portfolio from below the fuel mix on the PCL to a footnote. The ISOR indicates the updated location is necessary to improve clarity. CEC staff further elaborated at the June 11, 2024, rulemaking workshop that the change was necessary because unbundled RECs are not directly reflected in the fuel mix or the GHG emissions intensity of the portfolio. This change, however, is neither necessary nor would it improve transparency. The PCL already notes that unbundled RECs are not reflected in the power mix or GHG emissions intensity. In addition, the current PCL format allows customers to readily confirm the details of the electricity products they receive. For example, some customers purchase Green-e certified voluntary products that include unbundled RECs matched to some or all of the electricity they purchase. Moving information about the quantity of unbundled RECs to a footnote makes it more challenging for customers to find verify the voluntary products that they have purchased. SMUD offers the following proposed amendments to section 1393 (j) and (m)(1):

(j) The Energy Commission shall generate power content labels on behalf of each retail supplier or provide a power content label template on the Energy Commission website for each retail supplier to generate its power content label. The label or template may display some of the data graphically, including but not limited to information provided under subdivision (c) of this section. The label shall display, for each electricity portfolio, the quantity of unbundled RECs retired in association with the portfolio...

(m)(1) This label does not reflect compliance with the Renewables Portfolio Standard (RPS), which measures the retirement of tracking instruments called renewable energy credits (RECs). Unbundled RECs (credits without electricity) can be used for RPS compliance, but they are not reflected in the power mix or GHG emissions intensities above.” ~~[This footnote shall also list the percentages of unbundled RECs retired in association with each electricity portfolio.]~~

Additionally, the proposed changes to section 1393.1 (c)(1)(J) would characterize unspecified power as “primarily fossil fuels,” which CEC staff indicates is necessary to reflect that fossil fuels are the primary source of generation in unspecified power.⁶

⁶ See ISOR at pp. 7-8 and 42.

However, this characterization is based on a point-in-time analysis and may not remain accurate as California and the West transition to cleaner resources. Indeed, the CEC will be estimating the composition and GHG intensity of unspecified power under the proposed regulations.

To avoid potential inaccuracy and confusion, SMUD recommends the CEC remove this characterization from the PCL entirely. However, to the extent the CEC determines it is necessary to provide additional information regarding unspecified power on the PCL, that information should be clarified through a footnote and based on actual data collected by the CEC for the reporting year, rather than a static assumption about the fuel mix underpinning unspecified power. Sample amendments to Section 1393.1 (c)(1) follow:

(c)(1) Fuel mix information of each electricity portfolio, total power content, and of California total statewide retail electricity sales shall be provided using the following fuel type categories listed in this subdivision:

...

(c)(1)(J) Unspecified power ~~(primarily fossil fuels)~~

E. Clarify the attestation statement for the Resource Report submitted by retail suppliers' authorized agents.

Section 1393 (a)(2) specifies the requirements for the attestation accompanying the Resource Report that retail suppliers must submit annually to the CEC. Specifically, the attestation must be "signed by an authorized agent of the retail supplier under penalty of perjury, that the information provided in the report is true and correct." SMUD recommends clarifying the attestation to represent that the information is true and correct *to the best of the authorized agent's knowledge*. In some cases, the retail supplier's agent may be relying on information from other entities, such as contractual counterparties, and thus may not be able to attest to the veracity of the information with firsthand knowledge. Additionally, errors may be identified after submission and attestation of the PSD reports which could technically subject them to a penalty and make an authorized agent reluctant to make such an "absolute" attestation. The attestation should therefore focus on affirming that all information in the report is true to the best of the attester's knowledge. This language would also be consistent with other attestation requirements, such as in 20 Cal. Code Regs. section 1342 (g)(1)(E). Sample amendments to section 1393 (a)(2) follow:

(2) The report must include an attestation, signed by an authorized agent of the retail supplier under penalty of perjury, that the information provided in the report is true and correct to the best of the authorized agent's knowledge.

F. Clarify how procurements from natural gas paired with carbon capture and sequestration will be reduced when specified procurements exceed annual load.

Section 1392 (b)(4) describes how, under the annual accounting framework, electricity procurements will be reduced when retail suppliers have specified purchases exceeding annual load.

Specifically, natural gas purchases will be proportionally reduced, followed by procurements from other specified resources. SMUD recommends clarifying that, if a retail supplier's portfolio contains both procurements from natural gas resources and from natural gas resources paired with carbon capture and sequestration (CCS), the procurements from natural gas-only resources shall be reduced prior to any reductions of resources paired with CCS. Such a clarification would appropriately recognize the investments that retail suppliers are making in CCS as well as different characteristics for natural gas resources that are paired with CCS. Moreover, since this clarification does not rely on the specific emissions intensity of natural gas paired with CCS, there is no need for its deferral to after the completion of the California Air Resources Board's (CARB) rulemakings. Sample amendments to section 1392 (b)(4) follow:

(4) If the sum of specified purchases, minus any specified resales, exceeds ~~retail sales loss-adjusted load~~, each net purchase of electricity from a generator using natural gas shall be proportionally reduced so that the sum of all adjusted specified purchases equals loss-adjusted load. If the retail supplier has net purchases from both generators using natural gas and generators using natural gas paired with carbon capture and sequestration (CCS) technology, net purchases from generators without CCS shall be reduced prior to net purchases of generators paired with CCS ...

G. Commit to a timeline, within the Final Statement of Reasons, for considering amendments to address emissions associated with emerging resources.

The ISOR explains that CEC staff has declined to address emerging technologies like CCS and green hydrogen within the PSD regulations at this time, noting:

"...other State programs are still contemplating regulatory guidance for green hydrogen or CCS ... MRR [Mandatory Reporting Regulation] and Cap-and-Trade have not stated anything publicly about incorporating CCS, and CARB hasn't completed implementation of the Carbon Capture Recovery Utilization Program enabled by SB 905. Because of this, CEC staff prefers not to preempt the responsibilities and expertise of our sister programs. There is sufficient time for another rulemaking before these emerging technologies come online."⁷

SMUD appreciates the CEC's explanation and agrees that interagency coordination on emissions accounting for emerging resources is crucial for informed and consistent regulations. However, SMUD notes that some emerging resources are expected to be online in 2027 (and thereby may be included in the PSD reporting due June 1, 2028), and that state agency rulemakings, from initial development to the formal rulemaking to the regulation effective date, can commonly take two or more years. SMUD recognizes that the CEC does not control the rulemaking timelines at its sister agencies; however, the CEC can prioritize moving expeditiously to initiate its own regulatory development as CARB's rulemakings conclude. SMUD therefore encourages the CEC to commit to a timeline, within the Final Statement of Reasons, for initiating a regulatory development process to consider necessary amendments addressing emerging resources consistent with CARB's regulations.

⁷ See ISOR at p. 54.

H. Modify example reporting templates, prior to finalizing, to allow retail suppliers to assign unbundled RECs to individual electricity portfolios and provide a streamlined mechanism for hourly data reporting.

SMUD appreciates and supports the CEC's efforts to incorporate the annual reporting for all products into a single spreadsheet, eliminating the need for an authorized representative to sign an attestation for every product – which, in SMUD's case, are many.

SMUD recognizes that the reporting templates are not incorporated specifically into the regulations and were provided as examples. However, based on SMUD's review of the templates, SMUD recommends the following modifications prior to finalizing:

- Ensure the templates allow retail suppliers to assign unbundled RECs to specific products. While the 2025 reporting template includes a tab for reporting all unbundled RECs, it does not include any way to identify which of those RECs are assigned to the different products in the retail supplier's portfolio.
- Provide a streamlined mechanism for reporting hourly generation for multiple resources. The example 2028 reporting template would require all resources to be reported on a single sheet in an Excel workbook, with multiple columns for each resource. For a retail supplier with a significant number of resources, this is likely to be a cumbersome process that requires transfer of hourly generation data for one resource at a time (due to additional columns associated with each resource). SMUD suggests that the CEC work with retail suppliers to come up with a more streamlined approach that will allow for transfer of data for most or all resources at once, rather than individually.

Conclusion

SMUD thanks the CEC for consideration of the above comments and looks forward to continued collaboration on the necessary changes to support successful implementation of the PSD regulations.

/s/

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