

DOCKETED

Docket Number:	21-OIR-01
Project Title:	Rulemaking to Amend Regulations Governing the Power Source Disclosure Program
TN #:	259467
Document Title:	Steve Uhler Comments - APA consistency requirement, legal definition for electricity as a product
Description:	N/A
Filer:	System
Organization:	Steve Uhler
Submitter Role:	Other Interested Person
Submission Date:	10/5/2024 1:05:07 AM
Docketed Date:	10/7/2024

*Comment Received From: Steve Uhler
Submitted On: 10/5/2024
Docket Number: 21-OIR-01*

OIR-2021-01 APA consistency requirement, legal definition for electricity as a product

Additional submitted attachment is included below.

OIR-2021-01 APA consistency requirement, legal definition for electricity as a product

"Consistency" means being in harmony with, and not in conflict with or contradictory to, existing statutes, court decisions, or other provisions of law.

The proposed regulations use the word "product".

ARTICLE 14. Disclosure of Sources of Electrical Generation [398.1 - 398.6] uses the word "electricity" seventy-four (74) times. The word "product" is used six (6) times, each time "product" is used, "consumer" or "retail" is in the sentence, or "electricity" is next to "product" as part of a definition.

To ensure that the use of the word "product" meets APA consistency requirement, please explain how the following usages are consistent with FONG v. PACIFIC GAS AND ELECTRIC COMPANY (1988). See <https://caselaw.findlaw.com/court/ca-court-of-appeal/1761216.html>

The definition for "Delivered electricity" uses the word "product", but does not associate "product" with "consumer" or "retail". The word "product" must be changed to "electricity" for consistency.

The definition for "Electricity portfolio" uses the word "products". The word "products" must be changed to the phrase "or unbundled renewable energy credits" to ensure that a electricity portfolio includes electricity and not just unbundled renewable energy credits pursuant to PUC 398.4(h) (7).

Section 1393.1(d) uses the term "eligible firmed-and-shaped products". Are "eligible firmed-and-shaped products" retail products?

If not, "eligible firmed-and-shaped products" must be changed to "eligible firmed-and-shaped electricity" where ever it appears in the regulations for consistency.

Steve Uhler
sau@wwmpd.com