

## DOCKETED

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# Staff Pre-Rulemaking Workshop on Updates to the Power Source Disclosure Regulations

Tuesday, February 21, 2017 at 9:30am  
California Energy Commission  
1516 Ninth Street  
First Floor, Art Rosenfeld Hearing Room  
Sacramento, California

## Workshop Supplemental Materials

Passed in 2016, AB 1110 directs the Energy Commission to update the Power Source Disclosure Program (PSD) to require reporting entities to report and disclose to its customers unbundled RECs and greenhouse gas emission intensities of their electricity portfolio offered to their customers.

### Statutory Requirements for the Power Source Disclosure Program

Each retail supplier is required to disclose its electricity sources expressed as a percentage of annual sales derived from both specified and unspecified power. Based on this reporting, each retail supplier is required to disclose its power mix on a Power Content Label alongside California's total system power mix. See Appendix A for the full statute, including the revisions made by AB 1110.

### Energy Commission AB 1110 Implementation Requirements

To implement AB 1110, the Legislation directs the Energy Commission to:

- Adopt a methodology, in consultation with the Air Resources Board (ARB), for calculating GHG emissions intensity factors for each purchase of electricity by a retail supplier to serve its customers;
- Calculate the GHG emissions intensity factors associated with statewide retail sales based on GHG emissions for total California system electricity;
- Rely on the most recent verified GHG emissions data, while ensuring that the GHG emission intensity factors for electricity from specified and unspecified sources are available to retail suppliers with sufficient advanced notice to permit timely reporting;
- Determine a format for the disclosure of unbundled RECs as a percentage of annual retail sales;
- Adopt guidelines, on or before January 1, 2018, for the reporting and disclosure of greenhouse gas emissions intensity associated with retail sales based on the requirements of AB 1110. Beginning June 1, 2020, retail suppliers shall be required to report data on greenhouse gas emissions intensity associated with retail sales occurring after December 31, 2018.
- Establish guidelines for adjustments to a GHG emissions intensity factor for a reporting year for any local publicly owned utility (POU) demonstrating generation of quantities of electricity in previous years in excess of its total retail sales and wholesale sales from specified sources that

do not emit any GHGs. Adjustments authorized by the guidelines established by the Energy Commission shall not permit excess generation procured in a single year to be counted more than once or to be resold to another retail supplier as a specified source;

- Ensure there is no double counting of GHG emissions or emissions attributes;
- Seek to minimize the reporting cost and burden it imposes on retail sellers.

## **Preliminary Scoping Questions for February 21 Workshop**

### Annual Sales

The PSD statute requires retail suppliers to report their electricity sources expressed as a percentage of annual sales [Section 398.4 (g)(1)] derived from both specified and unspecified power and to disclose to customers these sources for each of their electricity portfolio offerings. Historically, the PSD program required retail suppliers to report their electricity sources expressed as a percentage of their retail sales.

Each retail supplier is also required to report to the Commission for each electricity offering [Section 398.5 (a)], and to disclose the GHG emissions intensity of any electricity portfolio offered to its retail customers [Section 398.4 (k)(1)].

1. *What should be the programmatic definition of “annual sales”?*
2. *What should be the programmatic definition of “electricity portfolio”?*
3. *What should be the programmatic definition of “electricity offering”?*

### Renewable Energy Credits

AB 1110 requires the Energy Commission to determine a format for the disclosure of unbundled RECs. Presently, the PSD program provides no formal requirements for how retail sellers should categorize RECs, including unbundled RECs, for the purpose of calculating a retail supplier’s power mix (fuel-type percentages). Historically, some retail sellers have categorized bundled electricity products, as well as unbundled RECs, as eligible renewable energy resources. Presently, retail suppliers are instructed to report generation, including from renewable resources, on the basis of the year the electricity was generated into renewable energy fuel-type percentages.

1. *Should retail suppliers be required to report the purchase of eligible renewable energy resources based on the year that the renewable electricity was generated or based on the year that the REC is retired, if the two years differ?*
2. *How should firmed and shaped electricity products be categorized for the power-mix percentage calculations? Specifically, should these products be categorized based on the fuel-type of their REC or the fuel-type of their substitute electricity?*
3. *How should greenhouse gas emissions intensities be calculated for firmed and shaped electricity products? Specifically, should the greenhouse gas emissions intensity for these products be calculated based on the emissions profile associated with the generation source of their REC or based on the emissions profile of their substitute electricity?*

4. *Should unbundled RECs (PCC 3) be reflected in the power mix or disclosed separately on the Power Content Label? What factors should be considered in making this determination?*
5. *How should null power be categorized for the power-mix percentage calculations? How should the greenhouse gas intensity of null power be calculated?*

#### GHG Intensity Factor Data and Calculations

AB 1110 requires the Energy Commission, in consultation with ARB, to adopt a methodology for calculating GHG emissions intensity factors for each purchase of electricity by a retail supplier to serve its customers. Legislative intent compels the methodology to be consistent with the Cap and Trade Program and the Mandatory Reporting Requirement Regulation (MRR).

MRR lays out the reporting requirements applicable to industrial facilities, fuel suppliers, and electricity importers for the mandatory reporting of their greenhouse gas emissions in order for the state to monitor and enforce compliance with ARB's GHG emissions reduction actions, including market based compliance mechanisms. MRR requires in-state electricity generators to report annual emissions for electricity generated in California, and electric power entities to report imported electricity on an annual basis.<sup>1</sup> The greenhouse gases represented in MRR emissions reporting include CO<sub>2</sub>, CH<sub>4</sub>, and N<sub>2</sub>O from geothermal facilities and facilities that combust fossil fuels and biogenic fuels. There is a one year lag between the most recent available MRR data and PSD's current reporting year. ARB uses a default emissions factor for unspecified power of 0.428 MT CO<sub>2</sub>e/MWh.

Lastly, the Electricity Imbalance Market (EIM) draws on a pool of out-of-state resources, including renewables, that may not correspond with the typical makeup of unspecified out-of-state power. However, existing data on this evolving market limit current efforts to gauge the GHG emissions profile of EIM transactions.

1. *AB 1110 defines "greenhouse gas emissions intensity" as the "sum of all annual emissions of greenhouse gases associated with a generation source divided by the annual production of electricity from the generation source." Are there any reasons to consider calculating GHG emissions intensities using greenhouse gases other than those accounted for in both MRR and the EPA's Greenhouse Gas Reporting Program?*
2. *What are the concerns, limitations, and benefits of relying on GHG emissions reported to the MRR program for the development of GHG emissions intensities for in-state and out-of-state facilities?*
3. *Should GHG emissions classified as non-covered or exempt under the Cap and Trade Program be included in PSD greenhouse gas intensity calculations?*
4. *Should the Power Disclosure Program adopt ARB's default factor as the greenhouse gas intensity for unspecified power?*
5. *Energy procured through the Energy Imbalance Market (EIM) is reported under the MRR program as specified electricity. What greenhouse gas intensity factor should be assigned to electricity procured through the Energy Imbalance Market (EIM)?*

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<sup>1</sup> MRR does not collect emissions data for in-state generators that emit fewer than 10,000 metric tons of CO<sub>2</sub>e.

POU GHG Intensity Adjustment

AB 1110 requires the Energy Commission to establish guidelines for adjustments to a GHG emissions intensity factor for a reporting year for any local publicly owned utility (POU) demonstrating generation of quantities of electricity in previous years in excess of its total retail sales and wholesale sales from specified sources that do not emit any GHGs. Adjustments authorized by the guidelines established by the Energy Commission shall not permit excess generation procured in a single year to be counted more than once or to be resold to another retail supplier as a specified source.

1. *What quantities of electricity have been generated in previous years that stakeholders believe would qualify for this adjustment?*

**Appendix A: PUBLIC UTILITIES CODE, DIVISION 1, CHAPTER 2.3, ARTICLE 14. Disclosure of Sources of Electrical Generation [398.1 - 398.5]**

*(Article 14 added by Stats. 1997, Ch. 796, Sec. 1. )*

398.1.

(a) The Legislature finds and declares that there is a need for reliable, accurate, timely, and consistent information regarding fuel sources for electric generation offered for retail sale in California.

(b) The purpose of this article is to establish a program under which entities offering electric services in California disclose accurate, reliable, and simple to understand information on the sources of energy, and the associated emissions of greenhouse gases, that are used to provide electric services.

*(Amended by Stats. 2016, Ch. 656, Sec. 1. Effective January 1, 2017.)*

398.2.

The definitions set forth in this section shall govern the construction of this article.

(a) "Greenhouse gas emissions intensity" means the sum of all annual emissions of greenhouse gases associated with a generation source divided by the annual production of electricity from the generation source.

(b) "Retail supplier" means an entity that offers an electricity product for sale to retail consumers in California, including an electrical corporation, local publicly owned electric utility, electric service provider, and community choice aggregator.

(c) "System operator" means the Independent System Operator with responsibility for the efficient use and reliable operation of the transmission grid, as provided by Section 345, or a local publicly owned electric utility that does not utilize the Independent System Operator.

(d) "Purchases of electricity from specified sources" or "purchases from specified sources" means electricity transactions that are traceable to specific generation sources by any auditable contract trail or equivalent, such as a tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once and only once to a retail consumer. Retail suppliers may rely on annual data to determine whether a transaction meets this definition, rather than hour-by-hour matching of loads and resources.

(e) "Electricity from unspecified sources" means electricity that is not traceable to specific generation sources by any auditable contract trail or equivalent, including a

tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once, and only once, to a retail consumer.

*(Amended by Stats. 2016, Ch. 656, Sec. 2. Effective January 1, 2017.)*

398.3.

(a) Beginning January 1, 1998, or as soon as practicable thereafter, each generator that provides meter data to a system operator shall report to the system operator electricity generated in kilowatthours by hour by generator, the fuel type or fuel types and fuel consumption by fuel type by month on an historical recorded quarterly basis. Facilities using only one fuel type may satisfy this requirement by reporting fuel type only. With regard to any facility using more than one fuel type, reports shall reflect the fuel consumed as a percentage of electricity generation.

(b) The Energy Commission shall have authorization to access the electricity generation data in kilowatthours by hour for each facility that provides meter data to the system operator, and the fuel type or fuel types.

(c) With regard to out-of-state generation, the Energy Commission shall have authorization to access the electricity generation data in kilowatthours by hour at the point at which out-of-state generation is metered, to the extent the information has been submitted to a system operator.

(d) Trade secrets as defined in subdivision (d) of Section 3426.1 of the Civil Code contained in the information provided to the system operators pursuant to this section shall be treated as confidential. These data may be disclosed only by the system operators and only by authorization of the generator except that the Energy Commission shall have authorization to access these data, shall consider all these data to be trade secrets, and shall only release these data in an aggregated form such that trade secrets cannot be discerned.

*(Amended by Stats. 2012, Ch. 606, Sec. 6. Effective January 1, 2013.)*

398.4.

(a) Every retail supplier that makes an offering to sell electricity that is consumed in California shall disclose its electricity sources and the associated greenhouse gases emissions intensity for the previous calendar year.

(b) The disclosures required by this section shall be made to potential end-use consumers in all product-specific written promotional materials that are distributed to consumers by either printed or electronic means, including the retail supplier's Internet Web site, if one exists, except that advertisements and notices in general circulation media shall not be subject to this requirement.

(c) The disclosures required by this section shall be made annually to end-use consumers of the offered electricity. The annual disclosure shall be made by the end of the first complete billing cycle for the third quarter of the year, and shall be consistent with information provided to the Energy Commission pursuant to Section 398.5. A retail supplier may distribute the disclosures required by this section via email to any end-use consumer that has consented to receive email in lieu of printed materials.

(d) The disclosures required by this section shall be made separately for each portfolio offering made by the retail supplier.

(e) On or before January 1, 1998, the Energy Commission shall specify guidelines for the format and means for disclosure required by Section 398.3 and this section, based on the requirements of this article and subject to public hearing.

(f) The costs of making the disclosures required by this section shall be considered to be generation related.

(g) The disclosures required by this section shall comply with the following:

(1) A retail supplier's disclosure of its electricity sources shall be expressed as a percentage of annual sales derived from each of the following categories:

(A) Electricity from unspecified sources.

(B) Purchases of electricity from specified sources.

(2) A retail supplier's disclosure of its electricity sources shall also separately identify total California system electricity, which is the sum of all in-state generation and net electricity imports by fuel type.

(h) Each of the categories specified in subdivision (g) shall be additionally identified as a percentage of annual sales that is derived from the following fuels, sources of energy, or electricity products:

(1) Coal.

(2) Large hydroelectric (greater than 30 megawatts).

(3) Natural gas.

(4) Nuclear.

(5) Eligible renewable energy resources pursuant to the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11)), including any of the following:

(A) Biomass and biowaste.

(B) Geothermal.

(C) Eligible hydroelectric.

(D) Solar.

(E) Wind.

(6) Other categories as determined by the Energy Commission.

(7) The portion of annual sales derived from unbundled renewable energy credits shall be included in the disclosures in a format determined by the Energy Commission. A retail supplier may include additional information related to the sources of the unbundled renewable energy credits.

(i) All electricity sources disclosed as purchases of electricity from specified sources shall meet the requirements of subdivision (d) of Section 398.2.

(j) Purchases of electricity from specified sources identified pursuant to this section shall be from sources connected to the Western Electricity Coordinating Council interconnected grid.

(k) (1) Each retail supplier shall disclose both the greenhouse gas emissions intensity of any electricity portfolio offered to its retail customers and the Energy Commission's calculation of greenhouse gas emissions intensity associated with all statewide retail electricity sales, consistent with the requirements of this subdivision.

(2) The Energy Commission shall do all of the following:

(A) Adopt a methodology, in consultation with the State Air Resources Board, for the calculation of greenhouse gas emissions intensity for each purchase of electricity by a retail supplier to serve its retail customers.

(B) Calculate the greenhouse gas emissions intensity associated with statewide retail electricity sales based on the greenhouse gas emissions for total California system electricity.

(C) Rely on the most recent verified greenhouse gas emissions data while ensuring that greenhouse gas emissions intensity factors for electricity from specified and unspecified sources are available to retail suppliers with sufficient advance notice to permit timely reporting.

(D) Establish guidelines for adjustments to a greenhouse gas emissions intensity factor for a reporting year for any local publicly owned electric utility demonstrating

generation of quantities of electricity in previous years in excess of its total retail sales and wholesale sales from specified sources that do not emit any greenhouse gases. Adjustments authorized by the guidelines established by the Energy Commission shall not permit excess generation procured in a single year to be counted more than once or to be resold to another retail supplier as a specified source.

(E) Ensure that there is no double-counting of the greenhouse gas emissions or emissions attributes associated with any unit of electricity production reported by a retail supplier for any specific generating facility or unspecified source located within the Western Electricity Coordinating Council when calculating greenhouse gas emissions intensity.

(F) (i) On or before January 1, 2018, adopt guidelines, through an open process, subject to public comment, and adopted by a vote of the Energy Commission, for the reporting and disclosure of greenhouse gas emissions intensity associated with retail sales based on the requirements of this subdivision. Beginning June 1, 2020, retail suppliers shall be required to report data on greenhouse gas emissions intensity associated with retail sales occurring after December 31, 2018.

(ii) Any new community choice aggregator formed after January 1, 2016, shall not be required to report data on greenhouse gas emissions intensity associated with retail sales until at least 24 months, but shall be required to report that data no later than 36 months, after serving its first retail customer.

(3) Any marketing or retail product claims relating to the greenhouse gas emissions intensity of the electric supply portfolio of a retail supplier shall be consistent with the methodology adopted by the Energy Commission pursuant to this section. Retail suppliers may provide additional information to customers describing other actions relating to greenhouse gases that are unrelated to the electric supply portfolio.

(l) The provisions of this section shall not apply to generators providing electric service onsite, under an over-the-fence transaction as described in Section 218, or to an affiliate or affiliates, as defined in subdivision (a) of Section 372.

*(Amended by Stats. 2016, Ch. 656, Sec. 3. Effective January 1, 2017.)*

398.5.

(a) Retail suppliers shall annually report to the Energy Commission, for each electricity offering for the previous calendar year, each of the following:

(1) The kilowatthours purchased, by generator and fuel type during the previous calendar year, consistent with the meter data, including losses, reported to the system operator.

(2) The kilowatthours purchased from unspecified sources in California and from unspecified sources imported into California from other subregions within the Western Electricity Coordinating Council.

(3) For each electricity offering, the kilowatthours sold at retail.

(4) For each electricity offering, the disclosures made to consumers pursuant to Section 398.4.

(b) Information submitted to the Energy Commission pursuant to this section that is a trade secret as defined in subdivision (d) of Section 3426.1 of the Civil Code shall not be released except in an aggregated form such that trade secrets cannot be discerned.

(c) The Energy Commission shall specify guidelines and standard formats, based on the requirements of this article and subject to public hearing, for the submittal of information pursuant to this article.

(d) In developing the rules and procedures specified in this section, the Energy Commission shall seek to minimize the reporting burden and cost of reporting that it imposes on retail suppliers.

(e) The provisions of this section shall not apply to generators providing electric service onsite, under an over-the-fence transaction as described in Section 218, or to an affiliate or affiliates, as defined in subdivision (a) of Section 372.

(f) The Energy Commission may verify environmental and procurement claims made by retail suppliers.

*(Amended by Stats. 2016, Ch. 656, Sec. 4. Effective January 1, 2017.)*