

DOCKETED

Docket Number:	16-OIR-05
Project Title:	Power Source Disclosure - AB 1110 Implementation Rulemaking
TN #:	227303
Document Title:	Jim Phelps Comments Comments on AB1110 Pre-Rulemaking draft (February 2019)
Description:	N/A
Filer:	System
Organization:	Jim Phelps
Submitter Role:	Public
Submission Date:	3/10/2019 3:32:49 PM
Docketed Date:	3/10/2019

Comment Received From: Jim Phelps
Submitted On: 3/10/2019
Docket Number: 16-OIR-05

Comments on AB1110 Pre-Rulemaking draft (February 2019)

Additional submitted attachment is included below.

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March 11, 2019

California Energy Commission Docket No. 16-OIR-05
Docket Office
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Submitted Electronically via CEC website to Docket 16-OIR-05

Subject: Pre-Rulemaking Draft / Pre-Rulemaking Amendments to the Power Source Disclosure Program, February 2019.

As a member of California's residential electric consumers, I appreciate the opportunity to submit comments to the California Energy Commission on the subject draft document.

ITEM 1

PAGE 25: (g) Any new community choice aggregator is not required to report data on the GHG emissions intensity of its electricity portfolios until 36 months after serving its first retail customer.

This single line introduces many problems and questions. What is the definition of "new"? What constitutes "report"? Are new CCAs precluded from engaging in marketing claims such as "exceeds RPS requirements" or "100% renewable" during the 36 month reprieve from reporting GHG emission intensity? Do Power Content Labels for new CCAs have a blank space for GHG emission intensity?

- 36 months = 5-1/2 Year Delivery of GHG Emission Intensity

The impact of not clarifying what is meant by "report" could result in up to 5-1/2 years versus intended 36 months until consumers actually see a GHG emission intensity for a new CCA. For example, a CCA's first retail customer receives energy on January 2, 2020. Accordingly, the CCA is required to report GHG emission data on January 2, 2023. However the GHG emission year for 2023 is not complete until December 31, 2023. Add another 1.5 years for Power Source Disclosure filings, assuming CCAs submit annual portfolio information per the draft's "Data Reporting," and the CCA is not delivering GHG emission intensity until June 2025, five and one-half years after serving its first retail customer.

Any delay in delivering GHG emission intensity undermines transparency for consumers.

- Financial Hardship Inconsistencies

Claims that 36 months is needed to "transition" to a (cost competitive) energy portfolio, ostensibly free of unbundled RECs and firm-and-shape energy, do not reconcile with representations that new CCAs make while promoting themselves. For instance, new CCAs represent that their renewable deliveries are free of substitute energy:

“[CCA] purchase[s] electricity from a source... [t]hen that [same energy](#) is funneled through SCE’s lines just like before, so you never have to worry about a break in service... Simple.”

New CCAs also advertise 25-30% cleaner energy at [lower costs](#) than carbon-based sources. When this is considered along with representations of bundled energy, the need for any delay in GHG emission intensity reporting is not supported.

As is, CCA effectively works both sides of the equation, seeking maximum consumer enrollment with portrayals of no-problem energy deliveries while lobbying CEC for leniency and protection from these representations used to enroll energy consumers.

Delay in delivering GHG emission intensity is not supported by claims of financial hardship.

- Choice Displaces *Informed* Choice

Given the focus on AB1110 and transparency, how are consumers, and municipalities with Climate Action Plans, supposed to determine the quality of their energy choice and the impact of that choice in a timely manner when they are deprived of the GHG emission intensity metric (and Power Content Label) for 36 months?

Ironically, CCA uses [choice](#) as its moniker when promoting itself to consumers, as well as municipal decision-makers whose vote is required before CCA can begin its Opt Out enrollment process in a respective municipality. However, without complete and transparent information, consumer choice is based solely on claims made by CCA and CCA proponents, which skews public perception, particularly when IOUs remain under the CPUC’s no-talking-about-choice edict.

The “36-month” non-disclosure of GHG emission intensity data is inconsistent with *informed* consumer choice.

- Omissions and Contradictions Underscore Need for Transparency

The need for immediate GHG emission intensity disclosure is underscored by omissions in new CCA’s [Draft Implementation Plan](#). Page 25 states that the CCA will be “**exceeding** both the RPS mandate and SCE’s forecast for overall renewable portfolio percentage using only PCC 1 and PCC 2 qualified renewables to meet **the mandate**” (bold added). What type of energy is used after the RPS mandate is met?

Page 27 of the Draft Implementation Plan states “Category 1 and 2 power and RECs [will be solicited] from marketers as needed to meet RPS obligations *and renewable percentage objectives described earlier*” (italics added). This language appears to insert (unbundled) RECs into the CCA’s procurement plans, into the portion of the energy portfolio that exceeds the RPS mandate.

Regardless of possibly including RECs, neither the text on page 25 or page 27 reconciles with this CCA’s representation of “[same energy](#)” delivered to consumers, which excludes PCC 2 and unbundled RECs. These contradictions underscore the need for clarity and immediate GHG emission intensity and transparency.

- Trojan Horse

There is nothing in the Pre-Rulemaking draft that precludes new CCAs from making unsubstantiated marketing claims during the 36 month window, when GHG emission intensity is not reported. Advertising claims can easily exceed actual performance when there is no audit or reporting mechanism. Exploitive advertising examples include: “As a member of our new CCA your energy exceeds California’s RPS requirements” or “As a participant in our CCA, we invite you to enroll in our Dark Green renewable option and receive 100% renewable energy.”

This loophole allows new CCAs to market their products as desired during the 36 month window when they are not required to submit GHG emission intensity, potentially creating a Trojan horse that is unfair to consumers.

- Conflicts of Interest

Various consultants advise CCAs before and during business launch, and throughout operations. The 36 month period better assures maximum consulting revenues vis-à-vis maximum consumer participation in CCA by delaying delivery of any GHG emission intensity metric on which the public would rely when choosing whether or not to accept their Opt Out enrollment and remain CCA ratepayers.^{1,2} Consumer choice is most acute during initial years of CCA service – the 36 month window – when there is heightened awareness of a second energy supplier competing with a long standing IOU.

CEC needs to consider whose interest is served by a 36 month delay in GHG emission intensity.

ITEM 2

Large Hydroelectric Imports

The Pre-Rulemaking draft does not address how out-of-state large hydroelectric energy deliveries to a California balancing authority are regularly and independently verified. This is an immediate need as CCAs add large volumes of out-of-state large hydroelectric power to their portfolios, and then include those volumes as zero-GHG energy in annual GHG emission intensity calculations.

For example, this [large hydroelectric contract](#) is a firm-and-shape agreement. It is unknown how much energy was delivered to a California balancing authority and how much was substitute energy. Prior to executing this large hydroelectric contract, CCA was already exploiting the gap in oversight of large hydroelectric imports from the Pacific Northwest (PNW).

¹ Calpine Energy Solutions’ contract with MCE is paid on a “[per meter](#)” basis. Calpine contracts with several other CCAs.

² Pacific Energy Advisors’ (PEA’s) contract with MCE is paid on a “[per MWh of energy sales](#)” basis. According to its website, PEA performs consulting services for several other CCAs.

For instance, in 2013, one CCA purchased 10,500 “renewable energy certificates” sourced from the [Noxon Rapids](#) large hydro project in Montana and applied those instruments to its 2011 calendar year’s GHG emission intensity. There is no record of these 10,500 “RECs” in Schedule 1 of the CCA’s Power Source Disclosure report. The CCA purchased these 10,500 instruments immediately after PG&E posted a lower-than-anticipated GHG emission intensity, and [represented](#) the instruments as delivered large hydroelectric power. The CCA retired these large hydro “RECs” as *carbon free* instruments through WREGIS.

In calendar year 2012 the same CCA reported on its Power Source Disclosure, Schedule 1, 40,000 renewable energy certificates sourced from the Noxon large hydro project and from Idaho’s [Cabinet Gorge](#) large hydro electric project. The CCA retired these “RECs” as *carbon free* instruments through WREGIS, and reported them as [REC Only](#) to the CEC on Schedule 1 of the Power Source Disclosure report.

AB1110 is hobbled to the extent that out-of-state large hydro imports provide cover for underlying fossil power procurement and delivery. Without a reporting process that regularly and actively confirms delivered energy type, volume, and time of delivery to a California balancing authority, large hydro remains a sizable hole in the integrity of GHG emission intensity reporting. This is not to disregard potential double counting of this energy.

In 2017, PNW large hydroelectric imports constituted the following percentages of energy for these CCAs:

Percent of PNW Large Hydro in 2017 Default Energy Portfolio	
Redwood Coast Energy Authority	45%
Sonoma Clean Power	42%
Marin Clean Energy	21%
Peninsula Clean Energy	19%

CEC needs to address all out-of-state large hydro deliveries to California balancing authorities so that consumers have the same degree of confidence in these volumes as they have, for example, in PCC 1 energy deliveries.

ITEM 3

Power Content Label

The draft PCL (Updates to the Power Source Disclosure Program Public Workshop, 03/05/2019, p. 10 and 11) expresses GHG emission intensity in units of “kg CO₂e/MWh.” For ease of understanding, and to remain consistent with prior years, GHG emission intensity numbers on the Power Content Label should be expressed in the same [standard](#) used by CCA and IOUs since the first CCA launched: “Pounds of CO₂e per Megawatt-hour.”

All other “kg” references in the PCL’s footnotes should also be expressed in “Pounds.”

CONCLUSION

36 Month non-reporting of GHG emissions

Is AB1110 intended to help consumers make informed energy choices that impact global warming, or is the law now more concerned about protecting CCA from the realities of the market? Somewhere in the process of making a good law that establishes transparent reporting requirements CCA interests took priority over transparency for energy consumers. That is wrong.

Indeed, if new CCAs are permitted to not submit GHG emission intensity for any length of time because they fear publishing high GHG emission intensity might drive ratepayers away – after CCA switched those same ratepayers into their “clean energy” programs via the Opt Out enrollment mechanism -- whose interests are being served?

It certainly is not the interests of consumers or transparency.

The advertising record of, and loosely worded Implementation Plans of, new CCA do not support granting any delay in GHG emission intensity reporting to new CCA. Nor do the vested interests of CCA contractors and consultants justify keeping consumers in the dark when those consumers are attempting to make an *informed* energy choice; allowing consumer choice to be manipulated or controlled is beyond wrong.

CEC staff needs to delete paragraph (g) of page 25 of the Pre-Rulemaking draft in its entirety, and delete all other references to delays in reporting GHG emission intensity.

Large Hydroelectric

CEC staff needs to substantiate, on a regular and on-going basis, claimed deliveries of large hydroelectric power imports to California balancing authorities. Until a confirmation system is implemented, published GHG emission intensity numbers remain questionable.

Power Content Label

The GHG emission intensity on the Power Content Label should be expressed as “lbs CO₂e/MWh” rather than “kg CO₂e/MWh.” This eliminates confusion by continuing the format with which consumers are familiar.

Respectfully submitted,

/s/

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