STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION

IN THE MATTER OF: *Rulemaking to Amend Regulations Governing the Power Source Disclosure Program*	DOCKET NO. 21-OIR-01 RE: Power Source Disclosure Program

CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S COMMENTS ON THE 15-DAY PROPOSED REVISIONS TO THE REGULATIONS GOVERNING THE POWER SOURCE DISCLOSURE PROGRAM

Leanne Bober,
Director of Regulatory Affairs and Deputy General Counsel
Lauren Carr,
Senior Market Policy Analyst

CALIFORNIA COMMUNITY CHOICE ASSOCIATION
1121 L Street, Suite 400
Sacramento, CA 95814
Telephone: (415) 302-2376
E-mail: regulatory@cal-cca.org

January 3, 2025

TABLE OF CONTENTS

I. INTRODUCTION 1

II. CALENDAR-YEAR LOSS-ADJUSTED LOAD REPORTING SHOULD BEGIN ON JANUARY 1, 2027, IF THE REGULATIONS ARE ADOPTED AFTER JANUARY 1, 2025, BUT BEFORE JANUARY 1, 2026 4

III. THE COMMISSION SHOULD PUBLISH DEFAULT STATEWIDE LOSS FACTORS IN ADVANCE OF THE PROCUREMENT YEAR RATHER THAN THE "REPORTING PERIOD" 5

IV. "ESTIMATED LOSSES" REFERENCED IN SECTION 1392(A)(8)(B) SHOULD BE MODIFIED TO "TOTAL ESTIMATED LOSSES" TO CLARIFY THAT THE COMMISSION WILL PUBLISH LOSSES ON A STATEWIDE LEVEL FOR ALL RESOURCES RATHER THAN ON A RETAIL SELLER LEVEL 6

V. THE AMENDMENTS IMPROVE THE DEFINITION AND EXPLANATION OF "UNSPECIFIED" POWER, BUT SHOULD BE MODIFIED TO CLARIFY THE SOURCES OF UNSPECIFIED POWER 7

VI. THE COMMISSION SHOULD ISSUE REVISED TEMPLATES AS SOON AS POSSIBLE PRIOR TO THE FIRST PROCUREMENT PERIOD UNDER THE NEW REGULATIONS 9

VII. CONCLUSION 10

STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION

IN THE MATTER OF: *Rulemaking to Amend Regulations Governing the Power Source Disclosure Program*	DOCKET NO. 21-OIR-01 RE: Power Source Disclosure Program

CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S COMMENTS ON THE 15-DAY PROPOSED REVISIONS TO THE REGULATIONS GOVERNING THE POWER SOURCE DISCLOSURE PROGRAM

The California Community Choice Association[1] (CalCCA) submits these comments pursuant to the *Revised Notice of Availability and Opportunity to Comment, 15-Day Public Comment Period, Proposed Revisions to the Rulemaking to Amend Regulations Governing the Power Source Disclosure Program* (Revised Notice), dated December 9, 2024.

I. INTRODUCTION

The Power Source Disclosure (PSD) program was first established by Senate Bill (SB) 1305[2] in 1997, adding sections 398.1 through 398.5 to the California Public Utilities Code.[3] On May 17, 2024, the California Energy Commission (Commission) issued proposed amendments to its PSD regulations to incorporate new legislation – Assembly Bill (AB) 242[4] establishing

[1] California Community Choice Association represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Ava Community Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance of Southern California, CleanPowerSF, Desert Community Energy, Energy For Palmdale's Independent Choice, Lancaster Energy, Marin Clean Energy, Orange County Power Authority, Peninsula Clean Energy, Pico Rivera Innovative Municipal Energy, Pioneer Community Energy, Pomona Choice Energy, Rancho Mirage Energy Authority, Redwood Coast Energy Authority, San Diego Community Power, San Jacinto Power, San José Clean Energy, Santa Barbara Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

[2] SB 1305 (Figueroa, Ch. 796, Stats. 1997).

[3] All subsequent code sections cited herein are references to the California Public Utilities Code unless otherwise specified.

[4] AB 242 (Holden, Ch. 228, Stats. 2021).

deadlines for the Power Content Label (PCL), and SB 1158[5] adding the reporting of hourly data in addition to the current requirements to report calendar year data.[6] It also proposed other changes to the regulations to further clarify the PSD and PCL requirements, and ensure accuracy and consistency.[7] The Commission issued a second set of proposed amendments on October 4, 2024, proposing additional changes including clarifications to the timing of loss-adjusted load reporting, the source of the estimated losses, modifications to the descriptions of unspecified power, and other changes. The amendments issued on December 9, 2024 (Amendments), provide further detail, guidance, and clarifications on these topics.

CalCCA appreciates the continuing opportunity to provide input in this docket and makes five recommendations regarding the Amendments. *First*, if the regulations are adopted after January 1, 2025, but before January 1, 2026, the Commission should delay the calendar year reporting of losses to 2027 to ensure new reporting requirements only apply prospectively.

Second, the Commission should require the publication of default statewide loss factors in advance of the procurement year rather than in advance of the "reporting period" to avoid retail sellers having to estimate the losses for which to procure in any year.

Third, the Commission should clarify that "estimated losses" means "total estimated losses" to remove ambiguity and clarify that losses are calculated on a statewide level for all resources rather than for each retail seller based on the resources they procure. Basing the loss factor on United States Energy Information Administration (EIA) *statewide* factors rather than

---

5 SB 1158 (Becker, Ch. 367, Stats. 2022).

6 Prior to opening the current formal rulemaking to incorporate SB 242 and SB 1158, the Commission issued two sets of pre-rulemaking amendments on September 20, 2023, and January 31, 2024, and on which parties, including CalCCA, provided comments. *See* Docket 21-OIR-01.

7 Docket 21-OIR-01, *Initial Statement of Reasons + Economic Analysis* (May 17, 2024), at 1-2.

factors applicable to each retail seller will provide statewide, stable values, and enhance load-serving entities' (LSE) ability to anticipate needed procurement.

Fourth, the Commission should modify the definition of "unspecified" power to provide greater clarity about the sources of unspecified power. The Commission should revert back to the unspecified power definition utilized earlier in this rulemaking of "primarily fossil fuels but may include other sources." In the alternative, the unspecified power definition should be clarified to: (1) only require the reporting of fossil fuels or renewables and other zero-carbon resources, whichever group is greater, on a prospective basis; (2) state that *the Commission* will provide the calculations of primary and secondary resource group percentages; and (3) define "secondary resource group" in section 1393.1(l)(3).

Finally, the Commission should issue revised templates as soon as possible prior to the procurement period, and/or with any revised regulations to allow LSEs to anticipate how the proposed regulations translate into reporting requirements.

Accordingly, the Commission should:

- Begin calendar-year loss-adjusted load reporting on January 1, 2027, if the regulations are adopted after January 1, 2025, but before January 1, 2026;
- Require publication of default statewide loss factors in advance of the procurement year rather than only prior to the "reporting period";
- Modify "estimated losses" referenced in section 1392(a)(8)(B) to "total estimated losses" to clarify that the Commission will publish losses on a statewide level for all resources rather than on a retail seller level;
- Simplify or modify the definition and explanation of "unspecified" power to provide greater clarity about the sources of unspecified power; and
- Issue revised templates as soon as possible prior to the procurement period.

II. CALENDAR-YEAR LOSS-ADJUSTED LOAD REPORTING SHOULD BEGIN ON JANUARY 1, 2027, IF THE REGULATIONS ARE ADOPTED AFTER JANUARY 1, 2025, BUT BEFORE JANUARY 1, 2026

Throughout the proposed regulations, the Commission applies requirements for retail sellers to report calendar-year loss-adjusted load beginning on January 1, 2026.[8] CalCCA continues to applaud the Commission for amending the start of these requirements to January 1, 2026, for the reasons set forth in CalCCA's July 3, 2024, Comments.[9] Were the regulations adopted in advance of 2025, these revisions would have prevented the inequitable and retroactive application of the calendar year loss reporting requirement in 2025 for procurement already complete for 2024, and allowed retail sellers adequate opportunity to adapt to the new requirement.

Given issuance of the Amendments, it now appears the revised regulations will not be adopted until sometime in 2025. Therefore, the Commission should further delay the requirement until the next "reporting period" (i.e., 2027 for calendar year 2026) so that the regulation requirements are only applied prospectively. Otherwise, retail sellers will not know for certain the requirements that will be applied during their procurement for 2025. Understanding procurement requirements and reporting is a key factor affecting those procurement and optimization decisions. To the extent adoption of the regulations occurs beyond January 1, 2025, but prior to January 1, 2026, the Commission should further delay the calendar year reporting on losses associated with retail load until 2027 for the procurement year 2026.

---

[8] *See, e.g.,* Amendments §§ 1393(b)(2)(B), 1393.1(a)(3)), 1393.1(c), 1393.1(c)(2)(A)-(B), and 1393.1(c)(7).

[9] *California Community Choice Association's Comments on Proposed Amendments to Power Source Disclosure Program Regulations,* Docket 21-OIR-01 (July 3, 2024) (CalCCA July 2024 Comments).

In addition, the Commission should revise section 1393.1(a)(3) for clarity. The Amendments modify section 1393.1(a)(3) as follows:

> The Energy Commission shall provide fuel mix and GHG emissions intensity of ~~**California's total statewide retail electricity sales**~~ **total California loss-adjusted load** for inclusion on the power content label. Beginning January 1, 2026, the Energy Commission shall instead provide the fuel mix and GHG emissions intensity of California's total loss-adjusted load for inclusion on the power content label.[10]

This change appears to result in either: (1) repeating the same requirement in both sentences of section 1393.1(a)(3); or (2) inadvertently requiring loss-adjusted load reporting in advance on January 1, 2026. To clarify the intent of the Amendments and avoid retroactive rulemaking, the Commission should revise the regulations to remove the first sentence as follows:

> ~~**The Energy Commission shall provide fuel mix and GHG emissions intensity of California's total statewide retail electricity sales total California loss-adjusted load for inclusion on the power content label.**~~ Beginning January 1, ~~**2026**~~ **2027**, the Energy Commission shall ~~**instead**~~ provide the fuel mix and GHG emissions intensity of California's total loss-adjusted load for inclusion on the power content label.[11]

III. THE COMMISSION SHOULD PUBLISH DEFAULT STATEWIDE LOSS FACTORS IN ADVANCE OF THE PROCUREMENT YEAR RATHER THAN THE "REPORTING PERIOD"

The Amendments modify section 1393.2(a)(8)(B) to add additional detail on the default loss factors that will be calculated and provided annually by Commission staff, stating:

---

[10] As stated in the Amendments, "[t]he proposed amendments to the existing PSD regulations that were made public in the initial express terms in the NOPA from May 17, 2024, and in the second version of the express terms in the 45-Day Notice from October 4, 2024, are shown in strike through to indicate deletions and underline to indicate additions. Additional amendments in this third version of the express terms as proposed with this 15-Day Revised Notice from December 9, 2024, are **bolded** and shown in **double strikethrough** for deletions and **double underline** for additions."

[11] CalCCA's recommended revisions in ~~**bold strikethrough**~~ and **bold underline**.

> The CEC shall publish default statewide loss factors for specified in-state resources, specified imports, and unspecified power, as well as the underlying calculations, prior to the reporting period each year.[12]

CalCCA interprets the "reporting period" as the year retail sellers submit their PSDs, and not the calendar year with the data of interest (i.e., the procurement year). Assuming this interpretation is correct, the Amendments will result in uncertainty for retail sellers who must procure without knowing the amount of losses for which they will need to procure. The Commission should, therefore, modify the regulations to publish the default statewide loss factors in advance of the procurement period (i.e., the year retail sellers need to procure to cover losses in addition to their portfolio procurement). For example, a reporting period in 2027 that reports 2026 data will require the publication of loss factors using the most readily available data sometime in 2025. Doing so will ensure procurement requirements are clear, and that retail sellers do not have to estimate a portion of their procurement requirements for an uncertain amount of losses.

IV. "ESTIMATED LOSSES" REFERENCED IN SECTION 1392(A)(8)(B) SHOULD BE MODIFIED TO "TOTAL ESTIMATED LOSSES" TO CLARIFY THAT THE COMMISSION WILL PUBLISH LOSSES ON A STATEWIDE LEVEL FOR ALL RESOURCES RATHER THAN ON A RETAIL SELLER LEVEL

The Amendments also modify section 1393.2(a)(8)(B) to state that loss factors shall be based on "estimated" losses divided by the total energy disposition reported in the most recent final EIA "statewide" data.[13] CalCCA supports the Commission using the EIA data source for accurate loss factor calculations for both the calendar year and hourly reporting. While CalCCA's interpretation of the Amendments is that losses are calculated at a statewide level for all resources rather than for each retail seller based on the resources they procure, the term "estimated" results in a lack of clarity. The Commission should therefore clarify that "estimated losses" means "*total*

[12] Amendments § 1393.2(a)(8)(B) (emphasis added).
[13] *See* Amendments § 1393.2(a)(8)(B).

estimated losses" to remove ambiguity and clarify that losses are calculated on a statewide level for all resources rather than for each retail seller based on the resources they procure.

The Commission's framework for calculating losses associated with retail sales, including basing the loss factor not on each retail seller but on EIA statewide factors for specified resources and unspecified power, will provide statewide, stable values. The framework will also enhance LSEs' ability to anticipate needed procurement. The Commission should therefore clarify its intent to calculate *statewide* values by modifying the term "estimated" losses to "total estimated" losses in section 1393.2(a)(8)(B).

V. THE AMENDMENTS IMPROVE THE DEFINITION AND EXPLANATION OF "UNSPECIFIED" POWER, BUT SHOULD BE MODIFIED TO CLARIFY THE SOURCES OF UNSPECIFIED POWER

CalCCA continues to recommend adoption of the parenthetical in the January 31, 2024 mock-up of PSD amendments describing "Unspecified Power" as "primarily fossil fuel generation but may include other resources."[14] The May 17, 2024 amendments, however, reverted back to a parenthetical description of "Unspecified Power" as "(primarily fossil fuels)."[15] The January 31, 2024, mock-up would appropriately acknowledge that unspecified power is primarily from fossil fuels but also includes other (including renewable) resources to ensure consumers are not misled.

If the Commission decides not to revert back to the January 31, 2024, parenthetical to describe "Unspecified Power," it should adopt the proposal in the Amendments which is more

---

[14] *See* Docket 21-OIR-01, *Summary of Changes and FAQs,* Fig. 1, at 9 (Jan. 31, 2024) (emphasis added): https://efiling.energy.ca.gov/GetDocument.aspx?tn=254272&DocumentContentId=89637; *see* CalCCA July 2024 Comments at 15 (recommending adoption of the January 31, 2024 mock-up with the parenthetical description of "Unspecified Power"); *accord California Community Choice Association's Comments on the Revised Notice of Availability and Opportunity to Comment on Proposed Revisions to the Rulemaking to Amend Regulations Governing the Power Source Disclosure Program* (Nov. 19, 2024) at 5-6 (continuing to recommend adoption of the January 31, 2024 mock-up): https://efiling.energy.ca.gov/GetDocument.aspx?tn=260165&DocumentContentId=96398. CalCCA November 19, 2024 Comments.

[15] *See* Docket 21-OIR-01, *Express Terms* (May 17, 2024) § 1393.1(c)(1)(j): https://efiling.energy.ca.gov/GetDocument.aspx?tn=256446-3&DocumentContentId=92270.

complicated than CalCCA's preferred approach but does improve the definition. The Amendments remove the phrase "is derived primarily from natural gas and other fossil fuels" from the definition and instead identify whether unspecified power is provided *primarily* by fossil fuels or renewables and other zero-carbon resources.[16] Further, the Amendments require that:

> [b]eginning in 2026, the annotation of unspecified power shall include the *percentage* of unspecified power provided by either "Fossil Fuels" or "Renewables and Zero-Carbon ~~Zero Carbon~~ Resources" as those groups are described in 1393.1(c)(2), *whichever group was greater for the previous year*.[17]

The Amendments also require an annotation stating that:

> "Unspecified power is electricity purchased from a genericized pool on the open market." [This footnote shall also provide the *percentage* of the secondary resource group, as specified under Section 1393.1(c)(2)(A)-(B), serving unspecified power in the previous year].[18]

If the Commission requires the reporting of *whichever group of unspecified power sources is greater*, the Amendments must be modified in two ways to ensure the sources are calculated accurately and communicated clearly.

First, the Commission should add language to the Amendments that clarifies that the Commission, and not retail sellers, will calculate the percentage of unspecified power that came from fossil fuels versus renewable/zero-carbon resources. It should also clarify what data will be used and how it will be used to determine the primary source and when the calculations and percentages will be provided. This clarification is necessary because retail sellers do not have the information necessary to perform these calculations on their own. A transparent calculation

---

16 Amendments § 1393.1(c)(7).
17 *Id.* § 1393.1(c)(7) (emphasis added).
18 *Id.* § 1393.1(l)(3) (emphasis added).

performed by the Commission will ensure retail sellers are confident that the information they are required to report is accurate.

Second, while CalCCA supports the requirement of the provision of the percentage of the "secondary resource group" in section 1393.1(l)(3), the Commission should clarify the definition of "secondary resource group" in "Secondary resource group" appears to refer to either renewables and zero-carbon resources as defined in section 1393.1(c)(2)(A) or fossil fuels as defined in section 1393.1(c)(2)(A), whichever group was not "greater for the previous year" as defined in section 1393.1(c)(7). To make this clarification, the Commission should clarify the term "secondary resource group, as specified under section 1393.1(c)(2)(A)-(B)" to "secondary resource group, *defined as either renewables and zero-carbon resources or fossil fuels* as specified under section 1393.1(c)(2)(A)-(B), whichever group was lesser for the previous year."

VI. THE COMMISSION SHOULD ISSUE REVISED TEMPLATES AS SOON AS POSSIBLE PRIOR TO THE FIRST PROCUREMENT PERIOD UNDER THE NEW REGULATIONS

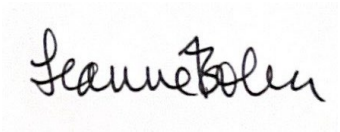
CalCCA greatly appreciates the Commission's timely issuance of revised templates following the second set of proposed amendments on October 4, 2024.[19] The Commission should revise and publish templates to reflect the Amendments (and any subsequent revisions) prior to the first procurement period following the adoption of the proposed regulations. Revised templates are needed to allow LSEs to see how the proposed regulations translate into reporting requirements.

[19] *See* Docket 21-OIR-01, *2026 PCL Template*, *2028 Consolidated Reporting Template*, *2025 PCL Template*, and *2026 Annual Reporting Template* (Nov. 11, 2024): https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=21-OIR-01.

VII. CONCLUSION

For all the foregoing reasons, CalCCA respectfully requests consideration of the comments herein.

Respectfully submitted,



Leanne Bober,
Director of Regulatory Affairs and Deputy General Counsel
CALIFORNIA COMMUNITY CHOICE ASSOCIATION

January 3, 2025