

CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CA 95814-5512



January 30, 2004

Dear Retail Provider:

Subject: The Power Source Disclosure Program's Annual Reporting Requirements

This letter has been sent to individuals or entities on the mailing list for the Power Source Disclosure Program. As someone involved with this program you are probably familiar with the general statutory requirements of SB 1305 (Stats. 1997, ch.796, § 1) and implementing regulations regarding retail disclosure. All retail providers of electricity including, but not limited to investor-owned utilities, publicly owned electric utilities, electric service providers, irrigation districts, and cooperatives that serve California consumers are subject to provisions mandating disclosure of fuel mix information to consumersⁱ. Every retail provider that sells electricity that is consumed in California and makes any claims that identify any of its electricity sources as different than net system power shall disclose these sources as specific purchasesⁱⁱ, and is subject to additional reporting requirements. **The purpose of this letter is to inform you of the following:**

- 1. Copies of Quarterly Power Content Labels for 2003 are due to the Energy Commission by March 1, 2004.**
- 2. Additional requirements are placed on Retail Providers who made claims of specific purchases in 2003. This letter provides you with information and guidance regarding the annual reporting requirements and to identify the upcoming report filing dates:**

Report/Filing

Submit No Later Than

2003 Annual Retail Providers Report

March 1, 2004

2003 Quarterly Power Content Labels

March 1, 2004

2003 Annual Power Content Label (to customers)

April 15, 2004

Independent Audit/Verification of 2003 Annual Power Content Label and Annual Report

June 1, 2004

The Annual Report Filing

Section 398.5 of the Public Utilities Code and Section 1394 of Title 20 of the California Code of Regulations require retail providers that claim specific purchases to submit an annual report to the Energy Commission on March 1st of each year. Retail providers are required to submit these annual reports for each electricity product offered during the previous calendar year for which a claim of specific purchases was made. Combining the requirements contained in the Public Utilities Code and the California Code of Regulations, the Annual Report must contain the following information:

1. The Registered Electric Service Provider Identification Number as assigned by either the Public Utilities Commission or the Energy Commission. The Energy Commission's assigned number is available on its web site at http://www.energy.ca.gov/sb1305/provider_numbers.html.
2. The kilowatt-hours *purchased or generated*, by generating facility and fuel type during the previous calendar year, consistent with the meter data, reported to the system operator.*
3. For each electricity product offered for sale in California, the kilowatt-hours sold at retail during the previous calendar year.
4. For each electricity product offered for sale in California, a sample of each general disclosure provided to consumers during the previous calendar year if not already provided to the Energy Commission.
5. A comparison between total net purchases and total retail sales for all products along with an explanation of any discrepancies between total net purchases and total retail sales.

*Retail providers that purchase electricity from a power pool that submits an Annual Report to the Energy Commission may provide this information by reference to the date and title of that filing submitted by the specified power pool.

The regulations require that each generating facility be identified using the identification number provided by U. S. Energy Information Administration (EIA) or, in the case that such an ID number does not exist, an identification number provided by the Energy Commission (Energy Commission Renewable Energy Program registration number, and/or Qualifying Facility (QF) number).

The Energy Commission recognizes that some retail providers report their purchases of renewable generation to the Energy Commission and the California Public Utilities Commission in order to demonstrate their compliance with the State's Renewable Portfolio Standard (RPS). Retail providers may submit Schedule 1 of this RPS report, "Report to the California Energy Commission c/o the California Public Utilities Commission: Utility Procurement of Renewable Energy in 2003," in order to demonstrate specific purchases of renewable generation only. However, submitting the RPS report's Schedule 1 is not required and retail providers may identify specific purchases on Schedule 1 of the SB 1305

January 30, 2004

Annual Report. However, specific purchases of non-renewable energy generation need to be claimed on Schedule 1 of the SB 1305 Annual Report when Schedule 1 of the RPS report to the Public Utilities Commission is used to identify renewable generation. The Energy Commission's Power Source Disclosure Program will accept filings that utilize both reports.

The regulations further require that this information be provided electronically, in a tabular spreadsheet or database format that allows identification of separate fields or cells for the information by product, generating facility, and fuel type. Finally, the regulations require each retail provider that makes a claim of specific purchases to provide an attestation, signed under penalty of perjury, that the kilowatt hours claimed by the retail provider as specific purchases during the previous calendar year were sold once and only once to retail consumers. Because there have been several questions regarding this matter, we would like to emphasize that **only retail providers that made claims of specific purchases during the 2003 calendar year must submit an Annual Report by March 1, 2004.** If you have any doubt about whether your company should submit one of these reports, please call us at one of the numbers listed at the end of this letter.

The recommended format for the Annual Report (including the form for the attestation) is available as an Excel file that can be downloaded from the Energy Commission's Web Site at: <http://www.energy.ca.gov/sb1305/>. Simply download the file off the Internet, enter the relevant information in the spaces indicated, and e-mail the completed forms file to sb1305@energy.state.ca.us by March 1, 2004. Because the filing also contains an attestation, please mail a copy of the filing including the signed the attestation to:

Jason J. Orta
Dockets 00-SB-1305
California Energy Commission
1516 9th Street, MS-4
Sacramento, CA 95814

The Dockets Office of the California Energy Commission must receive the original copies of the forms that were filed electronically by 4:00 p.m., March 8, 2004.

If your company does not have Internet access but would like an electronic copy of the file, you can obtain an electronic copy of the spreadsheet by submitting a written request to Jason Orta at the address above. Late requests will not change the required filing date of March 1, 2004.

If your company does not possess a recent copy of Excel (version 5.0 or later) or otherwise cannot file electronically, the Energy Commission will waive the requirement that the report be submitted in an electronic format and accept paper copies of the completed forms with your filing. The recently revised forms are available from our website at <http://www.energy.ca.gov/sb1305/> and printed copies are available upon request. To meet the March 1, 2004 filing date, a copy of the Annual Report may be faxed to Jason

January 30, 2004

Orta at (916) 653-8251. Copies of the Annual Report may be faxed as long as the original copy of the Annual Report, including the signed attestation, follows by mail and is received at the California Energy Commission Docket Office by 4:00 p.m.

The Annual Power Content Label

Retail providers are required to provide their customers with a power content label containing an annual disclosure for each electricity product for which the provider made a claim of specific purchases during the previous calendar year. This annual disclosure must be provided to customers by April 15 each calendar year using a format specified in the Energy Commission's regulations. Copies of the label are also to be filed with the Dockets Office. The address for the Energy Dockets office is listed earlier in this letter. More information about the format and content requirements for the Annual Power Content Label can be found in either the Energy Commission regulations or the "Retail Disclosure in Plain English" document on the Energy Commission's web site at http://www.energy.ca.gov/regulations/retail_disclosure.html.

The Independent Verification Process

In an effort to ensure the accuracy of marketing claims to consumers and to prevent the misuse of public funds, the Energy Commission's regulations require program participants to have their electricity purchases and sales independently verified. Current regulations require an independent "audit" of the Annual Power Content Label and the Annual Report by June 1 each calendar year. In general, the regulations require the auditor to audit the following:

1. the fuel types used by each generating facility identified in the Annual Report,
2. contracts and/or certificates of specific generation necessary to trace sale of electricity from the generator to the retailer, and
3. retail sales to consumers, to verify the accuracy of both the annual fuel mix disclosed to customers and the Annual Report.

The regulations also require an independent "audit" of any renewable power pool that is referenced in a retail provider's Annual Report in lieu of a specific generator.

The Energy Commission's regulations allow the use a set of "agreed-upon procedures" to meet the verification requirements. The agreed-upon procedures are essentially a set of instructions or protocols expected to guide the accountant through the necessary verification process.

Following receipt of the Annual Audit in June 2004, the Energy Commission will prepare a Reconciliation Report that is submitted to the California Public Utilities Commission in October. The Reconciliation Report compares the level of Specific Purchase Claims to the actual level of generation by generating source. This public document also allows for an assessment of the level of compliance of Electric Service Providers with California's Power

January 30, 2004

Source Disclosure regulations along with verification that retail providers are meeting claims made to their customers.

Potential Regulatory Changes

The Energy Commission is considering the following regulatory changes to the Power Source Disclosure Program:

- The addition of renewable energy technologies (i.e. ocean wave, ocean thermal, and tidal current).
- The utilization of California Net System Power on the Power Content Label.
- Considering the use of California Gross System Power (Net System Power plus Specific Purchases) on the Power Content Label.
- The overall appearance of the Power Content Label.
- Moving the deadline for the independent audit from June 1st to later in the year.

The aforementioned changes are only under consideration. These changes may never come to fruition or they might be modified from their current form. However, the Energy Commission is considering these changes in order to simplify the process and to increase the cost-effectiveness of compliance for retail providers. Since regulatory changes occur under a public process, Energy Commission staff will keep you informed of as the process unfolds.

I hope that this letter has been an effective reminder of the upcoming reporting requirements and of potential changes to the program. As always, Energy Commission staff is available to answer any of your questions. Questions regarding the reporting requirements should be directed to Jason J. Orta at (916) 653-5851 or by e-mail at jorta@energy.state.ca.us.

Sincerely,

Jason J. Orta
Power Source Disclosure Program
Energy Technology Development Division
Enclosures (2)

ⁱ For a description of the retail disclosure requirements in the Public Utilities Code and the California Code of Regulations, look for the "Retail Disclosure in Plain English" document on the Energy Commission's Web Site or contact the Energy Commission at the phone number / e-mail address given at the end of this letter.

ⁱⁱ Specific purchases are defined as “electricity transactions which 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.” (Public Utilities Code, Section 398.1(b))

A “claim of specific purchases” or a “claim that identifies any of a retail provider’s electricity sources as different from net system power” is defined as “...any statement that is made to consumers by a retail provider for the purpose of marketing any electricity product and that contains either:

- (1) a reference to use of an eligible renewable to generate, in part or in whole, the electricity product offered for sale by the retail provider, other than disclosure of net system power; or
- (2) a statement that a specific attribute of the electricity product related to the generator creates an environmental effect.”

(Title 20, California Code of Regulations, section 1391 as amended, November, 2000)