# COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY TO THE CALIFORNIA AIR RESOURCES BOARD ON THE PUBLIC MEETING TO DISCUSS COMPLIANCE REQUIREMENTS FOR FIRST DELIVERERS OF ELECTRICITY, HELD MAY 4, 2012

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**COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY TO THE CALIFORNIA AIR RESOURCES BOARD ON THE PUBLIC MEETING TO DISCUSS COMPLIANCE REQUIREMENTS FOR FIRST DELIVERERS OF ELECTRICITY, HELD MAY 4, 2012**

Southern California Edison Company ("SCE") respectfully submits its comments to the California Air Resources Board ("ARB") on the May 4, 2012, Public Meeting to Discuss Compliance Requirements for First Deliverers of Electricity ("May 4 Imports Workshop"). SCE welcomed the opportunity to participate in the May 4 Imports Workshop and to discuss compliance requirements with ARB staff. SCE applauds the efforts from ARB staff to engage stakeholders to understand and solve issues arising with language in the cap-and-trade regulation, especially in advance of the official launch of the cap-and-trade program and the opening of the allowance markets. As SCE has pointed out in the past, however, some of the cap-and-trade regulation language relating to electricity imports may be vague or open to interpretation. To that end, SCE offers the following comments.

SCE recommends that the ARB:

- Modify the definition of resource shuffling and also provide specific examples of resource shuffling in order to guide the behavior of electricity market participants;
- Improve the Qualified Exports ("QE") Adjustment to remove perverse incentives that could discourage imports of low-carbon electricity.
- Modify the RPS Adjustment language in the cap-and-trade regulation to ensure consistency with California's Renewables Portfolio Standard ("RPS");
- Amend regulation language in both the cap-and-trade regulation and the Mandatory Reporting Regulation ("MRR") relating to Renewable Energy Credits ("RECs") in

order to prevent the potential double-counting of renewable energy by importers calculating their compliance obligations; and

- Work with the California Independent System Operator ("CAISO") to amend the CAISO Tariff in order to assert jurisdiction over out-of-state sellers who participate in the CAISO market, at nodes that are physically located outside California.

## I.

## A CLEAR DISTINCTION BETWEEN RESOURCE SHUFFLING BEHAVIORS AND ROUTINE ENERGY TRANSACTIONS MUST BE ESTABLISHED

Section 95802(a)(251) of the Final Regulation Order defines "resource shuffling" as "any plan, scheme, or artifice to receive credit based on emissions reductions that have not occurred, involving delivery of electricity to the California grid."[1] In addition, Section 95852(b)(1) requires compliance entities to file attestations that their company or facility has not engaged in resource shuffling.[2] SCE recognizes and supports the ARB's objective to ensure real overall emissions reductions in California. However, requiring such attestations without guidance as to what the ARB views as a "plan, scheme, or artifice" will create unnecessary uncertainty in the electricity marketplace.

SCE respectfully notes that the California cap-and-trade program does not allow an electricity importer to claim any emissions "reductions" when it reports its emissions to the ARB. Rather, the electricity importer accepts responsibility for the emissions associated with the power it has delivered into the California market. The electricity importer's transactions themselves do not represent any "reduction" of emissions, nor does an importer have any visibility as to whether actual "emissions reductions" have taken place in producing this electricity. Instead, the California cap-and-trade program as a whole is designed to accomplish

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[1] California Air Resources Board, Cap-and-Trade Final Regulation Order ("Final Regulation Order"), October 2011, § 95802(a)(251), at A-40.

[2] Final Regulation Order § 95852(b)(1), at A-79 to A-80.

that objective. Electricity import transactions will be based on economic dispatch considerations, including electricity demand in California, the available supply on a least-cost basis to serve that demand, and available transmission capacity for imports into California. The carbon price will be reflected in both the price paid to the seller as well as the underlying cost of delivering electricity into the California markets, which would include the cost of compliance with the California cap-and-trade program. Thus, requiring an importer to attest that its electricity market transactions do not represent a plan, scheme, or artifice to receive credit based on emissions reductions that have not occurred, when no "reductions" are ever tracked or reported is problematic and could chill typical market behavior.

While a regional or national cap-and-trade program would best address resource shuffling concerns, in the absence of such a program, SCE supports the ARB's efforts to prevent fraudulent schemes to manipulate California's jurisdictional limits. Nevertheless, because the current definition of resource shuffling could easily capture routine electricity market transactions, SCE recommends that the ARB modify the definition of resource shuffling and also provide clear advance guidance to market participants outlining which types of market behavior will constitute resource shuffling.

SCE recommends that the ARB redefine resource shuffling as "any intentional plan, scheme, or artifice to avoid importing higher emissions resources by engaging in an improper substitution of such higher emissions resources with lower emissions resources. Such substitution would not be considered resource shuffling if the lower-emitting resources are eligible to be counted towards RPS compliance in California or if the lower-emitting resources are surplus resources at the time of import in the area from which the imported electricity is sourced, even if these resources are typically committed to serve load outside of California."

SCE also recommends that the ARB identify specific situations that the ARB believes will constitute resource shuffling, or alternatively, provide specific exemptions for typical electricity market behaviors. For example, the ARB could identify behaviors where the electricity from a facility owned by a California entity is being used to serve the load of a non-

California entity, while simultaneously, the same non-California entity is providing electricity from a less carbon-intensive facility to serve the load of the California entity, as a specific example of what the ARB will consider to be resource shuffling.

## II.

## THE ARB SHOULD MODIFY THE QE ADJUSTMENT TO REMOVE POTENTIAL PERVERSE INCENTIVES TO DISCOURAGE IMPORTS OF RENEWABLE ELECTRICITY

SCE strongly supports the inclusion of the QE Adjustment in Sections 95802(a)(225) and 95852(b)(5), which allow a compliance entity to subtract from its compliance obligation a portion of the emissions associated with electricity that is imported and exported within the same hour.[3] The QE Adjustment is a useful and pragmatic rule that provides compliance flexibility to compliance entities and is critical for allowing power markets through the Western Electricity Coordinating Council ("WECC") region to function effectively. Without the QE Adjustment, electricity marketers would be discouraged from acting upon price signals to move electricity to the most necessary locations. Physical wheels with a single tag, though already exempted from cap-and-trade compliance obligations, are not always efficient or possible given transmission constraints. Thus, the QE Adjustment plays an important role in allowing efficient virtual wheels of electricity through California.

While SCE strongly backs the principle behind the QE Adjustment, SCE continues to advocate for some minor modifications to address some of the perverse incentives created in the current regulation language. In earlier comments,[4] SCE noted that the current QE Adjustment

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[3] The QE Adjustment is calculated by multiplying (1) the lower of the quantity of imports or the quantity of exports by (2) the lowest emissions factor of any of their imported and exported power of that hour. Final Regulation Order, § 95802(a)(225) at A-36, § 95852(b)(5) at A-81.

[4] For further examples and a more detailed discussion of both of SCE's suggested improvements, see Comments of Southern California Edison Company to the California Air Resources Board on the Second 15-Day Modifications to the Cap-and-Trade Regulation, September 27, 2011, at 12-16, *available at*

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language could create situations where the proposed rules could penalize a market participant who chooses to import low-GHG energy instead of high-GHG energy. To remedy this perverse incentive, SCE offered a "lowest first" QE Adjustment calculation whereby the megawatt-hours of qualified exports would be assigned an emissions factor based on the emissions factor of that hour's imports, in a sequence, starting with the imports with the lowest emissions rate. SCE also suggested a simple "lowest non-zero" redline change to the regulation language, which would set the GHG emissions rate on qualified exports as the "lowest non-zero emissions factor" of any of the imported and exported power of that hour. SCE recommends that the ARB consider adopting either or both of these suggestions to improve the cap-and-trade regulation language and remove this disincentive to bring low-carbon energy into California.

## III.

## THE ARB SHOULD MODIFY LANGUAGE RELATING TO THE RPS ADJUSTMENT TO ENSURE CONSISTENCY WITH CALIFORNIA'S RPS PROGRAM

SCE again applauds ARB staff for developing the RPS Adjustment in Sections 95852(b)(1)(B) and 95852(b)(4) to account for out-of-state, not directly delivered RPS-eligible electricity that is generated pursuant to long-term agreements with California compliance entities. However, SCE suggests a change in the language to better align the cap-and-trade program with the RPS program. Specifically, in order to maintain consistency with the banking provisions[5] of California's RPS Program, SCE suggests that ARB modify Section 95852(b)(4)(B)[6] as follows:

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http://www.arb.ca.gov/lists/capandtrade10/1583-sce_comments_to_arb_on_cap-and-trade_15_day_language_september_2011.pdf.

[5] Public Util. Code § 399.13(a)(4)(B).

[6] See Final Regulation Order § 95852(b)(4)(B), at A-80 to A-81.

(B) The RECs associated with the electricity claimed for the RPS adjustment must be used to comply with California RPS requirements during the ~~same year~~ RPS compliance period in which the RPS adjustment is claimed.

## IV.

## THE ARB SHOULD ADJUST LANGUAGE IN THE CAP-AND-TRADE AND MANDATORY REPORTING REGULATIONS RELATING TO RECS IN ORDER TO PREVENT POTENTIAL DOUBLE-COUNTING OF RENEWABLE ENERGY IN CALCULATING COMPLIANCE OBLIGATIONS BY IMPORTERS OF SPECIFIED SOURCE ELECTRICITY FROM RENEWABLE RESOURCES

As currently written, the cap-and-trade regulation may potentially and inadvertently allow two parties to reduce their compliance obligation by claiming the same credit for the same out-of-state renewable generation. To prevent this potential double-counting, the ARB should require Western Renewable Energy Generation Information System ("WREGIS") RECs to be held for all electricity claimed for specified source electricity from renewable resources that generate RECs in WREGIS. Since a REC includes "all renewable and environmental attributes associated with the production of electricity,"[7] by showing ownership of a REC, an entity would show its right to the zero emissions attribute of the associated renewable resource. In addition, SCE suggests that the ARB create a "Master List" of WREGIS certificate numbers of all RECs used to claim either an RPS Adjustment or specified source electricity from renewable resources under the cap-and-trade program. If any RECs are claimed multiple times, the ARB could investigate further to determine which party has the right to claim the zero-emission electricity.

To capture these recommendations, SCE suggests the following changes to ARB's regulation language:

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[7] Final Regulation Order, § 95802(a)(245), at A-39.

**Mandatory Reporting Regulation**

Section 95111(g)[8]
…
(6) *Specified Sources of Electricity from Renewable Resources that Generate RECs in WREGIS.* Electricity importers may claim specified source electricity from a renewable energy resource only if they hold all RECs associated with that electricity.

Section 95105(d)[9]
…
(11) WREGIS REC information for electricity from specified renewable energy resources that generate RECs in WREGIS, as identified in Section 95111(g)(6).

Section 95111(a)(9)[10]
*Verification Documentation.* The electric power entity must retain for purposes of verification NERC e-Tags, WREGIS REC data**,** written power contracts, settlements data, and all other information required to confirm reported electricity procurements and deliveries pursuant to the recordkeeping requirements of section 95105.

**Cap-and-Trade Regulation**

Section 95852(b)(3)(D)[11]
If RECs were created for the electricity generated and reported pursuant to MRR, then the RECs must be retired or held and verified pursuant to MRR.

SCE encourages ARB to make the suggested modifications in order to ensure the completeness of ARB's cap-and-trade program and consistency with the other AB 32 programs.

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[8] *See* Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions ("MRR Regulation"), § 95111(g), at 108-119.
[9] *See* MRR Regulation, § 95105(d), at 82.
[10] *See* MRR Regulation, § 95111(a)(9), at 97.
[11] Final Regulation Order, § 95852(b)(3)(D), at A-80.

## V.

## THE ARB SHOULD WORK WITH THE CAISO TO MAKE AMENDMENTS TO THE CAISO TARIFF IF NECESSARY TO ASSERT JURISDICTION OVER OUT-OF-STATE SELLERS WHO PARTICIPATE IN THE CAISO MARKETS AT NODES THAT ARE PHYSICALLY LOCATED OUTSIDE CALIFORNIA

At the May 4 Imports Workshop, several parties raised the issue of the compliance responsibility related to out-of-state sellers bidding into CAISO markets at specific nodes that are physically located outside of California. SCE notes that this topic was discussed at an Electricity Roundtable on the California cap-and-trade program that was sponsored by the Western Power Trading Forum ("WPTF") on August 2, 2011, at the California Chamber of Commerce in Sacramento ("WPTF Electricity Roundtable"). At this roundtable, the CAISO's staff offered their views suggesting that CAISO's tariff provisions, in conjunction with NERC E-tagging conventions and North American Energy Standards Board ("NAESB") definitions, make it clear that sellers at out-of-state interties do deliver the electricity into California, and that the ARB could therefore assert jurisdiction over these sellers as a First Deliverer and require compliance with the California GHG cap-and-trade program.

At the roundtable discussion, CAISO indicated that its Tariff governs all aspects of bidding and scheduling of energy and ancillary services on the CAISO-controlled grid, including, without limitation, the financial and technical criteria for Scheduling Coordinators, bidding, settlement, information reporting requirements and confidentiality restrictions. CAISO also indicated that each Scheduling Coordinator is responsible for submitting interchange schedules prepared in accordance with all NERC, WECC, and CAISO requirements, including providing E-Tags for all applicable transactions pursuant to WECC practices. NERC's E-tagging specifications provide that paths identified on NERC E-tags define energy flow and fiduciary responsibility. Financial path components are referred to as market segments, while physical path components are called physical segments. Market segments establish financial

responsibilities for the receipt and/or delivery of the energy. Market segments represent those portions of the path that are associated with the tracking of title and responsibility; a physical segment is always associated with a parent market segment. The NAESB defines a PSE as the entity that purchases or sells, and takes title to, energy, capacity, and Interconnected Operations Services.

SCE respectfully requests that ARB work with the CAISO to make the necessary amendments to its Tariff to further emphasize this framework. The two agencies should clearly state not only ARB's ability but also its intent to assert jurisdiction over such out-of-state sellers who bid into CAISO's markets at nodes that are physically located outside of the state of California, and that sellers of electricity in the CAISO markets will be responsible for compliance with the cap-and-trade program as the First Deliverers.

## VI.

## CONCLUSION

SCE appreciates the opportunity to share its thoughts on the May 4 Imports Workshop and urges the ARB to revise the regulation in accordance with the modifications described herein.

Respectfully submitted,

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