



Presidio of San Francisco T: 866.476.9378
38 Keyes Avenue, Suite 300 F: 415.680.1561
San Francisco, CA 94129 3degreesinc.com

September 27, 2011

Clerk of the Board
Air Resources Board
1001 I Street
Sacramento, California 95814

Re: Proposed 15-day Modifications to Regulations for the California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms

Dear Chairman Nichols and Members of the Board:

3Degrees Group, Inc (3Degrees) appreciates the opportunity to offer comments on the Air Resources Board's (ARB) modified text for proposed California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms regulation (Regulation), released September 12, 2011. 3Degrees is a leading environmental commodities sales, trading, and advisory firm that markets renewable energy certificates (RECs) and carbon offsets in compliance and voluntary markets in California and across the United States. 3Degrees serves hundreds of businesses, utilities, and other load serving entities, along with many thousands of residential customers through our utility green power program marketing services.

3Degrees supports ARB in its leadership to develop regulations to reduce greenhouse gas emissions, and particularly commends ARB for implementing a market-based cap and trade program that encourages the cost-effective reduction of greenhouse gas (GHG) emissions. 3Degrees fully supports a system that uses high-quality carbon offsets to drive emission reductions in uncapped sectors of the economy as a method of adding flexibility to the compliance obligations of entities within capped sectors.

3Degrees also supports ARB's recent changes to the language in the Regulation for the Voluntary Renewable Energy Allowance (VRE) Set-Aside (Section 95841.1). If implemented correctly, the VRE set-aside will ensure that businesses and residents that voluntarily purchase renewable energy above and beyond what is required by law are protected and maintain their ability to reduce GHGs.

The following comments are intended to provide ARB with recommendations on how to improve specific areas of the Regulation to ensure the protection and growth of both mandatory and voluntary markets for renewable energy. 3Degrees' comments are structured to first address recent changes to Section 95852(b) as they relate to the prevention of double counting emissions associated with electricity imports and, second, to offer recommendations for improvement and technical clarifications on specific sections.

Specified Electricity Imports and ARB's Changes to Prevent Double Counting

In its first round of 15-day changes, the Regulation in Section 95852(b) was written in such a way that would have inadvertently allowed the double counting of the emissions characteristics if the electricity from an out-of-state renewable energy generator was imported into California and specified as zero-emissions under ARB's cap and trade program while, at the same time, the REC associated with the electricity was sold into the voluntary market or a RPS market outside of California. As such, 3Degrees was pleased to see that ARB has taken action to avert this double counting potential with the amendments it included in the September 12 15-day package. 3Degrees welcomes these changes and commends ARB for its willingness to engage with stakeholders on this issue. These changes strengthen and protect the environmental integrity of ARB's cap and trade program and renewable energy markets.

Recommendations and Technical Clarifications on Specific Sections

Section 95831. Account Types

(b)(6) Voluntary Renewable Electricity Reserve Account.

As stated in previous comments, 3Degrees urges ARB not to adopt a pre-determined cap and to allow the budget adjustment to be determined solely by the ex-ante estimate of need based on demonstrated demand. This will send a clear market signal and promote the continuing future growth of voluntary renewable energy purchases. Should ARB decide to pursue a cap on the number of allowances that can be placed in the holding account, 3Degrees strongly recommends that the cap be subject to annual review and adjustment rather than at the start of each compliance period, or that an automatic review be triggered whenever demand exceeds the cap for two years in succession.

Section 95841.1. Voluntary Renewable Electricity

3Degrees supports the inclusion of a voluntary renewable energy set-aside and wishes to thank ARB for its recognition of the valuable role played by voluntary purchaser of renewable energy. We also commend ARB staff on their transparency and willingness to engage with stakeholders in the development of its VRE set-aside regulation and welcome the recent clarifying changes in the September 12 15-day package.

(a) Program Requirements

3Degrees wishes to express its support for the inclusion of a generator online date. However, this date is inconsistent with the new date for the voluntary renewable energy market. The voluntary renewable energy market is a national market with an established 15-year rolling online date.¹ By disallowing facilities with online dates prior to 2005 to qualify for the voluntary renewable energy set aside, many generators based in California would be excluded from participating in this national market. Although 3Degrees understands ARB's rationale for its choice of July 1, 2005, we encourage the use of an online date that conforms to the standards already in use by the voluntary market.

¹ Both the U.S. EPA Green Power Partnership and Green-e Energy originally used an online date of 1997, which was recently changed to a 15-year rolling date.

(c) [VRE allowance retirement]

As stated previously, 3Degrees urges ARB not to adopt a pre-determined cap and to allow the budget adjustment to be determined solely by the ex-ante estimate of need based on demonstrated demand. Should ARB decide to cap the number of allowances that can be retired each year, 3Degrees strongly recommends that the language in this sub-section be amended such that:

- In the case that demand for VRE allowances *exceeds* supply in a given year, ARB should distribute and retire VRE allowances distribution equally among qualifying MWhs and/or RECs. As written, the proposed regulation is unclear on this point.
- In the case of demand for VRE allowances for not equaling supply, then ARB should roll over excess allowances into future compliance years. This, at the very least, will create a slim buffer to allow for VRE market growth in the succeeding years.

Section 95852(b). Emission Categories Used to Calculate Compliance Obligations for First Delivers of Electricity

(3)(D) [REC Retirement]

As previously mentioned, 3Degrees welcomes this additional language to prevent double counting of the emissions characteristics associated with specified electricity imports from renewable energy facilities. However, 3Degrees suggests that ARB provided clarity as it relates to the reference to RECs “retired and verified pursuant to the MRR.” The MRR does not provide guidance on REC retirement and verification. Including an explanation of this language would add clarity and prevent participant confusion.

Additionally, 3Degrees wishes to note the distinction between REC *ownership* and REC *retirement*. Currently, 95852(b)(3)(D) requires the outright retirement of RECs pursuant to guidance in the MRR, a stipulation that decreases the liquidity of the renewable energy markets in California. While the retirement of the RECs associated with specified electricity imports is necessary to prevent double counting, ARB should maintain flexibility to allow trading of the REC within California boundaries. 3Degrees welcomes discussion with ARB staff on this issue.

Conclusion

3Degrees is grateful for the chance to offer its support for ARB’s cap and trade regulation, and for the opportunity to provide recommendations for structuring a VRE set-aside. We welcome the opportunity to discuss any of these recommendations with ARB.

Sincerely,



Ian McGowan
Manager, Regulatory Affairs
3Degrees
imcgowan@3degreesinc.com