COMMENTS OF SOUTHERN CALIFORNIA EDISON TO THE
CALIFORNIA AIR RESOURCES BOARD ON ITS PROPOSED
45-DAY MODIFICATIONS TO THE CALIFORNIA CAP-AND-TRADE REGULATION

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# INTRODUCTION

Southern California Edison Company (“SCE”) respectfully submits its comments to the

California Air Resources Board (“ARB”) on its Proposed 45-Day Modifications to the California

Cap-and Trade Regulation (“45-Day Modifications”). SCE appreciates this opportunity for registered entities to suggest modifications and improvements to the regulation. SCE’s comments focus on the reporting requirements and updates necessary for account registration and auction applications. Specifically, SCE advocates for the following three changes:

### The ARB should narrow its reporting requirements regarding information about associated entities that do not participating in the cap-and trade market;

### The ARB should remove “triggered” disclosure requirements and allow quarterly reporting of registration information changes; and

### The ARB should remove the requirement for auction applicants to disclose information regarding market investigations regarding associated entities.

# ARB SHOULD NARROW ITS REQUIREMENTS FOR CORPORATE ASSOCIATIONS NOT PARTICIPATING IN THE CAP-AND TRADE MARKET

Section 95830(f)(1) governs when registered entities must update their registration information with the ARB. The ARB proposes several changes to the rule, including allowing annual updates to information about associated entities that are not registered in the cap-and-trade program. These changes will not resolve all of the hardships imposed by the required disclosures. In particular, Section 95833(d)(1), which requires registered entities to identify all direct and indirect corporation associations, remains unduly burdensome, especially because it is unclear what benefit, if any, this onerous compliance obligation will provide to the ARB in its regulation of the cap-and-trade program. SCE therefore requests the following changes:

1. With regards to corporate associations that are not registered in the cap-and-trade program, SCE requests that the ARB modify the regulation to allow registered entities to provide the ARB with an *existing* list of corporate associations that the registered entity already maintains in compliance with the Securities and Exchange Commission (SEC), Federal Energy Regulatory Commission (FERC), Commodity Futures Trading Commission (CFTC), or California Public Utilities Commission (CPUC) (e.g. corporate association list provided to SEC as Exhibit 21 of an entity’s 10-K filing, or provided to comply with CPUC affiliate requirements). This list sufficiently identifies associated entities and should therefore replace the Section 95833(d)(1)(A)-(G) and (d)(2)’s current requirements. Such continuity with other similarly situated regulatory agencies will satisfy the ARB’s needs and promote efficiency and accuracy.
2. With regards to associated entites that are registered in the cap-and-trade program, SCE requests that ARB revise the disclosure requirement to include only: (1) entity name, (2) CITSS number; (3) degree of association, (e.g. direct or indirect); and (4) type of association (e.g. parent, subsidiary, or affiliate).

# ARB should remove “Triggered” disclosure requirements and allow quarterly reporting of application information changes

Even with the proposed change, Section 95830(f)(1) still be requires registered entities to update certain elements of their registration, such as identification of directors and officers and cap-and-trade consultants and advisors, within 30 days of a change. To further reduce the administrative burden imposed by this regulation on both the regulated entities and the ARB, SCE requests that the ARB modify the regulation to eliminate updates that are triggered by an event. Instead, SCE proposes that the ARB streamline the process by requiring registered entities to update their registration information on a quarterly basis.

Standardizes quarterly reporting will not only ensure that the ARB receives information regarding such changes on a timely basis, but will also reduce the time and resources registered entities must expend tracking the timing of changes and filing multiple registration updates. SCE’s proposal will similarly reduce the ARB’s administrative burden by reducing the time and resources the ARB must expend reviewing and processing what may end up being a steady stream of updates from numerous entities.

# THE ARB SHOULD REMOVE THE REQUIREMENT FOR AUCTION APPLICANTS TO DISCLOSE INFORMATION REGARDING MARKET INVESTIGATIONS of associated entities

Section 95912(d)(4)(E) of the current regulation requires entities applying to participate in an ARB auction to disclose “the existence and status of any ongoing investigation or an investigation that has occurred within the last ten years” for market rule violations committed by an entity with which the participating entity shares a direct or indirect corporate association and that participates in a carbon, fuel, or electricity market.” Requiring registered entities to make such disclosures is unreasonable because existing rules that govern affiliate conduct and standard corporate protocols for information disclosure could prohibit employees of the participating company from accessing this information.

Many entities that participate in the ARB auctions, including investor-owned utilities such as SCE, operate as wholly-owned subsidiaries of parent companies, which may also own other commercial entities, in whole or in part. Many of these other subsidiary companies fall under the ARB’s definition of direct or indirect corporate associations as set forth in the Cap-and-Trade Regulation and participate in “a carbon, fuel, or electricity market.” These entities are not registered in the Cap-and-Trade program, but would nevertheless be required by this regulation to share their internal files with their affiliates who participate in ARB auctions and have this information disclosed to the ARB, which is problematic for several reasons.

First, affiliate conduct rules and standard corporate protocol may prohibit a participating entity from obtaining the information. In addition, even if the participating entity were to obtain the information, it would not be possible for the participating entity to attest that the information is accurate and complete for the specified reporting period. The ARB cannot reasonably require that an entity applying to participate in the auctions attest to potentially sensitive legal information that it may not have access to about its affiliated corporate entities and cannot confirm is accurate or complete, even if granted access. Moreover, if the affiliated or associated entities are not entities subject to the ARB’s regulations, the ARB likely would not be legally entitled to directly access non-public information about such entities. The ARB does not have the legal right or ability to require regulated entities to do what ARB could not legally directly accomplish itself.

# CONCLUSION

SCE appreciates the opportunity to comment on the 45-Day Modifications. SCE continues to urge the ARB to consider ways to reduce the administrative burden of registration and auction reporting requirements.

Respectfully submitted,

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