



4391 N. Marsh Elder Ct | Concord | CA | 94521

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Kevin Kennedy
Office of Climate Change
California Air Resources Board
1001 "I" Street
P.O. Box 2815
Sacramento, CA 95812

Subject: Comments of the California Cogeneration Council on the ARB Preliminary Draft Regulation for a California Cap-and-Trade Program

Dear Mr. Kennedy,

Thank you for the opportunity to comment on the California Air Resources Board (ARB) document, "**Preliminary Draft Regulation for a California Cap-and-Trade Program**", dated November 24, 2009.

These comments are offered on behalf of the California Cogeneration Council (CCC) which is an *ad hoc* association of natural gas-fired cogenerators located throughout California, in the service territories of all three of California's major investor-owned electric utilities (IOUs) - Pacific Gas & Electric Company (PG&E), Southern California Edison (Edison), and San Diego Gas & Electric (SDG&E). Members of CCC own and operate more than 30 different combined heat and power (CHP) projects in California that collectively generate about 1,300 megawatts (MWs). CCC member projects are "qualifying facilities" (QFs) that sell power to the IOUs under the provisions of the Public Utilities Regulatory Policies Act (PURPA) of 1978. CCC projects also serve significant on-site electrical and thermal loads at industrial, commercial, and institutional facilities across the state. The CCC represents a significant share of the distributed CHP projects now operating in California.

The CCC recognizes the challenging role and associated responsibilities the ARB has been assigned in order to successfully implement AB 32. With respect to the design of a cap and trade program, the CCC understands the ARB's Preliminary Draft Regulation (PDR) is an overview of draft regulatory provisions and concepts for discussion. While the PDR provides details concerning some design components, it appears the focus in this first draft is on the mechanics of how certain processes will be conducted. For example, auction design and proceeds distribution, offset credits (requirements, quantification methodologies, registration, tracking, etc.), surrender requirements for covered entities, etc. The PDR, at this stage, is silent regarding how covered entities in specific sectors, including CHP facilities, would be handled. Without this detail, from our perspective, it is difficult to provide comments on the other design components of the PDR.

In October 2009, the CCC, along with several other parties, submitted detailed comments to ARB suggesting how to regulate greenhouse gas (GHG) emissions from CHP projects in California under a cap & trade regime. In particular, we outlined some of the unique challenges CHP facilities face and how a cap and trade program could assist in overcoming these barriers. In particular, the design of a cap and trade program needs to address the inherent conflict that while investment and operation of CHP provides societal benefits by reducing the overall GHG emissions of the state, at the same time it increases the CHP owner's direct onsite emissions, thereby increasing GHG compliance costs. The right regulatory signals and incentives must be sent to encourage and not discourage operation and development of CHP.

We note on page 90, Attachment 1, of the PDR, the possibility of changes to the emissions distribution requirements for cogeneration systems to support the proposed cap-and-trade regulation. The CCC participated in the development of the current mandatory reporting regulation provisions governing cogeneration, and recommends that any proposed changes be done in consultation with affected stakeholders.

It is our recommendation that prior to the release of the next cap-and-trade draft regulation, scheduled for Spring 2010, the ARB convene a CHP stakeholder workshop to (i) respond to the public submissions from last October by presenting a staff proposal, and (ii) discuss what changes may be required to the reporting regulation in order to effectively implement the proposed CHP component of the cap-and-trade program.

We are available to discuss our proposals regarding CHP at your request.

Yours sincerely,

Beth Vaughan
Executive Director