Pacific Gas and Electric Company™

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November 21, 2007

Ms. Mary Nichols, Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: PG&E's Comments on Draft Regulation for Mandatory Reporting of Greenhouse Gas (GHG) Emissions

Dear Ms. Nichols:

Pacific Gas and Electric Company (PG&E) very much appreciates the opportunity to provide comments on the Air Resources Board (ARB) staff's draft regulation on mandatory GHG reporting under AB 32. PG&E commends the ARB staff for the enormous amount of time and effort expended to create these detailed reporting regulations.

Accurate and comprehensive emissions reporting is critical to the implementation of AB 32, enabling the State to understand current emissions levels and determine whether the emissions reduction trajectory is on a path to assure that the AB 32 goals are met. However, many AB 32 program elements which will necessarily interact with the reporting regulations have not been selected or established. Therefore, the reporting regulations that ARB adopts this year must be: accurate - to best understand GHG reduction responsibility; verifiable - to ensure that reductions are real; and flexible - to be able to incorporate changes in policy design as the implementation of AB 32 moves forward. PG&E believes that the ARB staff proposed regulations generally strike the right balance in these criteria, especially in having all "first sellers" of electricity report their emissions and by including the default emissions factor in the guidance supporting the regulation, rather than in the regulation itself.

However, as set forth more fully below, we believe certain provisions of the draft regulations written will unnecessarily impose extra costs on California electricity customers or result in unintended adverse impacts on the availability of reliable energy resources through double counting of GHG emissions, inconsistent treatment of certain eligible renewable resources, and by not allowing electric load-serving entities (LSEs) to designate certain owned generation or long term contracts as serving their own customers. PG&E has discussed these changes with ARB staff and understands that these modifications will be considered for the final regulation.

Staff is correct in including the default emissions factor in the guidance

Staff has taken the correct approach in including the default emissions rate in the guidance. As staff has recognized, default emissions factors need not be included in the reporting regulations.[1/] The default emissions rate ultimately selected will have significant ramifications on energy markets, and ultimately GHG emissions tracking and reductions. Default rates should be chosen carefully and applied as minimally as possible. PG&E applauds staff's willingness to conduct further technical workshops to discuss the factors with the appropriate CPUC, CEC, CAISO, and concerned stakeholders.

The Reporting Regulations Collect the Appropriate Information for a Source Based Cap, a Load Based Cap, or a First Seller Based Cap

We support the comprehensive the reporting philosophy staff has employed for the electricity sector. Staff has ensured that all possible points of regulation, whether the generating sources, the first importers of power into California, or the load serving entities, report information to calculate emissions. This "no regrets" approach will give California the time and flexibility it needs to determine the appropriate electricity sector point of regulation.

Reporting by "First Sellers" follows the Governor's Market Advisory Committee recommendation that "First Sellers" be the preferred point of regulation under AB 32. By including a comprehensive set of reporting entities, including both marketers and retail providers, CARB will be able to meet the requirement of AB 32 to accurately account for all electricity imports as well as in-state sources while maintaining flexibility to pursue either a "First Seller" or "Load Based" point of regulation for emissions from the power/utilities sector.

Requiring Retail Providers to Prove Electricity Sales Sink in California will lead to double counting of Emissions and may impose unnecessary costs on California Customers.

One aspect of the draft regulation could allow for double-counting of emissions, adversely affecting energy transactions and imposing unnecessary additional compliance costs on customers. The draft regulation says that unless a Retail Provider which makes a sale within California can provide documentation that the electricity sinks in California, the retail provider must report that the destination of that electricity as "unknown." From the perspective of the electricity seller, it is not possible to know whether electricity will sink in California. When selling into the CAISO market or even in bilateral trades, it is not possible for the seller to obtain

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1/ Retail providers themselves will not use the emissions factors for reporting. Retail providers may provide transactions but are not obligated under AB 32 to assign emission factors for transactions from unknown sources or powerplants owned by third parties, over which the retail providers have no managerial or operating responsibility. See Heath and Safety Code section 38530(b)(1) and (2), distinguishing between "reporting" from "sources" and "account[ing] from "retail sellers."

this information from the buyer. Therefore, under Staff's proposal, all electricity sales within California will be reported with the destination as "unknown." This can have significant adverse consequences for California electricity customers if, under a load based cap as suggested by the guidance, Retail Providers have responsibility for the emissions of the electricity they sell to an unknown destination.

To illustrate this problem, consider the following example: Retail Provider A imports electricity and sells it to Retail Provider B. Retail Provider B realizes it doesn't need the energy and sells it to a marketer who sells it instate to Retail Provider C, who uses it in CA. In this example, Retail Provider A, Retail Provider B, and Retail Provider C may all be required to pay for the emissions associated with the unspecified electricity. Under this all too common scenario, *California customers would pay three times for the same emissions.* To convey the magnitude of these costs, in 2006, PG&E sold approximately 4 million mwh, the majority in-state, at NP-15. At 1,100 lbs/MWh, PG&E customers would be responsible for 2 million metric tons of CO_2 that is not associated with electricity they consume and may be already accounted for by other California users.

Therefore, PG&E recommends that the regulation be modified to read that as long as the point of sale is within California, Retail Providers should be able to label the destination of the power as "California." The following changes should be adopted:

- In 95111 (b)(1)(B): If the region of origin ~~or region of destination~~ for an electricity transaction cannot be documented, the retail provider or marketer shall designate the region as unknown.
- In 95111 (b)(3)(I): Retail providers shall designate wholesale sales as inside California **if the point of delivery of the sales is within California** ~~only if those sales go to other retail providers or to marketers who provide documentation that the sale went to the California region~~. The retail provider **cannot provide documentation that the point of sales is within California, the wholesale sales** ~~shall retain the documentation for purposes of verification. If the retail provider cannot document the region of destination for any wholesale sale, the region of destination shall be designated as unknown. Wholesale sales designated with unknown destinations~~ shall be reported as an export under section. 95111(b

<u>Reporting Regulations Should Support and Be Consistent with California's Statutory Preference for Eligible Renewable Energy Resources</u>

In one key respect, we recommend that the AB32 reporting regulations be clarified to ensure that the regulations are consistent with and support California's renewable energy procurement policies, particularly eligible renewable energy procured under the Renewable Portfolio Standard and SB107. Certain types of arrangements which provide renewable energy to California may

be inadvertently affected or even prohibited by the reporting regulations as proposed. To ensure that these transactions are treated as deliveries from specified eligible renewable generation consistent with the Renewable Portfolio Standard and California's energy policy preference for renewable energy, PG&E recommends the following changes:

- Revise section 95102(a)(166) to define "Specified source of power" to include eligible renewable energy under California law: "'Specified source of power' or 'specified source' means a particular generating unit or facility whose electrical generation can be confidently tracked due to full or partial ownership or due to its identification in a power contract**, including any California eligible renewable resource."**
- Delete section 95102(a)(173) [discussed below] or revise it to exclude eligible renewable energy under California law from the definition of "substitute energy.": "'Substitute energy' means electric power delivered under a facility-specific contract that was not produced by the facility specified in the contract**, except for any California eligible renewable resource."**

These clarifications will ensure that the AB 32 reporting regulations are consistent with California's Renewable Portfolio Standards, SB 107 and other state energy policies which encourage and certify certain renewable energy transactions for eligible renewable energy treatment even though they also may involve substitute energy or unspecified energy to firm or shape the renewable energy.

Additionally, PG&E does not believe that substitute energy needs to be reported as such for reporting purposes at all. All electricity will be reported as specified or unspecified. The question of whether certain unspecified energy is delivered as substitute energy in a unit specific contract is irrelevant for reporting, as long as the energy is reported as unspecified. Therefore, 95102(a)(173) and 95111(b)(1)(A)(10) should be deleted.

Retail Providers Should be Allowed to Claim as Serving Native Load Facilities with a Capacity Factor Lower than 60%

Retail Providers who make investments in facilities, either ownership or in a long term contract, with emissions rates lower than 1,100 lbs/ MWh should be allowed to claim the energy from those facilities as serving native load, as long as the Retail Provider claims all of the energy from facilities owned or contracted with higher capacity factors.

- 95111(b)(3)(H): The generating facility is **owned or in a long term contract.** ~~a base-load facility running at an average annual capacity factor of 60 percent or greater~~. If a facility is designated as serving native load on this basis, all generating facilities from which the retail provider purchases or takes specified power that run at the same or greater average annual capacity factor shall also be designated as serving native load.

Expansion of High Heating Value Testing Standards

PG&E recommends that an additional standard be added to the list for testing the HHV for natural gas: GPA Standard 2261-90 "Analysis for Natural Gas and Similar Gaseous Mixtures by Gas Chromatography." Our generation facilities are regulated under 40 CFR Part § 75 (App. D § 2.3.4). Per this regulation, we continuously measure the pipeline natural gas using a Gas Chromatograph. The newer version of this standard is GPA Standard 2261-99, and will be a Part § 75 requirement for us in 2009 (EPA is revising 40 CFR Part § 75, including updating their standards list, and the changes are to be effective by 2009). This type of measurement has been recognized and allowed by US EPA since the early 1990s.

For oil, PG&E uses a grab sample per the ASTM D240-87 standard, not ASTM D240-02. This method is also listed in 40 CFR Part § 75 (App. D Section 2.2).

95125 (c) (1) (B) should be modified to include these standards.

Definitional Changes

PG&E suggests the following changes to definition for accuracy:

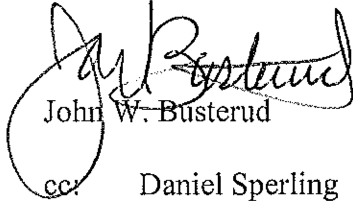
- 95102(a)(115) "NERC E-tag" means North American Electric Reliability Corporation (NERC) energy tag representing transactions on the North American bulk electricity market scheduled to flow ~~within,~~ between~~,~~ or across **control areas** ~~electric utility company territories~~.

Conclusion

PG&E appreciates the opportunity to make these comments and recommends adoption of the changes proposed above. We understand that many assumptions must be made and complex methodologies created in order to attempt to assign emissions profiles to Load Serving Entities. Reporting for the electricity sector will be much easier under the First Seller/ Deliverer regime. With this approach, ARB would not need to attempt to reconcile emissions from sources to final electricity customers. Tracking energy purchases or sales within California would not be necessary. Retail Providers would not need to make assignments as to what power serves native load, nor would they have to attempt to know the final sink for sales. We appreciate the "no regrets" approach staff has taken but strongly encourage the First Seller/ Deliverer approach to be adopted for reporting ease.

PG&E has discussed the modifications explained above with staff and understands that, for the most part, these changes are acceptable. Thank you for your hard work in these reporting regulations. If you have any questions, please call Soumya Sastry at (415) 973 3295.

Sincerely,



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