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Clerk of the Board

California Air Resources Board

1001 I Street

Sacramento, CA 95814

**RE:** Proposed Second 15-Day Modifications to Article 5: California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms

Dear Board Members:

Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E), appreciate the opportunity to submit these written comments concerning the Proposed Second 15-Day Modifications to Article 5: California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms. We thank the Air Resource Board (ARB) Staff for numerous changes made in response to the first 15-day change comments. The significant changes greatly improved the cap-and-trade regulation. The comments here are minor and primarily seek to provide additional clarification to the regulation.

**Summary of Comments**

ARB has made changes with respect to out-of-state renewable energy credits (RECs) which will result in a reduction of greenhouse gases, meeting the purpose and intent of both the Renewable Portfolio Standard (RPS) and AB 32. However, the recent change to the rule creates an inconsistency between AB 32 and the recently signed 33% RPS mandate. ***Specifically, certain purchases resulting in transactions that meet RPS requirements will not count toward GHG reductions under AB 32***. This inconsistency is at odds with the ARB’s Scoping Plan for AB 32 which states, “For the purposes of calculating the reduction of greenhouse gas emissions in this Scoping Plan, ARB is counting emissions avoided by increasing the percentage of renewables in California’s electricity mix from the current level of 12 percent to the 33 percent goal…”[[1]](#footnote-1) SoCalGas and SDG&E strongly recommend that ARB revise the language to not exclude tradable RECs, purchased apart from the electricity, from the RPS adjustment that reduces GHG emission compliance obligations. Because the Cap-and-Trade Regulation should be consistent with SB1x 2 ARB should modify the RPS adjustment to cover tradable RECs.

The changes to the resource shuffling provisions in the second 15-day Modifications are a step in the right direction, but the definition of resource shuffling remains vague - too vague to be useful and too vague for the required resource shuffling attestations. ARB should use a placeholder for the definition until it undertakes further study of the issue.

As previously requested, ARB should continue to reserve a section for data potentially required for the Allocation to Natural Gas Distribution Utilities for Protection of Natural Gas Customers, which remains

reserved. Because ARB has acknowledged that it will be addressing the issue in the future, it is appropriate to explicitly reflect this in the adopted rule.

SoCalGas and SDG&E appreciate that ARB has qualified the definition of the term “pipeline quality natural gas” to be specific to its regulations. We recommend ARB amend the term to “pipeline natural gas” to reduce customer confusion and the implication that gas meeting pipeline specifications may nevertheless be deemed not of “pipeline quality.” The modification would not change the context or meaning in the cap-and-trade regulation.

SoCalGas and SDG&E also offer a recommendation that the 90% methane specification should be studied further as it serves no useful purpose within the context of the MRR.

 **Treatment of Out-of-State RECs**

SDG&E and SoCalGas support ARB’s modification to the Cap-and-Trade Regulation with respect to proposed changes in the second set of 15-day modifications regarding out-of-state renewables. The regulation now recognizes the greenhouse gas (GHG) reduction benefits of all of SDG&E’s renewable contracts entered into to meet California’s renewable goals and so will count the GHG benefits from those contracts and will not artificially tighten the cap.

The proposed language remains inconsistent with the RPS, however, insofar as it appears to disallow the counting of tradable RECs toward the RPS adjustment. As presented in the second set of 15-day modifications, the RPS adjustment requires a contract for the electricity and not just the REC. In contrast, under SB1x 2, unbundled RECs sold to a retail seller would meet RPS requirements, subject to limitations. Such transactions would result in a reduction of greenhouse gases, meeting the purpose and intent of both the RPS and AB 32. However, under the proposed Cap-and-Trade Regulation, RECs purchased apart from the electricity would not be treated as reducing GHG emissions. If ARB intended to align its regulation with the purpose and intent of SB1x 2, the Cap-and-Trade Regulation should be modified to allow tradable RECs to the same extent as SB1x 2. There is no justification for treating the RPS and AB 32 implementation differently, and to do so would undermine the ARB’s own Scoping Plan and the Legislature’s policies adopted in the RPS.

**Recommended Modification of RPS Adjustment in Section 95852 -**

(4) RPS adjustment. Electricity imported **by an electricity importer** or procured by an electricity importer from an eligible renewable energy resource reported pursuant to MRR, or RECs must meet the following conditions to be included in the calculation of the RPS adjustment:

(A) The electricity importer must have either:

1. Ownership or contract rights to procure the electricity **or RECs** generated by the eligible renewable energy resource; or

2. Have a contract to import electricity on behalf of a California entity that has ownership or contract rights to the electricity generated by the eligible renewable energy resource, as verified under MRR.

 **Resource Shuffling in Cap-and-Trade Regulation**

SDG&E and SoCalGas share ARB’s concern for the integrity of the cap-and-trade program and the desire to prohibit resource shuffling. The changes to the resource shuffling provisions in the second 15-day Modifications move in a positive direction, but the definition is too vague for market participants to know whether they have engaged in such action. For ARB to effectively deal with Resource Shuffling, the definition of resource shuffling needs to be more precise. ARB has indicated that it will refine the definition of resource shuffling next year and that should be part of the Board Resolution adopting the regulation.

Given the proposed attestation about resource shuffling, however, the definition should be reserved until it is fully fleshed out. No entity could sign an attestation based on the current vague definition of resource shuffling, where ARB is the sole determinant of what the definition means. The Cap-and-Trade Regulation should leave a placeholder for the precise definition of Resource Shuffling or should eliminate the attestation.

**Recommended Modification of Resource Shuffling Definition in Section 95802 -**

(251) “Resource Shuffling” **[Reserved]** ~~means any plan, scheme, or artifice to receive credit based on emissions reductions that have not occurred, involving the delivery of electricity to the California grid.~~

**Sections “Reserved” for Natural Gas Should Not Be Deleted**

Section 95870 (d)(2) and Section 95890 (c) should be included and not deleted. Since ARB has not yet decided how to allocate allowances to natural gas utilities for the protection of their small customers as evidenced by Section 95893 being “Reserved for Allocation to Natural Gas Distribution Utilities for Protection of Natural Gas Customers,” it is premature to delete sections that support an allocation to natural gas utilities on behalf of their customers.

SoCalGas and SDG&E reiterate their position that ARB should allocate a significant percent of the sector emissions to gas local distribution companies (LDCs) for the benefit of their customers when the sector enters the cap-and-trade in 2015. Such an allocation will protect low income customers and small business, will avoid double payment by LDC customers for energy efficiency and research and development (RD&D) programs, and will avoid rate shock. Gas LDCs are rate regulated in such a manner that allowance value can be designated for the benefit of the small natural gas consumers who face the incidence of the carbon price. ARB should retain sections reserved for an allocation to natural gas utilities until ARB has adequately considered the issue, just as it has done in Section 95893.

**Recommended Modification of Direct Disposition Provisions in Section 95870 -**

**Undelete**

95870(d)(2)  **Reserved for Natural Gas Distribution Utilities.**

**Use of Term “Pipeline Quality Natural Gas”**

Use of the word “quality” in Section 95802 (197) “Pipeline Quality Natural Gas” is used in the context of these regulations to define a default “range” for purposes of MRR calculations. While ARB has added the qualifier, “As used in this regulation,” the word “quality” can be eliminated without changing meaning or function.

The California Public Utility Commission (CPUC) approves the natural gas specifications that utilities must deliver to their customers. Since the CPUC has authority over natural gas quality issues, ARB should choose a different term to define the “default range” for the calculations required under this regulation.

Additionally, the word “quality” implies a standard or grade that has an intrinsic value, characteristic or features. In many cases the word “quality” is used to imply excellence or grade and implies a positive connotation wherein anything that is not “quality” creates a negative connotation. The use of the word “quality” may create a level of confusion among natural gas users because it could be construed as implying that gas that meets pipeline specifications is nevertheless not “pipeline quality.”

**Delete**

The phrase “pipeline quality natural gas” should be modified throughout the regulation to state “pipeline natural gas.”

In addition to the fact that the California Public Utility Commission approves the natural gas specifications that utilities must deliver to their customers it must be noted that requiring at least ninety percent methane by volume would narrow the number of sources that can apply a default value to emissions calculations but would serve no other relevant purpose in either the MRR or the Cap and Trade Regulation. In fact the opposite would occur causing natural gas users to conduct excessive analysis with insignificant results. SoCalGas and SDG&E request ARB exclude the ninety percent methane requirement from this rule pending further study of the effects and burden of this “enhanced” reporting requirement.

The portion of Section 95802 (197) “and which is at least ninety percent methane by volume,” should be deleted.

**Modify**

(197) “Pipeline ~~quality~~ natural gas” means, for the purpose of calculating emissions under this article, natural gas having a high heat value greater than 970 Btu/scf and equal to or less than 1,100 Btu/scf, ~~and which is at least ninety percent methane by volume,~~ and which is less than five percent carbon dioxide by volume.

We appreciate Staff’s support of an open dialogue and stakeholder participation in discussing this regulation, and the opportunity to furnish these comments.

Yours sincerely,



1. ARB Scoping Plan p. 46 [↑](#footnote-ref-1)