

**BEFORE THE  
AIR RESOURCES BOARD  
OF THE  
STATE OF CALIFORNIA**

**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY  
COMMENT ON DEFINITION OF “FACILITY” IN REVISED  
REGULATION FOR THE MANDATORY REPORTING OF  
GREENHOUSE GAS EMISSIONS**

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FOR THE MANDATORY REPORTING OF GREENHOUSE GAS EMISSIONS**

**I. INTRODUCTION AND SUMMARY**

The Southern California Public Power Authority (“SCPPA”)<sup>1</sup> respectfully submits this comment on the definition of “facility” in the proposed revisions to the regulation for the mandatory reporting of greenhouse gas emissions (“Revised MRR”) released by the staff of the California Air Resources Board (“ARB”) on October 28, 2010.

In summary, the definition of “facility” should be revised so that where there are different electricity generating units or sets of units on the same site with common operational control but different ownership, the operator should be permitted to classify the units or sets of units as separate facilities for reporting purposes, similar to the flexibility given to the operators of military installations. Separate reporting will enable emissions liability to be appropriately assigned to facilities.

**II. THE DEFINITION OF “FACILITY” IN THE REVISED MRR SHOULD NOT BE LIMITED TO THE US EPA DEFINITION.**

“Facility” is defined in section 95102(a)(120) of the Revised MRR. It appears that this definition has been revised in order to match the definition of “facility” in the U.S. Environmental Protection Agency’s Mandatory Greenhouse Gas Reporting Rule (“EPA Rule”), 40 CFR Part 98 at §98.6. The Initial Statement of Reasons for the Revised MRR notes on page 144 that terms used in the EPA Rule “are usually included without modification to support consistent interpretation of the state and federal regulation.”

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<sup>1</sup> SCPPA is a joint powers authority. The members are Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles Department of Water and Power, Imperial Irrigation District, Pasadena, Riverside, and Vernon. This comment is sponsored by Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, the Imperial Irrigation District, Pasadena, and Riverside.

While it is important to avoid unnecessary differences between the Revised MRR and the EPA Rule, these rules have different purposes. Unlike the EPA Rule, the Revised MRR will support a cap and trade program under the proposed regulation *California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanism* (“Cap and Trade Regulation”). A change to the definition of “facility” in the Revised MRR is needed to permit separate reporting for generation facilities for which the emissions liability will be met ultimately by different parties even though the facilities are located on a contiguous piece of property.

### **III. OPERATION AND OWNERSHIP ARRANGEMENTS FOR ELECTRICITY GENERATING UNITS MAY BE COMPLEX.**

Electricity generating units can have complex ownership and operational structures. The owner of the land on which a unit stands, the owner(s) of the unit, and the owner(s) of the power generated by that unit, may be different entities or groups of entities. The operator of the units may be one of those owners or another entity altogether. Units on the same property may be owned by different entities.

For example, several SCPPA members (Anaheim, Burbank, Cerritos, Colton, Glendale, and Pasadena) participate in a generating unit, the Magnolia Power Project (“Magnolia”). Magnolia is owned by SCPPA. Magnolia is adjacent to other generating units that Burbank Water & Power (“Burbank”) owns and operates for its own account at the generating station complex in Burbank, California. Burbank operates Magnolia for the benefit of the SCPPA participants. Power is delivered from Magnolia to the participants in accordance with their participation agreement. Fuel (natural gas) is provided to Magnolia by each participant in proportion to the amount of power Magnolia generates for the account of that participant.

Burbank may have the direct compliance obligation for Magnolia under the Cap and Trade Regulation, but SCPPA members that obtain power from Magnolia will be responsible for

transferring allowances to Burbank to cover the compliance obligation for the portion of Magnolia emissions associated with the power they obtain from Magnolia. SCPPA submitted comments on the Cap and Trade Regulation regarding such transfers on December 1, 2010.

**IV. COMPLIANCE ENTITIES SHOULD BE PERMITTED TO SEPARATELY REPORT FACILITIES ON THE SAME SITE.**

The emissions liability that Burbank may have for Magnolia as the operator of Magnolia should be distinguished from the emissions liability that Burbank will have for the other Burbank units at the Burbank generating station site. To do this, Burbank as operator of Magnolia should be permitted to submit separate reports for Magnolia rather than reporting Magnolia as part of Burbank's reports for Burbank's own units.

The definition of "facility" in section 95102(a)(120) of the Revised MRR would not allow such separate reporting. The definition treats structures located on contiguous or adjacent properties that are under common ownership or control as one facility. Only operators of military installations are given the option of classifying their installations as more than a single facility based on distinct functional groupings. Similar flexibility should be extended to the operators of generating units to allow for the kinds of ownership and operational arrangements that are exemplified by Magnolia.

Therefore the definition of "Facility" in section 95102(a)(120) of the Revised MRR should be amended as follows:

"Facility" means any physical property, plant, building, structure, source, or stationary equipment located on one or more contiguous or adjacent properties in actual physical contact or separated solely by a public roadway or other public right-of-way and under common ownership or common control, that emits or may emit any greenhouse gas. Operators of military installations or electricity generating units may classify such installations as more than a single facility based on distinct and independent functional groupings or based on differences in ownership within contiguous military properties.

**V. CONCLUSION**

SCPPA urges the ARB to consider this comment and revise the definition of “facility” in the MRR. SCPPA appreciates the opportunity to submit this comment to the ARB.

Respectfully submitted,

*/s/ Norman A. Pedersen*

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