



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Manager

August 10, 2011

Clerk of the Board
Mr. James Goldstene, Executive Officer
Ms. Mary Nichols, Chair
California Air Resources Board
1001 I Street
Sacramento, California 95814

Comments Regarding ARB's Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions

Dear Mr. Goldstene and Ms. Nichols:

The Metropolitan Water District of Southern California (Metropolitan) has reviewed the Air Resources Board's (ARB) Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR PA), and is providing the following comments on this document. Metropolitan has closely followed and participated in the AB 32 rulemaking process, including the submittal of detailed written comments on the Cap and Trade Proposed Draft Regulation on January 11, 2010, and on the Proposed Regulation to Implement the California Cap and Trade Program on December 14, 2010. Additionally, Metropolitan provided comments on the AB 32 Scoping Plan in 2008, and most recently on the ARB's Supplement to the AB 32 Scoping Plan Functional Equivalent Document dated June 13, 2011. Metropolitan has provided testimony at ARB workshops and public hearings, and has had several meetings with ARB staff to discuss the Cap and Trade Program, and its impacts on Metropolitan and the Southern California water sector.

Background

As the nation's largest provider of drinking water, Metropolitan distributes water from the Colorado River and Northern California to 26 member agencies (cities and water districts), and supplies more than one-half of the water used by nearly 19 million people in the 5200 square-mile coastal plain of Southern California. Metropolitan's regional water supply and distribution system includes some of the largest pumping plants and water treatment facilities in the United States. Metropolitan's mission is to provide its member agencies with adequate and reliable

supplies of high quality water to meet present and future needs in an environmentally and economically responsible way. Recognizing the existence of a nexus between water and energy supplies, Metropolitan's Board of Directors adopted Energy Management Policies which serve as a blueprint to help ensure energy reliability and efficiency, and protection of the environment. In order to bring Colorado River water to Southern California, Metropolitan will often directly import wholesale energy into California to serve exclusively the electrical pumping requirements of the Colorado River Aqueduct (CRA). This wholesale energy is not marketed or resold to other entities; it is used only by Metropolitan to bring water into Southern California, and does not serve any type of retail load.

Metropolitan is a public water supply agency and is not an electric utility. It does not provide electrical service to any load other than its CRA pumping plants. Metropolitan is unique in all of these aspects, and is not comparable to utilities in the electric sector. As such, we do not believe Metropolitan should be included in a Cap and Trade program that is designed and structured for the electric and industrial sectors. For these reasons, Metropolitan opines that it should be exempted from the Cap and Trade Program and its associated compliance obligations, and removed from the category of marketer under the MRR PA (Section 95102 Definition (229)). Under this definition, a marketer is defined as "a purchasing/selling entity that takes title to wholesale electricity and is not a retail provider."

To accomplish this, we propose that ARB add a new reporting category and definition under the MRR PA that accommodate Metropolitan's exceptional differences from the typical marketers of electricity that are listed as reporting in the MRR database. Under this proposal, Metropolitan would continue to report our imported electricity annually under the provisions of the MRR, would continue to maintain the required records and verifications, and would continue to pay the annual Cost of Implementation Fee for these imports. However, since Metropolitan would not be classified as an electricity marketer, we would not have a compliance obligation under the Cap and Trade Program. Our forthcoming parallel comments letter on the Cap and Trade 15-Day Proposed Amendments which were released for review on July 25, 2011 provides additional rationale on why it is not appropriate for ARB to include a public water agency in the Cap and Trade Program. Metropolitan's specific comments on the MRR PA, including requests for clarification and proposed language and definition changes are provided below.

Specific Comments – Requests for Clarification and Proposed Language Changes

1. Additional Reporting Category

As discussed above, Metropolitan urges ARB to create an additional reporting category under Section 95102 Definitions that applies to electricity importers and is separate from the classifications of electricity marketer and electric retail providers. Metropolitan does not take title to imported power for the express purpose of reselling for a profit; we are a public water agency that is consuming the imported electricity strictly for our own use.

We request that ARB add the following reporting category and definition to the MRR PA:

Importer/Non-Marketer or Importer/NM means a utility or entity, such as a public water agency, that purchases electricity generated outside the state of California solely to serve its own load. An Importer/NM does not market this electricity for purposes of resale and does not serve electric retail customers or electric end users. Importers/NM will report under the provisions of MRR, but will not have a compliance obligation under the Cap and Trade Regulation.

2. Verification Timeline

With the proposed change described in #1, Metropolitan would continue to report under the MRR, and would be subject to all of the recordkeeping, verification, and related requirements. Because of this continued reporting obligation, Metropolitan is concerned about ARB's proposed changes to the timeline for completion of verification services of reporting data. Under Section 95103 Greenhouse Gas Reporting Requirements, ARB is proposing to move the deadline for third-party verification to September 1 for all reporting entities from the October 1 deadline for electric power entities, which ARB staff states only shortens the verification period by one month. ARB further indicates that this change is necessary to ensure that verification is completed within the timeline required by the Cap and Trade Regulation. Under current MRR requirements, operators having an emissions data report due June 1 (as with Metropolitan) must have a verification result submitted no later than December 1 of the same calendar year (95103 (c) (3) Verification Opinion Due Dates). The proposed change in due date for verification statements is a significant shortening of the timeline to complete the annual verification process. Because of the limited number of available verifiers, Metropolitan requests ARB to retain a longer timeframe for the completion of the verification process. ARB should consider some type of phased deadlines in lieu of requiring the same date for all reporting entities.

3. Clarification on Additional Reporting Requirement for Renewables

In reviewing the regulations, Metropolitan noted that ARB has included additional reporting requirements in Section 95112 for basic information on renewable energy systems greater than 0.5 megawatts that are not otherwise exempted from reporting under Section 95101 (f). This appears to apply only to Electricity Generation and Cogeneration Units, and not to the other reporting categories. Metropolitan requests ARB to confirm this understanding that any other reporting categories are exempt from this additional reporting.

4. Clarification on Changes to Recordkeeping Requirements to Coincide with EPA
Several sections of the MRR PA reference EPA's reporting regulations and the desire for ARB's reporting regulations to align with the EPA regulations as much as possible. However, the EPA reporting regulations do not require the reporting of imported electricity, yet ARB regulations do. Metropolitan asks that ARB incorporate the specific sections and language of the EPA reporting/recordkeeping provisions that apply specifically to electricity importers, rather than simply cross referencing the EPA regulations.
5. Penalty Structure for MRR Violations
In the Summary of Proposed Modifications, ARB staff state that they have modified the language in Section 95107 Enforcement to clarify the extent of the enforcement provisions, and that "violations based on each unreported metric ton of carbon dioxide equivalent and violations based on the failure to measure, collect, record, or preserve information required by the article are not also subject to a daily violation." Metropolitan understands that ARB has received many comments on the over-stringency of ARB's proposed enforcement provisions for greenhouse gases as compared to other air programs and the inequitable penalties for administrative type violations that are not actual emission violations. Metropolitan asks that ARB clearly make these distinctions relative to daily penalties and administrative type violations in the final enforcement language, so the provisions are not unduly burdensome to the regulated community.
6. Clarification on Unspecified Emissions Factor and Multiplier
With respect to the default unspecified emissions factor, ARB has proposed changes in the calculation method and now has included a multiplier to account for transmission losses. It is unclear what impact this will have on the unspecified emissions factor, and whether this will cause the factor to increase or decrease. Metropolitan requests that ARB provide further explanation of this proposed change, and its impacts.

Please contact Janet Bell in our Environmental, Health and Safety Section at (213) 217-5516 or jbelle@mwdh2o.com with any questions on our comments, or Mike Rojas in our Engineering Section at (213) 217-7195 or mrojas@mwdh2o.com.

Sincerely,



Jeffrey Kightlinger
General Manager