

**COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY TO THE
CALIFORNIA AIR RESOURCES BOARD ON ITS PROPOSED 15-DAY
MODIFICATIONS TO THE REGULATION FOR THE MANDATORY REPORTING
OF GREENHOUSE GAS EMISSIONS, RELEASED
JULY 25, 2011**

JENNIFER TSAO SHIGEKAWA
KELLY O'DONNELL

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: 626-302-4411
Facsimile: 626-302-1926
E-mail: kelly.odonnell@sce.com

Dated: August 11, 2011

I.

INTRODUCTION

Southern California Edison Company (“SCE”) respectfully submits its comments on the California Air Resources Board’s (“ARB’s”) Proposed 15-Day Modifications to the Regulation For the Mandatory Reporting of Greenhouse Gas Emissions, released on July 25, 2011 (“July 2011 Proposed Modifications”).¹ The July 2011 Proposed Modifications recommended changes to the existing Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (Mandatory Reporting Regulation),² which was developed pursuant to requirements of the California Global Warming Solutions Act of 2006.

SCE recognizes ARB staff’s efforts to revise the regulation and appreciates their willingness to work openly with stakeholders in crafting a reporting regulation that successfully implements the Global Warming Solutions Act of 2006 (Assembly Bill 32; Stats. 2006, Chapter 488), more commonly known as Assembly Bill (“AB”) 32.³ SCE has provided comments on specific regulatory provisions below.

II.

COMMENTS ON SPECIFIC REGULATORY PROVISIONS

SCE has organized its comments by regulatory provision.

A. Definitions

1. Subsection 95102 (a)(179): “Generation Providing Entity”

¹ California Air Resources Board, Proposed 15-Day Modifications to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, July 25, 2011, *available at* <http://www.arb.ca.gov/regact/2010/ghg2010/mandatory15dayreg.pdf>.

² Cal. Code Regs. tit. 17, §§ 95100 to 95133.

³ Cal. Health and Safety Code §§ 38500 to 38599. Section 38530 specifies the reporting requirements.

The July 2011 Proposed Modifications define the phrase “generation providing entity” (“GPE”) to include, for reporting purposes, “(a) facility or generating unit operator, full or partial owner, sole party to a tolling agreement with the owner, or exclusive marketer.” SCE believes that a GPE should not have reporting or compliance obligations for in-state tolling agreements, but only for out-of-state tolling agreements. SCE requests that ARB provide clarification to this effect.

2. Subsection 95102 (a)(344): Retail Provider

SCE sees no reason to exclude electrical cooperatives from the definition of “Retail Provider.” SCE recommends the deletion of the last sentence of this subsection. Electric cooperatives serve retail load in the same manner as any other load-serving entity, and therefore should be subject to the same regulatory obligations as other retail providers.

3. Subsection 95102 (a)(336): Replacement Electricity

ARB should revise the definition of “Replacement Electricity” for the reasons discussed in SCE’s comments on ARB’s proposed 15-day modifications to the cap-and-trade regulation.⁴

4. Subsection 95102 (a)(118): Electricity Importers

ARB should revise the definition of “Electricity Importer” for the reasons discussed in SCE’s comments on ARB’s proposed 15-day modifications to the cap-and-trade regulation.⁵

B. Section 95111

1. Subsection 95111 (a)(2): Delivered Electricity

⁴ Comments of Southern California Edison Company to the California Air Resources Board on its Proposed 15-Day Modifications to the Cap-and-Trade Regulation (“SCE Comments on Cap-and-Trade 15-Day Modifications”), August 11, 2011 at pp. 20-26.

⁵ *Id.* at pp. 14-20.

The title of Subsection 95111 (a) is “General Requirements and Content for GHG Emissions Data Reports for Electricity Importers and Exporters.” The inclusion of the phrase “for Electricity Importers and Exporters” implies that the reporting requirements stated in subsection (a)(2), “Delivered Electricity,” would apply only to imports of electricity, notwithstanding the fact that the word “imported” was deleted in Subsection (a)(2). SCE requests that ARB clarify that the reporting requirements stated in subsection (a)(2), “Delivered Electricity,” apply only to imports of electricity.

2. Subsection 95111 (c)(4): Retail Providers

ARB should remove the requirement for retail providers to report electricity imported from specified and unspecified sources by other entities. Section 95111(c)(4) states: “Retail providers that report as electricity importers also must separately report electricity imported from specified and unspecified sources by other electric power entities to serve their load, designating the electricity importer.” As a retail provider, SCE frequently purchases power from counterparties (such as marketers) with the specification that SCE will take delivery within its service territory in California. In such cases, SCE does not know from whom the counterparty has sourced this power, and whether any of the delivered electricity was imported into California. In fact, because the counterparty is likely selling from a portfolio of resources, even the counterparty may not be able to pinpoint the source, or whether the electricity it is selling to SCE was imported.

Given the complex nature of wholesale electricity markets, it is very possible that the counterparty in such a transaction will be a reseller of power that it purchased from a third party. This counterparty may not have clear knowledge of the electricity importer’s (i.e., the first jurisdictional deliverer) identity or if the electricity was indeed imported into California. Therefore, it will be extremely difficult, if not impossible, to require the counterparties to disclose whether they are selling imported electricity, much less whether the electricity was imported from specified or unspecified sources, and who imported it.

SCE recommends that ARB remove this reporting requirement because in most cases, retail providers will not have access to such information (as explained above). Even if retail providers do have access to this information (e.g., in the form of NERC E-tags), ARB should require the importers to report their import transactions to ARB directly rather than imposing this obligation on retail providers.

C. Section 95106: Confidentiality

SCE supports the ability of an entity to seek confidential treatment for power purchase transaction data. SCE interprets Section 95106(b), which states “Any entity submitting information. . . may claim such information as ‘confidential,’” to be consistent with and permissive of such a practice. SCE believes that no further changes should be made to this section.

D. Section 95107: Penalties

The proposed compliance timelines are too short to allow sufficient time for a regulated entity to work with the verifier for a positive verification. With the additional monitoring requirements set forth in the July 2011 Proposed Modifications, it would be prudent to provide a “safe harbor” from enforcement for facilities that are on a compliance pathway toward a positive verification. ARB should clarify that when a report is submitted and the entity is working with the verifier on corrections or edits, ARB will not impose penalties or allege violations during the verification period. SCE believes⁶ that if the pertinent emissions data report did not contain a material misstatement as determined through the verification process, and the newly identified unreported emissions are not due to an intentional error or fraud, there should be no violation of either the mandatory reporting or the market-based compliance mechanism regulations unless the

⁶ SCE shares this belief with the California Council for Environmental and Economic Balance (CCEEB), of which SCE is a member. SCE has joined the detailed comments filed by CCEEB on the July 2011 Proposed Modifications. See Comments of CCEEB to the California Air Resources Board on its Proposed 15-Day Modifications to the Cap-and-Trade Regulation (August 11, 2011).

entity failed to submit the additional compliance instruments. The regulated entity should, however, still be required to submit in a timely manner (measured from the date the shortfall was formally reported to the entity) compliance instruments in the amount of the excess emissions. SCE recommends the addition of the phrase “in a verified emissions data report” to avoid the imposition of penalties for minor errors that are identified and corrected during the verification process (resulting in a revised report submitted under subsection 95131(b)(9)). SCE recommends the insertion of the following bold text into Subsection 95107(b): “Each metric ton of CO₂e emitted but not reported **in a verified emissions data report** as required by this article is a violation.”

III.
CONCLUSION

SCE appreciates this opportunity to provide its comments to ARB on the July 2011 Proposed Modifications. SCE urges ARB staff to revise its reporting regulation in accordance with the principles outlined herein.

Respectfully submitted,

JENNIFER TSAO SHIGEKAWA
KELLY O’DONNELL

By: Kelly O’Donnell

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: 626-302-4411
Facsimile: 626-302-1926
E-mail: kelly.odonnell@sce.com

August 11, 2011