Michael J. Murray
Regional Vice President
State Governmental Affairs

925 L Street, Suite 650
Sacramento, CA 95814

(916) 492-4245
mmurray@semprautilities.com

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California Air Resources Board
Clerk of the Board
1001 I Street
Sacramento, CA 95814

RE: Comments on Proposed Regulations for a California Renewable Electricity Standard

Dear Board Members:

San Diego Gas & Electric Company (SDG&E) provides the following comments on the California Air Resources Board's (Board) proposed regulations to establish a California Renewable Electricity Standard (RES), issued May 25, 2010.

Overview:

The proposed regulations are on the right track in establishing a reasonable set of rules for the State to reach 33% renewables by 2020. However, there are several instances where the proposed regulations fail to achieve the State's objectives. The areas on which we offer comments are --

- The RES needs a clearer mechanism for cost management than that contained in Section 97011.
- The proposed regulations inappropriately determine that a Renewable Energy Credit does not constitute a property right and unreasonably provide the potential for retroactive changes to the rules. [Section 97002(a)(16)]
- The exclusive use requirement would unreasonably disqualify renewables acquired under the RES from meeting federal or state renewable portfolio standards or from contributing toward AB32 or federal GHG reduction requirements. [Section 97005 (b)(3).]
- The proposed regulations should provide an exception for events outside of a retail seller's control.
- The penalty provisions should be coordinated with the public utilities commission and should not be based on daily computations. [Section 97009]
- The proposed regulations need to clarify that all renewables procured under the RES are treated the same for purposes of AB32 emissions calculations, regardless of technology.
- The proposed regulations unreasonably apply different rules for different market participants governing "eligible renewable energy resources". [Section 97002 (a)(8) and (19)]
- The RES compliance deadline should be changed to at least June 1

Comments and Recommended Changes to Draft Regulations:

1. The RES Needs a Clearer Mechanism for Cost Management Than That Contained in Section 97011

The Draft Regulations do not provide a clear mechanism for cost management. Although the Draft Regulations do provide a "Regulation Review" (Section 97011), there is no specific requirement for cost management and no indication that the Regulation Review, the first of which will not be completed until the RES requirements have been in effect for several years, will ensure cost management. The Regulation Review is not adequate alone to ensure that the program does not result in unreasonable costs for electricity ratepayers.

The Board has authority to take this action explicitly through AB32. Health and Safety Code Section 38562(b)(1) requires that CARB to "Design the regulations, including distribution of emissions allowances where appropriate, in a manner that is equitable, seeks to minimize costs and maximize the total benefits to California, and encourages early action to reduce greenhouse gas emissions." Accordingly, the Air Resources Board has an affirmative statutory obligation under AB32 to implement an RES in a manner that ensures that cost impacts are minimized and cost effectiveness is maximized.

The Board has offered a rough estimate of the cost impact of its proposed regulations that appears to be excessively costly[1]. Moreover, even if such an exorbitant cost impact was reasonable, it cannot be concluded that the Board's crystal ball of the cost of renewables over the next decade is necessarily precise – we could envision wide swings between actual and estimate costs of future electricity, which has been California's experience for the last thirty years. There is no reason to believe that costs are so stable that they can easily be predicted far into the future. The Board acknowledges the "significant uncertainty" in costs –

> "The reasons for the lack of a consensus are the significant uncertainty in all aspects of renewable development, including the environmental risks, the economic costs, the commercial interest and commitment, and the future regulatory rules."[2]

Under an approach that determines whether commitments for renewable energy result in costs that are just and reasonable,[3] the CPUC has an important role and State law requires the Board to consult with the CPUC.[4] The CPUC currently reviews for reasonableness Investor Owned Utility commitments to renewables, and has historically performed cost management oversight as part of the review. In the context of cost management under the RES, the appropriate standard should be the CPUC's determination that the costs are "just and reasonable" in accordance with long-standing regulatory practice. In order for there to be realistic cost management, to the extent that the CPUC determines that renewables costs are not reasonable, the RES should be delayed until conditions change and/or modified. Similar rules should apply to POUs, under CEC and/or ARB oversight. As a general principle, the rules for establishing these "just and

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[1] *Initial Statement of Reasons (ISOR)* at X-7 estimates the cost of the RES would be approximately $200 per metric tonne, which is approximately 10 times the anticipated clearing price under cap and trade.

[2] ISOR at V-32

[3] SDG&E is proposing ARB implement a "just and reasonable" standard for costs since it is already employed by the CPUC. "Cost effectiveness" is not used by ARB to minimize costs or establish the reasonableness of costs. The RES is calculated to cost $196- $198 per metric tonne of carbon-dioxide equivalent emissions (*ISOR* at X-7) without comment on alternative GHG measures other than a California-only RES.

[4] Heath and Safety Code Section 38562(f): "The state board shall consult with the Public Utilities Commission in the development of the regulations as they affect electricity and natural gas providers in order to minimize duplicative or inconsistent regulatory requirements."

reasonable" prices should be universally applied through partnership with the CPUC and CEC/ARB. There should not be one standard for which the price at which renewables acquisition might be considered "just and reasonable" for IOUs and a different standard for POUs.

The approach we have proposed above would allow ARB to carry out this obligation, while also implementing the Air Resources Board's obligation to consult with the Public Utilities Commission required in AB32.

Recommended Added Regulation:

97014. Cost Management

(a) For Regulated Parties subject to the jurisdiction of the Public Utilities Commission, to the extent that the CPUC determines that the costs for renewables needed to comply with this Article are not just and reasonable, the CPUC shall notify the Board, and, without further Board action being required, the RES goals shall be delayed until the PUC determines that costs have become just and reasonable.
(b) The CPUC shall coordinate with the CEC and ARB which may apply similar rules under similar conditions to Publicly Owned Utilities.
(c) The Board shall coordinate with the CPUC and the CEC to identify costs that become unjust or unreasonable and shall take such further action as may be necessary to ensure that Regulated Parties do not incur costs that are unjust or unreasonable in the performance of obligations pursuant to this Article.

2. **The Proposed Regulations Inappropriately Determine that a Renewable Energy Credit Does Not Constitute A Property Right and Unreasonably Provide the Potential for Retroactive Changes to the Rules. [Section 97002(a)(16)]**

The RES envisions long-term commitments to new renewable resources involving billions of dollars of investment. Investors make these commitments in reliance on a set of rules that define the types of facilities that meet the RES, and on the ability to buy, sell, and trade the rights associated with the renewable resources. Only with the certainty of that definition is there a strong enough basis for investing in, and trading, the resource rights associated with the renewable that will allow for the development of renewables and for the trading of RECs. This is essential to reducing the overall cost of the program.

Indeed, the Board has also opined on the importance of RECs:

> "ARB staff concluded that there are benefits to allowing maximum flexibility with respect to REC acquisition. These benefits include:
>
> - Increasing the certainty that the interim and 2020 targets will be met;
> - Allowing more compliance options to deal with year-to-year variations;
> - Helping smaller POUs and others to comply; and
> - Maintaining GHG benefits in a less costly manner."[5]

Yet, the Board appears to hope that parties will invest billions of dollars even though it has established two rules that will frustrate and impede the interest in such investment –

[5] *ISOR at* VII-15.

(1) Section 97002(a)(16) states that "A REC does not constitute property or a property right."[6]
(2) Section 97002 (a)(16) permits the Board "to alter or amend the definition of a REC as it is used for demonstrating compliance with this Article".

As written, this allows the Board to retroactively change the rules that stakeholders have relied on in making long-term commitments to meet the Renewable Energy Standard, and subjects REC holders to the risk that the value of their invest could be reduced at any time.

The Board cannot have it both ways. The "benefits" the Board ascribes to the ability to trade renewable energy credits only exist to the extent that there is sufficient certainty in the value of those credits to justify investment in them. The less certainty the Board provides, the less likely there will be a real market for trading RECs. In its proposed rules, the Board removes all certainty by declaring the authority to retroactively change the rules governing what qualifies as a REC, and worsens it further by declaring that whatever it hopes parties will trade in the market, parties are not, in any respect, trading "property rights".

If RECs are not property rights, and if the Board can undermine the definition of a REC at any time, disqualifying it from meeting the RES, then the incentive to trade in RECs, and the incentive to hold any amount of RECs beyond what is absolutely required by law is zero.[7] Rather than encouraging the development of renewables at the lowest cost, these proposed rules discourage development of renewables and increase their costs by increasing exponentially the risk involved in investing in renewables and RECs.

Recommended Changes to Section 97002(a)(16):

(16) **"Renewable Energy Credit or REC"** means one MWh of electricity generated by an eligible renewable energy resource. A REC does not include an emission reduction credit issued pursuant to Health and Safety Code section 40709. ~~**A REC also does not include any allowance issued pursuant to a cap and trade or similar program. A REC does not constitute property or a property right.**~~ ARB reserves the right to alter or amend the definition of a REC as it is used for demonstrating compliance with this Article **provided, however, that ARB will not retroactively modify the definition of a REC so as to disqualify generating facilities for which procurement commitments have already been made in reliance on pre-existing rules that qualified the facilities as an eligible renewable under the RES or the Renewable Portfolio Standard.**

3. The Exclusive Use Requirement Would Unreasonably Disqualify Renewables Acquired Under the RES from Meeting Federal or State Renewable Portfolio Standards or From Contributing Toward AB32 or Federal GHG Reduction Requirements. [Section 97005 (b)(3).]

The Draft Regulations state that RECs "may not be used to meet the requirements of any federal, state, or local program**".** (Section 97005(b)(3)). By its terms, this language prevents Regulated Parties from counting

[6] ARB states -- "Similar to allowance trading programs, then, ARB has created a compliance accounting tool solely defined by, and for use within, the regulatory program. Therefore, no property right has been created by their recognition in the proposed regulation." *ISOR* at VI-16. However, contrary to ARB's logic, RECs are not created and allocated by the ARB like allowances in an environmental trading program.

[7] See, for example, *Climate Change: Caps vs. Taxes*, by Kenneth P. Green, Steven F. Hayward, and Kevin A. Hassett, June, 2007: "A cap-and-trade program, however, cannot provide certainty precisely because emissions allowances are not accorded real property rights by law." http://www.aei.org/docLib/20070601_EPOg.pdf

renewables acquired to meet the RES toward meeting any future federal renewable portfolio standard, federal or AB 32 greenhouse gas requirements, or any future California statutory RPS, even though the acquisition is for the very same purpose.

This would have multiple perverse effects, ultimately forcing retailers to oppose federal GHG and RPS requirements, something that heretofore SDG&E has supported in principle. Renewables that count toward state RES requirements should also be allowed to count toward other, similar California or federal renewables requirements. There is nothing in the draft regulations that would make them ineffective if California or Congress adopted a statutory renewable portfolio standard. If the intent of the requirement is to avoid double-counting with a different state or local jurisdiction's requirement, then the requirement needs to be more specifically tailored to state the renewables cannot be used to fulfill more than one WECC RPS requirement. The current regulations are overbroad.

Recommended changes to Section 97005(b)(3):

> (3) Exclusive use
>
> (i) Except as provided in section 97005(b)(2) above, a WREGIS certificate retired to demonstrate compliance with this Article may not also be used to meet the regulatory or voluntary **renewable** portfolio requirements of any other ~~federal,~~ state~~, or local program~~ ("secondary program") **but may be used to meet other California renewables requirements or federal renewables requirements or related greenhouse gas reduction requirements imposed on the same entity.**
>
> ~~(ii) In the event that a Regulated Party has retired or attempts to retire a WREGIS certificate to demonstrate compliance with this Article and also to meet a regulatory or voluntary requirement of a secondary program, the WREGIS certificate will be deemed ineligible for any use under this Article at the time such certificate is dedicated to meet such requirement of a secondary program.~~

4. The Proposed Regulations Should Provide an Exception for Events Outside of a Retail Seller's Control.

In implementing the RPS, California law has always recognized that events might occur that would make it infeasible to meet the RPS. The RES must adopt similar rules. Development of new generation is subject to an array of uncertainties, including environmental review, obtaining of permits, financing, and availability of needed transmission. Any one or more of these, or other, factors could delay or kill proposed projects on which a retail provider is depending to meet renewables targets. In most, if not all, cases, these kinds of events are wholly outside of the control of the retail provider.

The Board has already acknowledged the substantial uncertainty associated with renewables development –

> "The reasons for the lack of a consensus are the significant uncertainty in all aspects of renewable development, including the environmental risks, the economic costs, the commercial interest and commitment, and the future regulatory rules."[8]

[8] ISOR at V-32.

Yet, instead of reflecting this uncertainty through recognition that Regulated Parties will not be held responsible for the inherent uncertainty in the renewables marketplace in an uncertain economy, the Draft Regulations impose a strict liability on retail providers.

Where events are outside of the control of a retail seller, it is unreasonable to hold that retail seller to the same standard as where there are no uncertainties and no events outside of the retail provider's control. The Draft Regulations need to make clear that if a retail provider has not been able to achieve a target date due to events outside of its control that would not constitute a violation for which penalties are required. Under such circumstances, it would be reasonable for the Board to require the development of a compliance plan to bring the retail provider back on target and to ensure that the anticipated GHG reductions are achieved.

Where a retail seller has taken reasonable steps to meet the RES and, through no fault of the retail seller, there is insufficient renewable energy to meet the retail seller's RES obligation, it is neither reasonable nor productive to impose penalties on the retail seller.

Recommended Changes to Section 97009: See recommended changes contained in Section 5 below.

5. The Penalty Provisions Should Be Coordinated With the Public Utilities Commission And Should Not Be Based on Daily Computations. [Section 97009]

Imposition of penalties for willful failure to meet the RES requirements should be coordinated with and implemented pursuant to CPUC findings. AB32 specifically requires the Board to ensure that implementation by the Board is "complementary" and "non-duplicative" of actions by the CPUC.[9] The CPUC is the responsible agency for the development and implementation of utility procurement plans. As we have previously stated, penalties should be reserved for intentional violations, and should not apply if they result from events outside of a retail seller's control. Since IOU procurement is based upon approved procurement plans, in accordance with Public Utilities Code Section 454.5, following an approved plan should create a rebuttable presumption that no intentional violation has occurred.

To the extent that non-compliance justifiably requires a penalty, only a single agency should impose the penalty. Since the CPUC is closest to the IOUs' resource planning process, as well as its own decisions to approve or disapprove contracts and proposed renewables and transmission projects, for IOUs (as well as CCAs and ESPs), a determination of whether penalties should be imposed on IOUs should come from the CPUC, but be enforced by the ARB. (For POUs, the role of identifying whether penalties are appropriate can be carried out by the CEC or ARB, and enforced by the ARB).

The ISOR appears to recognize the need for coordination between the Board and the CPUC:

> "The proposed RES will be enforced by the ARB in cooperation with CEC and CPUC. A violation of the proposed requirements may result in civil or criminal penalties. The extent of the penalty would depend on the willfulness of the violation, the length of time of the noncompliance, the magnitude of the noncompliance, and other pertinent factors, consistent with the provisions outlined in the California Health and Safety Code."[10]

However, the Proposed Regulations do not describe the nature of that coordination or even mention coordination with the CPUC. Neither do they mention the factors that the ISOR identified that the decision-

[9] Health and Safety Code Section 38561
[10] *ISOR* at VIII-10

maker would need to consider in reaching a conclusion on a penalty. This inconsistency cannot be reconciled with the language in the Proposed Regulations. Accordingly, the Proposed Regulations need to be modified to reflect –

(1) Coordination with the CPUC, and
(2) Factors that could affect the determination of a penalty.

Furthermore, the Draft Regulations inappropriately would impose penalties on a daily basis. The nature of the impact resulting from a shortfall in greenhouse gas reductions is much different than the impact of a shortfall in reducing criteria pollutants. The impact of GHG is cumulative over a period of years, and can be made whole by making up the shortfall later. Each day of delay is not as meaningful as for criteria pollutants. Accordingly, a per-day penalty does not make sense in the context of enforcement of the RES.

The CPUC recognized this in its penalty rules governing the RPS. Likewise, AB32 recognized that a penalty based on the number of days might not be the best choice. Indeed, the default for a penalty under AB32 is NOT a daily penalty, giving the Board the authority, but not the obligation, to convert a penalty into a number of days:

> "(3) The state board may develop a method to convert a violation of any rule, regulation, order, emission limitation, or other emissions reduction measure adopted by the state board pursuant to this division into the number of days in violation, where appropriate, for the purposes of the penalty provisions of Article 3 (commencing with Section 42400) of Chapter 4 of Part 4 of, and Chapter 1.5 (commencing with Section 43025) of Part 5 of, Division 26."[11]

The Draft Regulations need to be modified to reflect a more reasonable approach for determining appropriate penalties.

Recommended Changes to Section 97009:

> **§ 97009. Enforcement**
> (a) *Penalties.* Penalties may be assessed for any violation of this Article pursuant to Health and Safety Code section 38580.
> (b) *Violations.* A**n** **intentional** violation of the requirements of this Article shall be deemed to result in an emission of an air contaminant.
> ~~(1) Each day or portion thereof that a Regulated Party violates or remains in violation of a requirement of this Article is a separate violation. Each day or portion thereof that any report required by this Article remains unsubmitted, is submitted late, or contains incomplete or inaccurate information, shall constitute a separate violation of this Article~~.
> (~~2~~**1)** If a Regulated Party **intentionally** fails to retire a sufficient number of WREGIS certificates to meet its RES Obligation by the date specified in section 97004, there is a separate violation of this Article for each required WREGIS certificate that has not been retired by the Compliance Deadline. ~~There is also a separate violation for each day or portion thereof after the Compliance Deadline that each required WREGIS certificate has not been retired.~~
> **(2) If a Regulated Party fails to comply with the requirements of this Article for reasons that are beyond the Regulated Party's control, it shall not be treated as a violation of this article and shall not be subject to potential penalties. If a Regulated Party subject to the jurisdiction of**

[11] Health and Safety Code Section 38580 (b)(3).

the Public Utilities Commission follows an approved plan for the procurement of renewables, such action shall create a rebuttable presumption that no intentional violation has occurred.
(3) The Board shall consult with the Public Utilities Commission in the enforcement of this Article and shall only impose penalties on Regulated Parties subject to the Public Utilities Commission's jurisdiction to the extent and in an amount that the Public Utilities Commission determines to be appropriate.
(4) The extent of penalties for a willful violation of this Article should be determined based on the willfulness of the violation, the length of time of the noncompliance, the magnitude of the noncompliance, and other pertinent factors, consistent with the provisions outlined in the California Health and Safety Code.

6. The Proposed Regulations Need To Clarify That All Renewables Procured Under The RES Are Treated The Same For Purposes of AB32 Emissions Calculations, Regardless of Technology.

SDG&E commends the Board for pursuing an RES approach that does not attempt to create winners and losers among different renewables options. However, the draft regulations leave uncertain whether different renewables obtained to meet the RES will count differently in terms of AB32 compliance. The RES was directed toward meeting AB32 requirements, and the RES treats all renewables as equal for purposes of meeting RES obligations. It necessarily follows that the RES should treat all renewables the same for purposes of meeting GHG obligations.

Accordingly, all renewables acquired to meet the RES should be treated as having zero emissions for purposes of GHG reporting and accounting. If the Board takes any other position, then meeting the RES will have variable impacts, depending on the renewable portfolio and not all RES compliance will be treated as the same for purposes of AB32. Such an outcome would not be consistent with the presumption that the RES is designed to meet AB32 requirements.

Recommended Added Regulation:

97013. Relationship with Greenhouse Gas Requirements:

All eligible renewable energy resources procured by a regulated party shall be treated as having no more than zero greenhouse gas emissions for purposes of calculating compliance with the California Global Warming Solutions Act of 2006

Further, to avoid any confusion SDG&E recommends the change to the REC definition proposed above that would eliminate the sentence, "A REC also does not include any allowance issued pursuant to a cap and trade or similar program." (See Recommended Change to Section 97002(a)(16), in Section 3, above). The definition of a REC in the RES program should not prohibit the REC from carrying an environmental attribute in the form of GHG reduction since the purpose of the RES program under AB 32 is GHG reduction.

7. The Proposed Regulations Unreasonably Apply Different Rules for Different Market Participants Governing "Eligible Renewable Energy Resources". [Section 97002 (a)(8) and (19)]

Section 97002 (a)(8) defines "Eligible renewable energy resources" as either (1) a facility that meets the statutory requirements for eligibility under the current Renewable Portfolio Standard", or (2) whatever resource a publicly owned utility claims, as of September 15, 2009, was an eligible renewable. Stated simply, alone among those subject to the RES, Publicly Owned Utilities (POUs) are permitted to count as "eligible

renewable resource" facilities that do not, and never did, meet the statutory definition of an eligible renewable.

This is not the case of a generating facility that met the technical definition of an "eligible renewable", but was simply not certified by the CEC. To the contrary, the ISOR appears to identify most of these as generation sources that never would have qualified. For example, according to the Initial Statement of Reasons, "the majority of the resources claimed are from large hydropower with a capacity greater than 30 MW (the CEC certification program sets a limit of 30 MW or less for RPS-eligible hydropower)." Yet, the 30 MW limitation for hydro is an explicit limitation in California law, one of which every POU was well aware.[12]

The Public Utilities Code does not recognize different definitions of "eligible renewable resources" for POUs than for any other retailer. Indeed, in contrast to the actual draft rules, the CARB CEQA analysis repeatedly asserts that the RES is holding POUs to the same standard as other Regulated Parties –

> "Holding the POUs, and electrical cooperatives, to the same compliance obligations and dates as the IOUs, ESPs, and CCAs."[13]
>
> "Add the POUs to program with the same compliance obligations and dates as the investor-owned utilities (IOUs), consistent with the directive in Executive Order S-21-09."[14]

Allowing POUs, alone among Regulated Parties, to benefit from ignoring State law defining eligible renewables is unfair to all other Regulated Parties, putting a greater rate burden on other retail sellers' customers. The Proposed Regulations would to reward some POUs for ignoring the statutory definition of "eligible renewable energy resource" without any explicit policy reasons for doing so.

The same rules should apply to all retail sellers. The Proposed Regulations should be amended accordingly.

Recommended Changes to Section 97002 (a)(8):

> (8) **"Eligible renewable energy resource"** means a generating facility participating in the WREGIS tracking system that is:
> (A) Certified as eligible for California's RPS program pursuant to Public Utilities Code section 399.13; or
> (B) **Met the requirements of California's RPS program as they existed at the time of commitment to procure the energy from the facility.** ~~Meets the criteria of the California RPS program, excluding electricity delivery requirements, as determined by ARB; or~~
> ~~(C) Is a RES Qualifying POU Resource as defined in, and limited by, this Article.~~

Recommended Changes to Section 97002 (a)(19):

> ~~**(19) "RES Qualifying POU Resource"** means a renewable energy resource as defined in section 97002(a)(8)(C), whose electrical generation was both approved by the POU's Governing Board and~~

[12] The ISOR incorrectly states that the "CEC certification program sets a limit of 30 MW or less for RPS-eligible hydropower". *ISOR* at VII-7. That limitation is a matter of state law, not regulatory policy. Public Utilities Code Section 399.12(c); Public Resource Code Section 25741 (b)(1).
[13] ISOR at VII-2.
[14] Appendix E, page E-43.

~~reported to the California Energy Commission, as contributing towards the POU's RPS eligible generation on or after January 1, 2003, and prior to September 15, 2009, and:~~
~~(A) The POU owned the facility prior to or after January 1, 2003, and prior to September 15, 2009, or~~
~~(B) Procured the electricity from the facility by contract executed prior to September 15, 2009; and:~~
~~(1) The POU procured electricity and RECs, or RECs without electricity; and~~
~~(2) The electricity was procured under the terms of the contract in effect on or before September 15, 2009, and not during any contract term extended or modified after that date.~~
~~(3) Upon expiration of a procurement contract under subsection (B) above, RECs procured from a RES Qualifying POU Resource shall no longer be eligible for compliance with the RES and shall be replaced with RECs from an eligible renewable energy resource under subsection 97002(a)(8)(A) or (B).~~

8. Compliance Deadline

In its current form, the compliance deadline in the RES is problematic. A compliance deadline of March 31 in the year following the end of each compliance interval does not provide sufficient time for all WREGIS transactions to be final for the compliance interval. It also provides insufficient time once retail sales figures are finalized to make adjustments in renewables purchases to assure compliance. SDG&E recommends that the definition of compliance deadline be revised to provide for compliance by June 1, rather than March 31, of the year following the end of each compliance interval. A June 1 compliance deadline would allow compliance reports to proceed as envisioned while enabling compliance entities to provide accurate data.

Recommended Changes to Section 97002 (a)(4):

(4) "**Compliance Deadline**" means **<u>June 1</u>** ~~**March 31**~~ of the year following the end of each compliance interval.

SDG&E appreciates the efforts of the Air Resources Board to develop a set of workable Renewable Energy Standard rules. It is important to recognize that these rules will result in the investment of billions of dollars in renewables commitments and could have far-reaching impacts. Accordingly, it is not good enough that the rules be "close". This is a complex subject and mistakes in setting state policy, even if well meaning or based on some rule adopted in some entirely different context, could result in significant adverse unanticipated consequences, something that California does not need after its experience with the energy crisis and the current economic downturn. We urge the Board to recognize this potential and consider and adopt the changes to its Proposed Regulations that we recommend in these comments.

Yours sincerely,

c: Mr. David Mehl, Manager, Energy Section
Mr. Gary Collord, Air Pollution Specialist
Mr. Tom Pomales, Air Pollution Specialist