

Comments of the Western Power Trading Forum
to the California Air Resources Board on the Proposed Revised Regulation for an
Administrative Fee to Fund Implementation of AB32

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The Western Power Trading Forum¹ (WPTF) appreciates the opportunity to provide input to the California Air Resources Board (ARB) on its revised proposed regulation for an Administrative Fee to fund implementation of activities under Assembly Bill 32. As noted in our earlier submission on this topic, WPTF is concerned that the proposed regulation does not provide sufficient definition of and limitation on the type of expenditures that may be funded with revenues from the Administrative Fee program, and that the process for determining total revenue requirements is not transparent. While we appreciate the efforts by ARB Staff at the workshop on April 24th to clarify their intentions with respect to the use of revenue and explain the process for determining revenue requirements, we do not consider this sufficient to address the concerns of WPTF and other stakeholders.

Additionally, ARB has not responded to our concern regarding the possibility of sectors that are included in the cap and trade program being required to pay twice for the same emissions.

Our specific comments on these issues and proposed amendments to the proposed regulation are provided below.

¹ WPTF is a diverse organization comprising power marketers, generators, investment banks, public utilities and energy service providers, whose common interest is the development of competitive electricity markets in the West. WPTF has over 60 members participating in power markets within the WCI member states and provinces, as well as other markets across the United States.

The Proposed regulation should include criteria for funding eligibility and a mandate for transparency

In a background paper for the April 24th workshop entitled “Description of Revenue Requirement”, ARB staff provided more information regarding the expected process for the determination of the revenue requirement, their intentions with respect to provision of a public summary on the approved use of funds, and criteria for determining the eligibility of costs for funding through the Administrative Fee. WPTF welcomes this effort and believe that *if implemented*, this approach would go a long way in alleviating stakeholder concerns about the possibility of misuse of the Administrative Fee program. The fact remains however that the approach only represents ARB’s intention, and that unless reflected in the regulation, it is not binding upon ARB. Therefore, WPTF strongly urges ARB to modify the proposed regulation to include the elements discussed in the background paper.

Specifically, WPTF recommends:

- Addition of a section on “Funding Criteria” for costs and expenditures under the Administrative Fee. This section should include the criteria for eligible and ineligible expenditures contained on page 2 of the “Description of Revenue Requirement” paper.
- Addition of a mandate to ARB to prepare and publish a “Preliminary AB32 Crosscut Budget Summary” and “Approved AB32 Crosscut Budget Summary” annually, as suggested on page 1 of the “Description of Revenue Requirement” paper. These budget summaries should provide sufficient detail to demonstrate to interested stakeholders that the funded expenditures comply with eligibility criteria discussed above.

The proposed regulation should provide for review of the program prior to implementation of the cap and trade program

In our earlier submission, WPTF raised a concern that entities that are subject to a cap and trade program established under the AB32 Scoping Plan could be subject to dual assessment of fees – once for the purchase of allowances under the cap and trade program and again for the Administrative Fee Program. To address this concern, WPTF requested that ARB add a provision to the Regulation that would exempt sectors covered by the cap and trade system from the Administrative Fee, once that system is operational. If ARB is reluctant to take this decision now, WPTF instead suggests that the Administrative Fee regulation be reviewed prior to the implementation of a cap and trade system. We request that a provision for this review be added to the proposed regulation.