

**Comments of the Western Power Trading Forum
To the California Air Resources Board
On Proposed Modifications to the Administrative Fee Regulation
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The Western Power Trading Forum¹ (WPTF) appreciates the opportunity to provide input to the California Air Resources Board (ARB) on possible modifications to the Administrative Fee Regulation for funding activities under AB32. WPTF's comments below address the modifications to the application of the fee for the electricity sector, and possible changes to the billing cycle, as discussed at the August, 25th workshop. We encourage the Board to adopt the regulation at the next board meeting to avoid an increase in the total revenue requirement for the fee.

Modification for the electricity sector

At the August 25th workshop, ARB staff stated that they intend to change the point of application of the fee for the electricity sector from fossil fuels used in electricity production to the electricity generation itself. Staff further indicated that this change was necessary change to provide more consistency in the application of the fee to in-state and imported electricity.

WPTF agrees that this modification would better align application of the administrative fee for the electricity sector with the first jurisdictional deliverer approach and with the mandatory greenhouse reporting requirements already in place and applicable to electricity producers, California load-serving entities, and electricity importers and therefore endorses the change. However we are concerned that the application of the fee to natural gas utilities and distributors raises the possibility that in-state generators could be required to pay the fee twice -- once for natural gas purchases,

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.

and again for electricity generated. Staff indicated that they intended to work with gas utilities and distribution companies to identify electricity generators to ensure that prices paid for natural gas by those generators do not include the fee, but did not provide details as to how this would work. We urge ARB to establish clear and transparent rules and procedures for ensuring that generators are not assessed the fee twice and to include these in the forth-coming revised regulatory proposal.

ARB also sought input on appropriate application of the fee in the case of an out-of-state power exchange. In response to stakeholder comments, ARB is considering whether to adopt an approach whereby any fees assessed on electricity that is exported under a power exchange would be credited toward the fee assessed on imported power under that power exchange. AB32 and the state's preferred approach to including the electricity sector in the cap and trade program clearly and explicitly cover emissions from all power generated in the state and from all power imported into the state. Therefore, an Administrative Fee structured and applied in the same way, i.e., to all in-state generation and imports, including exchanges, makes sense. However, WPTF is concerned that application of the Administrative Fee to certain exchange transactions may be inappropriate. Certain exchanges may have within-the-hour return provisions that make such transactions appear no different than a wheel-through transaction. However, longer-term exchanges may in fact be separate and distinct transactions, one an import and the other an in-state generation supported export. Prior to finalizing its proposal, WPTF request that the ARB provide further information regarding the type of exchanges that would qualify for netting/crediting.

Change in billing cycle and implications for total revenue requirements

ARB staff is also considering changing the billing cycle from spring to fall of each calendar year. While the impetus for this proposal appears to be to the possibility that ARB will not be able to assess the Administrative Fee for the 2009/2010 fiscal year due to the delay in adopting fee regulation, ARB staff suggested that the change in schedule would be beneficial because the total revenue requirement for the subsequent fiscal year would be determined prior to determination of the fee rate for that year.

WPTF has no views on modifying the billing cycle. However, we are very concerned about the potential increase in total revenue requirements that would be brought about by a delay in adoption of the Administrative Fee. As staff presented it, a delay in adoption of the fee would increase the state's cost by at least 39.5 million dollars. If modifying the billing cycle would allow the state to avoid this scenario, then by all means, this change should be adopted.