

IOUs Proposed Remedies for Outstanding Concerns Regarding Resource Shuffling Language in the ARB's Cap-and-Trade Regulation

September 24, 2012



Current Resource Shuffling Definition is Ambiguous; The Market Requires Further Clarity

Current definition:

“Resource Shuffling” means any plan, scheme, or artifice to receive credit based on emissions reductions that have not occurred, involving the delivery of electricity to the California grid.

California Air Resources Board, Cap-and-Trade Final Regulation Order, October 2011, § 95802(a)(251), at A-40.

Concerns with the current definition:

- Cap-and-trade does not require any single entity to ‘reduce emissions’
- Market Participants must be assured that basic energy transactions do not violate ~~AB-32~~ the cap-and-trade regulation
- Continued lack of clarity will have profound impacts on the efficiency and liquidity of both electricity and emissions markets

Key Elements of the Joint IOU Proposed Definition of Resource Shuffling

ARB should:

1. Hold parties accountable for “substitutions of resources” rather than “emissions reductions.”
2. Identify energy market behaviors that would **not** be considered resource shuffling.
 - Note -- there are two approaches for defining resource shuffling (R.S.):
 1. An **inclusive** approach – describe what R.S. *is*
 - Offers increased certainty, but harder to define
 2. An **exclusive** approach – describes what R.S. **is not**
 - Still somewhat ambiguous, but more easily definable
 - IOUs chose the exclusive approach

IOU Proposed Resource Shuffling Definition

“Resource shuffling” means any plan, scheme, or artifice to reduce an emissions compliance obligation by engaging in an impermissible substitution of higher emissions resources with relatively lower emissions resources. Substitutions would not be considered resource shuffling under any of the following conditions:

- A. If the higher-emitting resources are replaced as a result of:
 - (1) the use of electricity eligible to be counted towards RPS compliance in California; or
 - (2) compliance with state or federal laws and regulations, including the Emission Performance Standards [adopted by the California Energy Commission and the California Public Utilities Commission pursuant to Senate Bill 1368 (Perata, Chapter 598, Statutes of 2006)]; or
 - (3) retirement of those resources; or
 - (4) termination of a contract or divestiture of resources for reasons other than reducing GHG compliance obligation or for resources subject to the Emissions Performance Standard; or
 - (5) expiration of a contract; or
 - (6) short-term trading activity*, for either specified or unspecified power, based on economic decisions**; or
- B. If the substitution occurs due to transmission constraints, outages, or periods of emergency.

*‘Short-term’ refers to contracts with a duration of no more than a year.

**‘Economic decisions’ include implicit and explicit GHG cost.

Explanation of Acceptable Transactions

Section	Acceptable Transactions	Explanations
A	<i>“If the higher-emitting resources are replaced as a result of:”</i>	
A(1)	“the use of electricity eligible to be counted towards RPS compliance in California”	Maintains consistency with the ARB’s intent for harmony with California’s RPS requirements.
A(2)	“compliance with state or federal laws and regulations, including the Emission Performance Standards...”	Ensures entities can comply with all laws and regulations. (Consistent with ARB intent, FSOR, p.1500; Board Resolution 11-32.)
A(3)	“retirement of those resources”	Encourages high-emitting resources to be retired. (Consistent with ARB intent, FSOR, p.1495.)
A(4)	“termination of a contract or divestiture of resources for reasons other than reducing GHG compliance obligation, or for resources subject to the Emissions Performance Standard”	Allows for normal and prudent contract administration (as required of IOUs by the California Public Utilities Commission), and allows for early divestiture or contract termination due to proactive compliance with the EPS. (Consistent with ARB intent, FSOR, p.1500; BR 11-32.)
A(5)	“expiration of a contract”	Enables entities to objectively and economically consider all contracting options to fill any procurement needs created by an existing contract’s natural expiration.
A(6)	“short-term trading activity*, for either specified or unspecified power, based on economic decisions** **‘short-term’ refers to contracts with a duration of no more than a year **‘economic decisions’ include implicit and explicit GHG cost”	Maintains efficient power markets by allowing entities to make short-term trading decisions based on price indicators. Restricted to the short-term to prevent abuse of claims of economic regional price spreads. (Intent of AB 32 is to make lower emitting resources competitive with higher emitting resources. Consistent with ARB intent, FSOR, p.1494,1512.)
B	“If the substitution occurs due to transmission constraints, outages, or periods of emergency”	Permits entities to act prudently in response to transmission congestion, outages, and emergencies. If emissions increase in a given year due to such occurrences, a return to normal conditions would not be considered resource shuffling. (Consistent with ARB intent, FSOR, p.1505.)