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Ms. Brienne Aguila
Office of Climate Change
Air Resources Board
1001 I Street
Sacramento, CA 95812

**RE: Sempra Energy Comments - Criteria for Compliance
Offsets in a California Cap-and-Trade Program Workshop,
April 28, 2009**

Dear Ms. Aguila:

Sempra Energy submits these preliminary comments concerning the qualification of offsets for use in a cap-and-trade program in California, but will submit additional comments on offset criteria in the context of offset protocols discussed at the May 21, 2009 workshop. Our overall concern with the presentation and discussion at the April 28th workshop on offset criteria is that the "cumulative impact" of the multiple layers of qualification criteria could limit the pool of available credits and drive up the costs of program compliance. California environmental regulation is often more stringent than anywhere in the world, sometimes because of uniquely difficult California air quality problems. We recognize that it is important to ensure that offsets are of sufficient quality in order to allow linkage with other programs and that the criteria of AB 32 must be followed. However, in the context of a worldwide GHG emission problem, it is not necessary for California to reflexively go beyond the criteria of other existing programs -- such as RGGI or the EU ETS, or what may come out of federal legislation -- as to qualification of offsets. CARB should avoid establishing qualifications such that it will not accept offsets that are acceptable to other GHG reduction programs. CARB should also avoid adding another layer of bureaucracy just to assure California that for offsets generated by other jurisdictions with mature programs, that GHG reduction programs are rigorous enough.

Specific comments on selected aspects of the presentation and discussions at the April 28, 2009 workshop are as follows:

1. **Slide 14 – Coverage of sources not within a capped sector in California.** Sources that are not yet covered but according to the Scoping Plan are to be covered in 2015 (small gas users and transportation), should be able to create offsets until that time. This would provide a useful potential pool of offsets in the early years of the program when the market is more limited and provide incentive for early reductions in those sectors beyond adopted complementary mandated programs.

2. **Slide 14 – Offsets in developed countries from sources that within California are covered by the cap-and-trade.** CARB should reconsider this position. As with sources that are not yet covered but according to the Scoping Plan are to be covered in 2015, sources in developed countries that within California are covered by the cap-and-trade, should be able to create offsets until the time they are covered by a cap-and-trade program or equivalent, including technologies developed or commercialized by California companies.
3. **Slide 15 – Linkage to other systems.** As noted previously, California should not a priori determine that it must be more restrictive on offset qualification than other systems. Offsets from other WCI states should be acceptable. Offsets acceptable to other major cap-and-trade programs, such as RGGI and the EU ETS, should also be acceptable to California. Offsets from any adopted federal program should be acceptable. Further, offsets registered with the Climate Action Reserve should be acceptable. This linkage is consistent with the mandate of AB 32 to “facilitate the development of integrated and cost-effective regional, national, and international greenhouse gas reduction programs.” (Section 38564). Forcing additional criteria on offsets of other systems would destroy the ability to link to other programs since if offsets in those systems are not acceptable, allowances from the other systems may likewise be unacceptable, since they are fungible with offsets created in those systems.
4. **Slide 17 - Ownership of Offsets.** The party that paid for the GHG reduction should be eligible to be the owner of the offsets created. Offsets, once approved by the ARB, should be freely transferable and tradable. The ARB “bank” can be managed similar to manner in which offset banks have been managed for many years by air pollution control districts. Ownership of offsets approved for use in the California program issued by other entities can be tracked in accordance with the requirements of other cap and trade programs in accordance with an MOU entered into by California and other such programs.
5. **Slides 19 and 23 – Real and Permanent.** The permanence requirement should be no more stringent than the life of the offset as measured for other purposes, such as additionality.
6. **Slide 27 – Verifiable.** The prohibition on forward crediting should be further clarified to exclude offsets related to multi-year contracts for repeated actions. For criteria pollutants, where an ongoing activity or forbearance from an activity is necessary to producing the reduction, offsets have been allowed. Offsets that require future action should not have to be verified (commensurate with the risk of non-compliance) every year if the action is the same and pursuant to a contract. For example, open field burning credits have been allowed as criteria pollutant offsets pursuant to contracts with growers together with deed restrictions that commit the land owner to cease burning in the future. Also, some offsets may require substantial investments that may be difficult to make prior to an assurance that an offset will actually be granted. This type of assurance should not be considered forward crediting, but an assurance that if the protocols are followed, an offset can be expected.
7. **Slides 28 and 29 – Enforcement.** Enforceability should be considered satisfied either by enforcement against the user, in the form of a “true up” requirement or against the provider. Both should not be required in order to satisfy this requirement. Further, California should not need to enforce offsets produced outside of California if those offsets are enforced by another existing

regulatory agency or verification mechanism.

8. **Slides 33 and 34 – Crediting period.** The crediting period should not be less than the period of the actual reduction as determined at the time of issuance of the credit. For criteria pollutant offsets, a reduction (which may not otherwise occur) is considered “surplus” or “additional” (in GHG nomenclature) if it is a reduction beyond current requirements at the time it is tendered for compliance. This adds certainty to investment by the buyer of a credit. The same approach should be followed for GHG offsets.

Sempra Energy will submit additional comments concerning offsets subsequent to the May 21, 2009 workshop on offset protocols. Thank you for this opportunity to comment.

Sincerely yours,

