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June 19, 2009

Ms. Lucille Van Ommering
Air Resources Board
Office of Climate Change
1001 I Street
Sacramento, CA 95814

RE: Offset Protocol Workshop; May 21, 2009

Dear Ms. Van Ommering:

Sempra Energy submits these comments concerning review and approval of offset projects and protocols as discussed at the May 21, 2009 ARB staff workshop. Sempra Energy favors the hybrid approach concerning offset approvals as discussed at the workshop. This approach would allow offsets to be qualified in accordance with standard protocols or on a project-by-project basis. Sempra Energy also supports ARB's intention to consider applications for qualification from anywhere in North America as well as within California. We think this should include Mexico as well, at least the border provinces that have qualified as observers in WCI.

Staff requested comments concerning priorities for development of protocols. Sempra Energy supports the staff's identification of the first priority as reviewing protocols previously adopted by ARB for forests, manure digesters, and urban forestry. Staff should also make a priority of identifying other protocols adopted by other entities, such as a California Action Reserve, that may be applied by the ARB. Sempra Energy is concerned that the long lead time that may apply to developing new protocols and approving offsets under adopted protocols may unduly limit the supply of offsets available. Reliance on other already adopted protocols will speed issuance and acceptance by California. Many of the existing protocols have undergone years of development and should already be designed to meet the AB 32 criteria (which have been applied for many years to approval of criteria pollutant offsets). Therefore, ARB does not necessarily need to increase the stringency of all previously adopted protocols in order to apply them to compliance offsets. We also believe that ARB should encourage linkage with other cap-and-trade systems such as the European Union's ETS. Thus, ARB protocols should be consistent with protocols developed by other systems to the extent feasible. Further, ARB should not require the re-certification of offset projects in California that have been issued offset allowances in other mature cap-and-trade systems. Sempra Energy may comment further on this aspect in the course of a workshop that we understand staff intends to schedule concerning linkage issues.

Staff outlined a multi-step process for approval of offsets under adopted protocols including validation, registration, voluntary and reporting, verification by a third-party, and certification. Sempra is concerned that this multi-step process may discourage the development of offset projects. We encourage ARB to consider means to streamline the process further. Sempra Energy agrees with staff that validation should be voluntary. We are not clear as to the purpose of registration as well as

certification. The offset marketplace will also likely include mechanisms that ensure accountability. We look forward to working further with staff on these issues.

Concerning enforcement, Sempra Energy is concerned that enforcement against users of offsets could further discourage the use of cost-effective reductions. There may be value in reviewing the issue of enforceability offsets as it has been treated in other contexts such as criteria pollutant offsets. In general, once offsets are banked they can be relied upon by users for regulatory compliance. Enforcement is generally taken, in the rare cases where it has been an issue, against the source providing the offsets, not the user. This is also consistent with the approach taken in the Regional Greenhouse Gas Initiative Model Rule. That rule requires the offset sponsor to agree to audits of the physical location of the offset project (XX-10.3(g), Page 94; <http://www.rggi.org/docs/Model%20Rule%20Revised%2012.31.08.pdf>).

Thank you for considering these comments.

Yours sincerely,

A handwritten signature in black ink, appearing to be "M. Aguilera", written in a cursive style.

c: Ms. Brienne Aguila