

June 25, 2012

Comments of the Independent Energy Producers Association on CARB's Reporting Webinar Related to Potential Definition Revisions for Electric Power Entities [Convened June 19, 2012]

The Independent Energy Producers Association (IEP) offers its comments on CARB's Potential Definition Revisions for the Electricity Sector as presented at the June 19, 2012 technical webinar. IEP represents over 26,000 MWs of installed, non-utility, independently owned generation resources in California. IEP's specific comments on the issues that were raised during the webinar are identified below.

Specific Concerns Regarding the Proposed Modifications:

I. CARB Should Delete the Proposed Amendment Related to the RPS Adjustment Entirely.

During the technical webinar CARB staff reported that they may delete the amendment related to the RPS Adjustment as proposed in the Discussion Draft. CARB indicated that it may be appropriate to delete the proposed language in its entirety or simply delete the phrase "by retail providers". In order to avoid inconsistencies between the cap and trade and mandatory reporting regulations, the amendment that states "the RPS Adjustment may only be claimed by retail providers where adjustments are used to comply with California RPS requirements" needs to be deleted in its entirety. Simply deleting the phrase "by retail providers" does not alleviate our concerns.

As IEP understands it, "the reporting of RPS Adjustments shall include information for Cap and Trade accounting purposes as well as information for GHG inventory reporting."¹ The RPS adjustment is one of the factors used for calculating the amount of covered emissions that ultimately bear a compliance obligation under the cap and trade program. Excluding first deliverers that are not also retail providers from using the RPS adjustment will ultimately result in higher emissions for these entities and the obligation to purchase more allowances. Allowing retail providers to use this adjustment against their compliance obligation, while excluding all other obligated entities from the same treatment is discriminatory.

Even if CARB removes "by retail providers" leaving the rest of the amendment intact, the language would still limit the RPS adjustment to Load Serving Entities (LSE) because the language would still require adjustments to be used to comply with the RPS, which can only be done by load serving entities. Essentially, CARB's proposed amendments to the RPS Adjustment language exclude first deliverers (e.g. importers) from using the RPS adjustment for calculating their cap and trade compliance obligation, unless they are first deliverers that also have a compliance obligation under the RPS. The only first deliverers under the cap and trade program, that also have a compliance obligation under the RPS program, are retail sellers/LSEs.

¹ Discussion Draft: Potential Amendments to the Regulation for the Mandatory Reporting of GHG Emissions, page 18.

LSE's in general are not the only responsible entities under the cap and trade program and therefore they should not be the only entity for which the RPS adjustment, an adjustment used to calculate the compliance obligation, should be applied. Under the cap and trade program, the obligation is born by first deliverers, which include generators and importers into California. The RPS adjustment must be available to all entities that bear a compliance obligation under the cap and trade program, not just those who also have a compliance obligation under the RPS.

IEP Recommendation: CARB should delete the amendments made to the RPS Adjustment entirely. Simply deleting reference to "retail sellers" will not solve the larger problem of applying the RPS Adjustment factor on a non-discriminatory basis.

II. Use of the Term "Full" In the Definition of Continuous Transmission Path Should Be Modified. In the potential definition revisions related to Section 95111, CARB has added additional terms for regulatory clarification. Among these terms, CARB defines "continuous transmission path" as "the **full** transmission path shown in the physical path table of a single NERC e-tag from the first POR closest to the generation source to the Final POD closest to the final sink. This is one criterion to establish direct delivery."² Using the term "full" in this context may be interpreted as a volumetric use of the line, when CARB's intent is really to distinguish the length of the line from one point to another. Generally, when using the term "full" in the context of transmission, it is understood to be a metric of volume rather than a metric of distance.

IEP Recommendation: In order to avoid confusion in reference to the term "full", IEP recommends deleting use of the term "full" or replacing it with "entire" or "whole".

Respectfully Submitted,



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² See Discussion Draft on Potential Definition Revisions Related to Section 95111, page 2.