

**BEFORE THE  
AIR RESOURCES BOARD  
OF THE  
STATE OF CALIFORNIA**

**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY  
COMMENT ON MAY AND JUNE 2012 PROPOSED CHANGES TO  
THE MANDATORY REPORTING REGULATION**

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# **SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY COMMENT ON MAY AND JUNE 2012 PROPOSED CHANGES TO THE MANDATORY REPORTING REGULATION**

## **I. INTRODUCTION AND SUMMARY.**

The Southern California Public Power Authority (“SCPPA”)<sup>1</sup> respectfully submits this comment on the following proposed amendments to the *Regulation for the Mandatory Reporting of Greenhouse Gas Emissions* (“Regulation”):<sup>2</sup>

- Amendments released by the California Air Resources Board (“ARB”) for public comment on May 29, 2012 (“May Amendments”), and discussed at a workshop on May 30, 2012 and a webinar on June 19, 2012 (“Webinar”); and
- Amendments to electricity sector definitions released by the ARB on June 14, 2012 (“June Amendments”), and discussed at the Webinar.

SCPPA appreciates the continuing efforts of ARB staff to clarify the requirements of the Regulation and arrange meetings to discuss these changes in advance of the formal public comment period. Several of the proposed changes and clarifications implement suggestions made by SCPPA or by SCPPA members in the last 12 months, and SCPPA thanks the ARB for acting on these suggestions.

However, some minor changes would improve the proposed amendments to the Regulation. SCPPA supports the comments made by the Los Angeles Department of Water and

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<sup>1</sup> SCPPA is a joint powers authority. The members are Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles Department of Water and Power, Imperial Irrigation District, Pasadena, Riverside, and Vernon. This comment is sponsored by Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, the Imperial Irrigation District, Pasadena, Riverside, and Vernon.

<sup>2</sup> Title 17 California Code of Regulations, Subchapter 10, Article 2.

Power (“LADWP”) on the May Amendments submitted to the ARB on June 11, 2012. In addition, SCPPA proposes the following changes:

- The additional sentences proposed to be added to section 95111(b)(5) on the RPS Adjustment should be revised. The first additional sentence should be deleted as it is misleading and unnecessary. The other proposed sentences should be revised for clarity.
- The following electricity sector definitions proposed in the June Amendments should be revised for clarity: “Electricity importer,” “Generation providing entity,” “Power contract,” “Unspecified source,” and “Continuous transmission path.”

These issues are discussed in more detail below.

## **II. MAY AMENDMENTS: REVISE THE PROVISIONS ON THE RPS ADJUSTMENT.**

### **A. Delete the first additional sentence in section 95111(b)(5).**

The May Amendments proposed the following additional sentence in the section of the Regulation on the calculation of the RPS Adjustment:

The RPS Adjustment may only be claimed by Retail Providers where adjustments are used to comply with California RPS requirements.<sup>3</sup>

At the Webinar, ARB staff stated that this language was intended to clarify a feature of the RPS Adjustment. However, staff acknowledged that, given the concerns with this language, they are considering deleting this sentence or at least the phrase “Retail Providers.” SCPPA supports LADWP’s June 11, 2012, comments on the disadvantages of allowing only Retail Providers, not marketers, to claim the RPS Adjustment. ARB staff noted at the Webinar that the intention is in fact to allow marketers as well as Retail Providers to claim the RPS Adjustment.

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<sup>3</sup> Regulation § 95111(b)(5).

Given that rules regarding the RPS Adjustment are set out in section 95852(b)(4) of the Cap and Trade Regulation, and section 95111(b)(5) of the Regulation already refers to that provision,<sup>4</sup> there is no need to repeat those rules in the Regulation.

For these reasons, the following wording introduced into section 95111(b)(5) in the May Amendments should be deleted:

~~The RPS Adjustment may only be claimed by Retail Providers where adjustments are used to comply with California RPS requirements.~~

**B. Clarify the second additional sentence in section 95111(b)(5).**

The second proposed addition to the RPS Adjustment provision in the May Amendments is as follows:

The reporting of RPS Adjustments shall include information for Cap and Trade accounting purposes, as well as information for GHG inventory reporting.<sup>5</sup>

As noted in LADWP's June 11, 2012, comments, this sentence is unclear. If entities claiming the RPS Adjustment are required to provide any additional information for cap and trade accounting or GHG inventory purposes, this should be specified. However, comments by ARB staff suggest that this sentence is intended to indicate how the ARB will use the information that is already required, not to require any additional information. If this is the case, this sentence should be revised for clarity as follows:

~~The Executive Officer will use information reported in relation to The reporting of RPS Adjustments shall include information for Cap and Trade accounting purposes, as well as information for GHG inventory reporting.~~

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<sup>4</sup> Regulation § 95111(b)(5) provides, inter alia, that "Electricity included in the RPS adjustment must meet the requirements pursuant to section 95852(b)(4) of the cap-and-trade regulation."

<sup>5</sup> Regulation § 95111(b)(5).

**C. Clarify the REC reporting provisions in section 95111(b)(5).**

The final proposed additions to the RPS Adjustment provision in the May Amendments are as follows:

The status of RECs shall be reported as retired or not retired. RECs not retired are assumed to have been banked for future use.<sup>6</sup>

It appears that these sentences are intended to clarify that RECs need not be retired in the same year in which the renewable energy was generated, and that the RECs can be retired and the RPS Adjustment claimed in a future year. SCPPA appreciates this important clarification. Given the importance of this point, it would be helpful to explain it with greater specificity.

ARB staff stated that they require reporting of RECs each year for GHG inventory purposes, even if those RECs are not retired and counted in the RPS Adjustment that year. SCPPA has no objection to this. However, the new sentences should clarify that only RECs relating to electricity that can be claimed by the reporting entity as an RPS Adjustment should be reported, not all RECs acquired by that entity. Other RECs that an entity may acquire, such as RECs associated with in-state renewable energy, are not relevant for ARB purposes.

Therefore, for greater clarity the provisions on REC reporting introduced into section 95111(b)(5) in the May Amendments should be revised as follows:

The ~~status of~~ RECs procured in the reporting year that are associated with electricity that may be included in the RPS Adjustment shall be reported as retired or not retired. The electric power entity may include the retired RECs in the RPS Adjustment for that reporting year. RECs not retired are assumed to have been banked for future use, and may be included in the RPS Adjustment in a future reporting year if they are retired in that year.

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<sup>6</sup> Regulation § 95111(b)(5).

### **III. JUNE AMENDMENTS: REVISE CERTAIN ELECTRICITY SECTOR DEFINITIONS.**

#### **A. The definition of “Electricity importer” should be revised.**

SCPPA supports the proposed changes to the definition of “Electricity importer”<sup>7</sup> in the June Amendments. However, the definition should be further revised to clarify which entity is considered to be the electricity importer if there is no NERC e-Tag. Currently, the definition refers to “the facility operator or scheduling coordinator”, without specifying the order of priority of those two types of entities. This could lead to confusion in cases where there is no NERC e-Tag but there is both a scheduling coordinator and a separate facility operator.

This issue was discussed at the ARB cap and trade workshop on May 4, 2012. ARB staff stated that, if there was a scheduling coordinator, that entity would be the importer; if there was no scheduling coordinator, the facility operator would be considered to be the importer. This order of priority is logical and should be clearly set out in the definition.

The term “scheduling coordinator” is specific to the California Independent System Operator (“CAISO”). This term is not necessarily used in non-CAISO balancing authority areas (for example, LADWP’s) – other terms may be used to describe the same function. To avoid unnecessarily limiting this term, the words “or the functional equivalent” should be added after “scheduling coordinator.”

In addition, the reference to a California balancing authority’s “transmission and distribution system” should be changed to “transmission *or* distribution system.” These are two distinct systems and a connection would be to one system or the other, not both.

The definition of “Electricity importer” in section 95102(a)(121) of the Regulation should therefore be revised as follows (accepting the changes made in the June Amendments):

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<sup>7</sup> Regulation § 95102(a)(121).

(121) “Electricity importers” deliver imported electricity. For electricity that is scheduled with a NERC e-tag to a final point of delivery inside the state of California, the electricity importer is identified on the NERC e-Tag as the purchasing-selling entity (PSE) on the last segment of the tag’s physical path with the point of receipt located outside the state of California and the point of delivery located inside the state of California. For facilities physically located outside the state of California with the first point of interconnection to a California balancing authority’s transmission ~~or~~ distribution system when the electricity is not scheduled on a NERC e-Tag, the importer is the ~~facility operator or scheduling coordinator~~ or the functional equivalent, or if there is no entity performing this function, the facility operator. Federal and state agencies are subject to the regulatory authority of ARB under this article and include Western Area Power Administration (WAPA), Bonneville Power Administration (BPA), and California Department of Water Resources (DWR).

**B. The definition of “Generation providing entity” should be revised.**

SCPPA supports the proposed changes to the definition of “Generation providing entity” or “GPE”<sup>8</sup> in the June Amendments. However, the definition still refers to the GPE as being “recognized by the ARB.” At the Webinar, ARB staff stated in response to a SCPPA query that they do not propose to have any formal recognition process. The ARB will not establish a list of “recognized” GPEs; rather, the ARB expects GPEs to identify themselves as such in their reports under the Regulation. Therefore, the reference to recognition by the ARB should be deleted, as it has no practical application and gives rise to an expectation of ARB action that will not be taken.

The definition of “Generation providing entity” in section 95102(a)(182) of the Regulation should be revised as follows (accepting the changes made in the June Amendments):

(182) “Generation providing entity” or “GPE” means a facility or generating unit operator, full or partial owner, party to a contract for a fixed percentage of net generation, sole party to a tolling agreement with the owner, or exclusive marketer ~~recognized by ARB~~ that is either the electricity importer or exporter with prevailing rights to claim electricity from the specified source.

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<sup>8</sup> Regulation § 95102(a)(182).

**C. The definition of “Power contract” should be revised.**

SCPPA supports the proposed changes to the definition of “Power contract”<sup>9</sup> in the June Amendments. However, certain changes to this definition would increase its clarity.

Firstly, two terms are used for the same concept: “power contract” and “written power contract.” Only one term should be used for each defined concept. The term “power contract” is preferable, as the reference to “written” is confusing given that verbal and electronic records also qualify. References to “written power contract” in the Regulation should be changed to “power contract.”

The reference to “procurement of electricity” in the first sentence of the definition is somewhat limiting. The examples of power contracts given in the second sentence go beyond procurement. The broader term “electricity transaction” should be used instead.

At the Webinar there was some discussion of moving the additional language at the end of the definition into section 95111 of the Regulation. It would be preferable to retain this language as part of the definition, and to refer to the relevant subsections of section 95111 that require reporting of imports and exports.

The definition of “Power contract” in section 95102(a)(301) of the Regulation should therefore be revised as follows (accepting the changes made in the June Amendments):

(301) “Power contract,” ~~or “written power contract,”~~ as used for the purposes of documenting specified versus unspecified sources of imported and exported electricity, means an agreement ~~written document~~, including ~~written, associated~~ verbal or electronic records ~~if included as part of the written power contract~~, arranging for ~~the procurement of an~~ electricity transaction. Power contracts may be, but are not limited to, power purchase agreements, enabling agreements, and tariff provisions, without regard to duration, or ~~written~~ agreements to import or export electricity on behalf of another entity, as long as that other entity also reports to ARB

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<sup>9</sup> Regulation § 95102(a)(301).

the same imported or exported electricity under section 95111(c)(4) or section 95111(a)(6).

**D. The definition of “Unspecified source” should be revised.**

SCPPA supports the proposed changes to the definition of “Unspecified source of electricity” or “Unspecified source”<sup>10</sup> in the June Amendments. On the Webinar there was discussion of the usefulness of retaining the phrase “without limitation at the time of transaction to a specific facility’s or unit’s generation” as part of the definition. Although there is no need to retain this exact phrase, it is helpful to clarify that the time at which it is determined whether a source is specified or unspecified is the time of entry into the transaction to procure the relevant electricity, not when the electricity is delivered.

The definition of “Unspecified source of electricity” in section 95102(a)(399) of the Regulation should therefore be revised as follows (accepting the changes made in the June Amendments):

(399) “Unspecified source of electricity” or “unspecified source” means a source of electricity that is not a specified source at the time of entry into the transaction to procure the electricity.

**E. The definition of “Continuous transmission path” should be revised.**

SCPPA supports the new definitions proposed in the June Amendments. However, the definition of “Continuous transmission path” includes two acronyms that are not defined: “POR” and “POD.” As the terms “point of receipt” and “point of delivery” are defined in the June Amendments, these terms should be used and set out in full.

In addition, there is no need to refer to a “final sink.” Only one sink is listed on a NERC e-tag for a transmission path; there are no intermediate sinks.

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<sup>10</sup> Regulation § 95102(a)(399).

The definition of “Continuous transmission path” in the June Amendments should therefore be revised as follows:

“Continuous transmission path” means the full transmission path shown in the physical path table of a single NERC e-tag from the first point of receipt~~POR~~ closest to the generation source to the final point of delivery~~POD~~ closest to the ~~final~~ sink. This is one criterion to establish direct delivery.

#### IV. CONCLUSION

SCPPA urges the ARB to consider these comments in finalizing the proposed amendments to the Regulation for 45-day public comment. SCPPA appreciates the opportunity to submit these comments to the ARB.

Respectfully submitted,

*/s/ Norman A. Pedersen*

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