



April 8, 2010

Mr. Gary Collard  
Mr. Dave Mehl  
Office of Climate Change  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

**Re: Comments of the Energy Producers and Users Coalition and Cogeneration Association of California on RES Preliminary Draft Regulation**

Dear Messrs. Collard and Mehl:

The Energy Producers and Users Coalition<sup>1</sup> and the Cogeneration Association of California<sup>2</sup> (EPUC/CAC) submit these comments as owners and operators of cogeneration or combined heat and power (CHP) facilities in California. Members of these coalitions own and operate more than 2,000 MW of existing CHP generation in California, located primarily at refineries and enhanced oil recovery operations. The preliminary renewable electricity standard (RES) draft regulations appropriately limit scope of the definition of “electric corporation” to ensure consistency with Public Utilities Code §218. The same limitation, however, should apply to the definition of “electric service provider” to ensure that an entity employing cogeneration technology or producing power as delineated in Public Utilities Code §218(b) will not inadvertently be subject to the RES regulations.

***CARB’s Intent to Exclude Cogeneration from the Obligations of the RES Regulations Must be Reflected in the Definition of “Electric Service Provider”***

The definition of “electric service provider” in the preliminary draft regulations must be modified to exclude cogeneration similar to the definition of “electrical corporation.” Under the preliminary RES regulations, a regulated party includes

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<sup>1</sup> EPUC is an ad hoc group representing the electric end use and customer generation interests of the following companies: Aera Energy LLC, BP West Coast Products LLC, Chevron U.S.A. Inc., ConocoPhillips Company, ExxonMobil Power and Gas Services Inc., Shell Oil Products US, THUMS Long Beach Company, and Occidental Elk Hills, Inc.

<sup>2</sup> CAC represents the combined heat and power and cogeneration operation interests of the following entities: Coalinga Cogeneration Company, Mid-Set Cogeneration Company, Kern River Cogeneration Company, Sycamore Cogeneration Company, Sargent Canyon Cogeneration Company, Salinas River Cogeneration Company, Midway Sunset Cogeneration Company and Watson Cogeneration Company.



electrical corporations and energy service providers.<sup>3</sup> The draft regulation appropriately references the exclusion of cogeneration serving on-site load or engaged in permitted over-the-fence transactions from its definition of electrical corporation:

*“Electrical corporation” does not include a corporation or person employing cogeneration technology or producing power from other than a conventional power source for the generation of electricity solely for any one or more of the purposes listed in Public Utilities Code Section 218, subparagraphs (b) through (f).<sup>4</sup>*

The definition of “*electric service provider*,” however, does not reflect this limitation and can be read to include any entity providing electrical service within an electric corporation’s service territory.

*“Electric service provider” means an entity that offers electrical service to customers within the service territory of an electrical corporation and includes the unregulated affiliates and subsidiaries of an electrical corporation as defined in Public Utilities Code Section 394(a).<sup>5</sup>*

The exclusion of cogeneration from the definition of electric service provider should be more evident. Accordingly, the following change, consistent with the clarification to the electric corporation definition, should be incorporated into the regulations:

*“Electric service provider” means an entity that offers electrical service to customers within the service territory of an electrical corporation and includes the unregulated affiliates and subsidiaries of an electrical corporation as defined in Public Utilities Code Section 394(a). Notwithstanding the foregoing sentence, “electric service provider” does not include a corporation or person employing cogeneration technology or producing power from other than a conventional power source for the generation of electricity solely for any one or more of the purposes listed in Public Utilities Code Section 218, subparagraphs (b) through (f).*

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<sup>3</sup> See Preliminary Draft Regulations, at §97002(12).

<sup>4</sup> See Preliminary Draft Regulations, at §97002(4).

<sup>5</sup> See Preliminary Draft Regulations, at §97002(2).



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EPUC/CAC look forward to discussing these issues further.

Very truly yours,

A handwritten signature in black ink that reads 'Seema Srinivasan'.

Seema Srinivasan

Counsel to the Energy Producers and Users Coalition  
and the Cogeneration Association of California