Tamara Rasberry
Manager
State Regulatory Affairs

925 L Street, Suite 650
Sacramento, CA 95814

(916) 492-4252
trasberry@semprautilities.com

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Mr. Steven Cliff
Chief- Climate Change Markets Branch
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: Sempra Energy Utilities Comments on April 9 Workshop: *Draft Amendments for Linking California's and Quebec's Cap-and-Trade Programs*

Dear Mr. Cliff:

Sempra Energy Utilities, San Diego Gas and Electric Company (SDG&E) and Southern California Gas Company (SoCalGas), appreciate the opportunity to comment on proposed changes to the cap-and-trade regulation in the Discussion Draft to improve transaction processing while maintaining security and to harmonize its regulations with Quebec to allow for linking its cap-and-trade program with Quebec's program immediately and with other jurisdictions in the future. We support linking in order to broaden the cap-and-trade program to obtain GHG reductions and to provide a successful market model and offer the following recommendations:

DEFINITIONS
Definition (9) in Section 95802 should be altered to identify the Alternate Authorized Account Representative as a person instead of an "entity."

REGISTRATION and KNOW-YOUR-CUSTOMER REQUIREMENTS
Section 95830 Registration with ARB has been modified to require a significant increase in information. Likewise, the new section 95834 *Know-Your-Customer Requirements* also requests significant information, even for individuals where the threat of fraud is minimal. While SDG&E and SoCalGas understand the ARB's intent at protecting the Cap and Trade system from fraud or theft, the requests go far beyond what is necessary for employees of covered entities.
Covered entities are physically located in the jurisdiction and are a part of the cap-and-trade program, running their businesses that create GHG as a byproduct. This makes them very different from Voluntarily Associated Entities, who are trading but who have no assets in the jurisdiction and no compliance obligations. The regulation should be modified to require only the names of the officers for covered entities. For employees of covered entities, transacting business on behalf of the covered entity, Sections 95834 (b)(5) and 95834(b)(7) should be deleted. There is no need for a passport number or an open bank account in the US or Canada.

DIRECT CORPORATE ASSOCIATIONS AND AFFILIATE TRANSACTION RULES

SDG&E and SoCalGas believe that section 95833(a)(6) on affiliate rules precludes Sempra Energy affiliates SDG&E, SoCalGas, and unregulated affiliates, Sempra Generation and Sempra International, from being treated as having a direct corporate association as defined in 95833(a). While subsection (a)(3) of 95833 Disclosure of Corporate Associations makes all four of Sempra's affiliates have a "direct corporate association," the restriction on information flow between SDG&E, SoCalGas, and the unregulated affiliates as required by the CPUC and FERC affiliate transaction rules preclude disclosure of confidential information between the Sempra affiliates. The Discussion Draft would require sharing of confidential information to determine a division of purchase limits and holding limits among the affiliates but for 95833(a)(6).

The Discussion Draft should be modified to make the restrictions of 95833(a)(6) clear in the regulation by indicating in 95833(a)(6) that entities subject to federal or state affiliate transaction information flow restrictions will be treated as separate compliance entities for purposes of direct corporate associations. Alternatively, accounts (95833(e)), purchase limits (95914(c)(1)), and holding limits (95920(f)) sections of the Discussion Draft could be modified to describe how separate accounting for entities with affiliate transactions information flow restrictions will be undertaken in a manner that does not violate 95833(a)(6).

AUCTION RESERVE PRICE

Section 95911 should be modified to 1) eliminate references to Quebec; 2) keep the reserve auction price at $10 for all 2013 vintage allowances, not just those sold in 2012, 3) generalize the discussion to allow linking with other jurisdictions without modification, and 4) adopt a weighted average of the auction reserve prices across linked jurisdictions.

As written, Sections 95911(c)(2) and 95913(d)(2) make reference to business days in California and Quebec. By mentioning Quebec specifically it will force the regulation to be modified in the future if other jurisdictions are subsequently linked with California. It will require changing the regulation each time a new jurisdiction becomes linked. It is preferable to make the regulation more general by referencing the first business day across all linked jurisdictions.

Section 95911(c)(2) should be eliminated. The section raises the reserve auction price for 2013 vintage allowances sold in 2013 over the auction reserve price for 2013 vintages sold in 2012. The only apparent reason for this change is to match the Quebec regulation. This approach will severely limit the ability to link additional jurisdictions since it requires new jurisdictions also choose an auction reserve price that matches Quebec. To make the regulation more general, it should eliminate attempts to mimic another jurisdiction's auction reserve price. An immediate way to do that would be to eliminate the increase in California's auction reserve price for 2013 vintage allowances in 2013 compared to 2012. Instead, a determination of the combined auction reserve price should be made at the time of the auction based on the auction reserve prices of each linked jurisdiction in a common unit of currency.

Proposed section 95911(c)(3)(B) should be deleted. This section implements Quebec's auction reserve price. It is inappropriate to insert a linked jurisdiction's regulation in California's regulation. Whatever the auction reserve price is for Quebec should be determined based on their regulation and provided to California at time of auction. Inserting this section in California's regulation will then require any other linked jurisdiction to set its auction reserve price equal to California's or Quebec's auction reserve price.

Section 95911(c)(3)(D) should be modified to be a comparison of the linked jurisdictions' auction reserve prices in a common currency rather than inserting Quebec's auction reserve price into California's regulation and choosing between them. As stated above, this will severely limit the ability

of other jurisdictions with their own auction reserve price to link to California. In addition, instead of taking the higher of the two prices, the auction reserve price should be a weighted average of each jurisdiction's auction reserve price. The weighting factor would be the total amount of allowances put into the auction holding account for sale by entities in each respective jurisdiction. Such an approach would allow funds returned to each jurisdiction as if they had implemented their individual price floor and will protect compliance entities if a future linked jurisdiction has an auction reserve price significantly higher than California and Quebec.

ELIMINATION OF BENEFICIAL HOLDING RULES

Because of the elimination of beneficial holdings sections of the regulation, an entity cannot acquire and hold allowances in its holding account on behalf of another entity (Section 95921(f)(1)). At the workshop, ARB staff indicated that if allowances are purchased by an electricity buyer for the seller, the allowances could be transferred to the electricity seller after the auction to avoid a violation of the regulation. And in the current regulation in 95912(j)(3), it indicates that allowances from winning bids can be transferred to the compliance account to avoid violation of the holding limits. Section 95912(j)(3) should be amended to also allow electricity buyers with contractual obligations to transfer the allowances to the electricity seller after the auction results are known without passing through the holding account. Changes should also be made to section 95921(f) to allow for a simultaneous purchase and transfer of compliance instruments to a third party to allow electric utilities to purchase compliance instruments on behalf of a seller where it has such contractual obligations.

In addition, section 95911(e)(3)(B) should be eliminated; an auction bid should not be rejected if it will *appear* to violate the holding limits. Since the amount purchased could be transferred to the compliance account or to another party pursuant to a contract after the auction, the auction bid should not be rejected if it will be perceived to violate the holding limit. Similarly, 95913(g)(3)(A) should be modified to not reject a bid of reserve allowances for the same reason – adjustments can be made post-auction such that the allowances could go to other parties or to the compliance account.

In addition, section 95921(b)(6)(B) should be modified to not require a price be disclosed for a transfer of allowances from an electricity buyer to an electricity seller where the buyer is responsible for the allowance acquisition by contract. With the elimination of beneficial holdings sections of the regulation, this transfer will look like a sale, but it is simply a transfer of previously acquired allowances transferred to a generator, so that any price reported would not be a market price.

If the regulation is not changed, it appears that electricity buyers will not be able to fulfill contractual obligations since all purchases of allowances have to go through the holding account while section 95921(f)(1) would prohibit purchases for others from going through the holding account.

PENALTIES FOR HOLDING ACCOUNT VIOLATIONS

Section 95920(b)(6) should be modified to only assess penalties if an entity fails to cure the holding account violation within five days. Because of the flaw in the regulation that does not consider the size of the compliance obligation in establishing the size of holding limits, large covered entities may often be managing up against the holding account limit. As written now, if a covered entity even filed for a transaction that would violate the holding limit it would be subject to penalties. ARB Staff at the workshop likened it to bouncing a check. Often times, a check will bounce if a deposit is not recorded in time. The concern here is the same. Will ARB's tracking system be accurate enough to account for other simultaneous transfers to determine a real violation? For example, a transfer request from an exchange to a compliance entity may be made at the same time as a sale from the compliance entity. This would be a technical violation because the transfer request by the exchange occurs before the latter

transfer is complete (when the receiving party confirms the transfer), but it is not a real violation as the transfers were simultaneous. A lot of time might be wasted fighting over whether the ARB system properly accounted for transfers of allowances to other accounts or to the compliance account prior to processing a transfer request which technically is not a transaction until confirmed. It is preferable to only assess penalties where the apparent violation is not corrected in five days when all transfers are complete.

BID GUARANTEE

The bid guarantee language in the regulation should be clarified to provide tighter limits on the amount of time ARB's financial services administrator ties up auction participants' bid guarantee funds. In total, it appears the financial services administrator could have the funds for more than one month, 12 days prior to the auction and 21 days after the auction. The Discussion Draft changes the number of days prior to the auction the bid guarantee must be posted from 7 days (one week) to 12 days in 95912(i). While it might take the financial services administrator more time in the first auction to process the vast sums of money from numerous participants, there is no reason the "one week" currently in the regulation should not be used subsequently given the much smaller amounts of monies and the fact most bidders will be the same set for subsequent auctions. Section 959129(i) should require the bid guarantee to be one week, not 12 days, for auctions after the first auction.

In addition, the regulation should require time constraints on the return of bid guarantee funds in 95912(j)(2)(F). It is reasonable that funds be returned within 7 days of the notice of certification of final auction results. Comparable changes should be made to Section 95913. Specifically, ARB should change section 95913(f) to require posting of the bid guarantee to be one week prior to the reserve auction instead of 12 days and change 95913(h)(2)(D) to require bid guarantee funds returned within 7 days of certification of reserve auction results.

DEADLINES

Several deadlines in section 95921 need to be changed in order to not require business be conducted on weekends or holidays. In section 95921(a)(1)(A), the 48 hour requirement should be modified to 2 business days, or alternatively 48 hours on business days. Likewise, section 95921(a)(1)(B) should also be changed from 24 hours to 1 business day; or alternatively, 24 hours on business days. Similarly, section 95921(d)(2) should be changed from "five days" to "five business days."

Thank you for the opportunity to comment.

Sincerely,

Tamara Rasberry