



December 15, 2010

Via Electronic Mail

Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95814

**Re: Comments of CalEnergy Regarding the California Air Resources Board
October 28, 2010 Proposed Regulation to Implement the Cap-and-Trade
Program under Assembly Bill 32**

Dear Chairwoman Nichols and Board Members:

CalEnergy Operating Corporation (“CalEnergy”) respectfully submits these comments as requested in the October 28, 2010 “Notice of Public Hearing to Consider The Adoption of a Proposed California Cap on Greenhouse Gas Emissions and Market Based Compliance Mechanisms Regulation, Including Compliance Offset Protocols” (hereinafter “Proposed Regulation” or “Cap-and-Trade Program”). CalEnergy is an independent power producer currently operating 349 megawatts of geothermal energy facilities in California’s Imperial Valley with a planned additional 150 megawatts undergoing certification by the California Energy Commission. CalEnergy also operates natural gas-fueled plants in Arizona, Texas, Illinois and New York. CalEnergy is a member of the Geothermal Energy Association and incorporates its comments as if fully set forth herein.

CalEnergy supports the draft proposal’s exemption of geothermal energy from the cap/allowance surrender obligations under the cap-and-trade program. Geothermal energy is a resource-dependent, reliable baseload source of renewable electricity and its utilization and development is critical to meeting California’s renewable portfolio standards and reducing the use of fossil fuels for electricity generation. To ensure the development of geothermal and other renewable resources, it is critical that the regulatory structure implemented to reduce greenhouse gas emissions encourage, and not discourage, the development of these resources—a goal that has been reflected in the draft cap-and-trade proposal.

While CalEnergy supports the goals behind the exemption of geothermal facilities from a cap-and-trade compliance obligation, we believe that the language should be further

modified to more accurately reflect the nature of greenhouse gases produced as a result of geothermal operations which are naturally-occurring and cannot be accurately defined as either “fugitive” or “process” emissions. As recognized in the greenhouse gas reporting rules, greenhouse gases resulting from the production of electricity utilizing geothermal resources are difficult to quantify and are highly dependent on the specific geothermal resources’ characteristics at various points in time. As such, CalEnergy requests that the Air Resources Board clarify in Sections 95852 and 95852.2 that greenhouse gas emissions from geothermal facilities do not have a compliance obligation under the cap and trade program by adding a new section under §95852.2 to specifically address emissions from geothermal generating units and facilities (designed as subparagraph (f)), and separating out exempt fugitive and process emissions as follows:

§95852. Emission Categories Used to Calculate Compliance Obligations.

(a) – (g)

(h) The compliance obligation is calculated based on the sum of (i) emissions of CO₂, CH₄ and N₂O resulting from the combustion of fossil fuel; (ii) emissions of CH₄ and N₂O resulting from combustion of all biomass-based fuel; (iii) emissions of CO₂ resulting from combustion of unverifiable biomass-derived fuels, as specified in section 95852.2; (iv) emissions of CO₂ resulting from combustion of biomass-derived fuels not listed in section 95852.2; and (v) all process and vented emissions of CO₂, CH₄, and N₂O as specified in the Mandatory Reporting Rule except for those **emissions from sources listed in section 95852.2(g) below.**

§95852.2 Emissions Without a Compliance Obligation.

(a) – (e)

(f) all greenhouse gas emissions from geothermal generating units and geothermal facilities.

(g) Fugitive and process emissions from:

(1) CO₂ emissions from hydrogen fuel cells;

(2) At petroleum refineries: asphalt blowing operations, equipment leaks, storage tanks, and loading operations; or

(3) At the facility types listed in section 95101(e) of the Mandatory Reporting Regulation, Petroleum and Natural Gas Systems; leak detection and leaker emission factors, and stationary fugitive and “stationary vented” sources on offshore oil platforms.

CalEnergy believes this is an important clarification that more accurately describes the minor greenhouse gas emissions associated with geothermal energy production and provides the requisite degree of clarity to accomplish the goals of the program. In the event the board determines that greenhouse gas emissions from geothermal facilities should not be exempt from a compliance obligation (a position with which CalEnergy strongly disagrees), CalEnergy reserves the right to address any such change, particularly

since it is likely that its existing supply contracts may not allow the company to recover the costs of compliance with programmatic or compliance costs.

Thank you for the opportunity to provide these comments. If you have any questions, please contact Craig Parker at 760-348-4204 or via e-mail at craig.parker@calenergy.com.

Sincerely,



Stephen A. Larsen
President