COMMERCE REFUSE-TO-ENERGY AUTHORITY

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Clerk of the Board
Chair, California Air Resources Board
1001 I Street
P.O. Box 2815
Sacramento, CA 95812

To Whom It May Concern:

Comments on the Proposed California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation

The purpose of this letter is to bring to your attention the severe inequity of including renewable energy facilities, and in particular the Commerce Refuse-to-Energy Facility (CREF), in CARB's cap and trade program, in a manner that could force these waste-to-energy facilities to shut down. **We are requesting that these facilities be treated like the electric, gas and oil utilities, as well as other industries in the program, and receive free allowances.** Not doing so places a severe financial burden on these facilities and the local governments under which they operate.

The Commerce Refuse-to-Energy Facility consists of a single municipal solid waste (MSW) fired boiler operating at a nominal charging rate of 300-350 tons per day of post-recycled refuse. The facility utilizes a state-of-the-art air pollution control system to control emissions. Steam produced by the facility is used to generate 11.5 gross MW of electricity, enough electricity for up to 20,000 homes. This facility is owned by the Commerce Refuse-to-Energy Authority, which is a joint venture between the City of Commerce and the County Sanitation Districts of Los Angeles County (Sanitation Districts), and has been operated by the Sanitation Districts since 1987. During the 1980's when three waste-to-energy facilities were built in California, several state laws were enacted to recognize and support these facilities, the most important of which is contained in §41516 of the Health and Safety, and reads in part

> "*...the construction of resource recovery projects can help alleviate the environmental and economic problems associated with municipal waste disposal, while at the same time producing additional supplies of energy and raw materials, and (d) that such projects should therefore be encouraged as a matter of state policy.*"

We believe that CARB's proposal is not consistent with this state law and the intent of the Legislature to encourage operation of these three waste-to-energy facilities. Namely, inclusion in the cap-and-trade rule could cause the shutdown of these facilities, which would have the opposite of the intended result by creating greater amounts of greenhouse gas emissions in California due to the fact that the waste would likely have to be disposed of via landfills. In fact, no other cap-and-trade program in the United States, or internationally, includes waste-to-energy facilities in a cap and trade program.

Impact of Including Waste-to-Energy Facilities in the Proposed Cap and Trade Program

Under the current CARB cap and trade proposal, waste-to-energy facilities will not enjoy the benefits of free allocations that are being offered to electric, gas and oil utilities, as well as other industries. CREF, like other waste-to-energy facilities that operate in the state, receive post-recycled waste, which is comprised of a variety of materials; and have no control over the incoming waste stream or practicable means to reduce the fossil-based components of MSW (largely plastics). Thus, no options are available except purchasing allowances to cover CREF's emissions compliance obligations. As the price of allowances inevitably increase, in time this amount could easily exceed one million dollars per year.

Very importantly, CREF, like other waste-to-energy facilities, has no ability to pass this allowance cost through, contrary to the critical but incorrect assumption that CARB has made about these facilities and the economic impacts of the cap-and-trade regulation. Two main reasons exist that prevent passing costs through to haulers. First, CREF has fixed-rate electrical contracts that do not allow for any cost recovery of allowances. Second, if CREF raises its tipping fees, haulers using the facility would simply take the waste to local, cheaper landfills, resulting in an increase in greenhouse gas emissions due to increase methane emissions at the landfill.[1] The overall impact to the City of Commerce, as well as its operating partner, the Sanitation Districts, would be the need to absorb the allowance cost, a cost which would recur each compliance period at an ever-increasing amount, every year into the foreseeable future. **Local governments that are already severely impacted financially by the economic downturn cannot afford to absorb the cost of emissions allowances.**

Conclusion:

CARB is proposing the unprecedented step of not only requiring waste-to-energy facilities, considered world-wide to be renewable energy facilities, to be part of a cap-and-trade program, but is not providing free allowances which are afforded to most other electric, gas and oil utilities, as well as other industries in the program. The municipalities that own these three waste-to-energy facilities have no practical means of

[1] The lifecycle estimation technique of calculating greenhouse gas emissions in the solid waste industry was developed by EPA. EPA supports the general conclusion stated here that landfilling will result in greater greenhouse gases compared to waste-to-energy, and CARB has reviewed and verified these results.

control over the incoming waste stream, and therefore lack the ability to reduce fossil fuel-derived waste components (largely plastics), leaving as their only option the purchase of allowances. It is inequitable that other electricity producers in the program are receiving allowances for free, while these local government-owned public infrastructure renewable energy facilities are not.

We are requesting that CARB provide free allowances for the three California waste-to-energy facilities, for three reasons:

1. Not doing so will have a severe financial impact on the facilities and the local governments that own them and that they serve.
2. It has been shown, and verified by CARB, that operating these facilities avoids methane emissions at local landfills, causing a net benefit (reduction) in greenhouse gases.
3. State law clearly states that these renewable energy facilities should be encouraged "as a matter of state policy."

If you have any questions or require additional information, please contact Robert Ferrante, Project Manager for the Commerce Refuse-to-Energy Authority, at 562-908-4288 x2403.

Sincerely,

Joe Aguilar

Joe Aguilar
Chairperson
Commerce Refuse-to-Energy Authority

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