



Arizona Electric Power Cooperative, Inc.

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*E-Filing
ARB's Cap-and-Trade Website*

Kevin M. Kennedy, Ph.D.
Assistant Executive Officer – Climate Change
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Arizona Electric Power Cooperative, Inc. Comments on the California Air Resources Board's October 28, 2010 Proposed Regulation to Implement a California Greenhouse Gas Cap-and-Trade Program under AB 32

Dear Dr. Kennedy:

Arizona Electric Power Cooperative, Inc. (AEPCO) is pleased to submit these comments in conjunction with the comment provided by our electrical distribution cooperative, Anza Electric Cooperative, Inc. on the California Air Resources Board's (CARB) proposed regulation entitled "California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanism Regulation" released October 28, 2010 under Assembly Bill 32 (AB 32).

AEPCO is member-owned electric generation cooperative that is headquartered in Benson, Arizona. We are the owner/operator of Apache Generating Station (Apache Station), located in Cochise, Arizona. We provide wholesale electric power to six electric distribution cooperatives serving more than 270,000 people in portions of Arizona, California and New Mexico. These electric distribution cooperatives distribute the power to the end user in communities in southeastern and south central Arizona, Mohave County and Bullhead City in northwestern Arizona, and to Anza, California.

Anza Electric Cooperative, Inc. (Anza) is a full-requirement member of AEPCO and receives all its wholesale power from Apache Station in Arizona at a delivery point in California. Anza is a distribution cooperative, and Anza's service area is 500 square miles of high desert with an elevation at roughly 4,000 feet where winter weather can sometimes be a challenge. Anza is located at an almost equal distance from Palm Desert, Hemet and Temecula in Riverside County in Southern California. Anza serves the communities of Anza, Garner Valley, Pinyon Pines, and part of Aguanga with approximately 3,900 homes, schools, businesses, and 20 irrigation loads.



Because Arizona Electric Power Cooperative is a non-profit, 100% debt-financed, member-owned entity, all its costs, including rate increases, flow directly to AEPCO's member-owners, who in turn pass it on to the ultimate consumer in the distribution cooperatives' service areas. Because AEPCO services rural areas, AEPCO's member base is much smaller than investor-owned utilities' customer bases; therefore, the rate increases that will inevitably result from the cost of compliance without receiving the allowances will be much greater for AEPCO's members than it will be to investor-owned utilities where the costs are balanced between the shareholders and customers. Further, in AEPCO's cooperative system, AEPCO is responsible for all environmental compliance costs. Therefore, in the absence of allowances, the cost of compliance will go directly to AEPCO, which will be passed on to its ratepayers, which are the ultimate consumers of AEPCO's cooperative distribution entities, including Anza Electric Cooperative.

ELECTRICAL COOPERATIVES THAT PROVIDE ELECTRICITY TO END USERS IN CALIFORNIA SHOULD BE INCLUDED IN THE DEFINITION OF ELECTRICAL DISTRIBUTION UTILITIES

The primary purpose of allocating allowances directly to the Electrical Distribution Utilities is to provide the value of the allowances to California's electricity ratepayer. In this respect, the utilities are the conduit by which the value of the allowances are delivered to the State's retail electric customers, as the utilities are best situated to deliver emissions reducing program benefits to their customers. Such benefits come in many forms, such as increased energy efficiency and expanded renewable energy portfolios.

In the Proposed Regulation, "Electrical distribution utility(ies)" means an Investor Owned Utility (IOU) as defined in the Public Utilities Code section 218, or a local publicly owned electric utility (POU) as defined in Public Utilities Code section 224.3, that provides electricity to retail end users in California." (§ 95802 (a)(57)). The title "California retail end users" is synonymous with "California ratepayers."

The proposed definition incorrectly fails to include Electrical Cooperatives. Electrical Cooperatives are a category of electricity providers that are similarly situated to IOUs and POUs, in that Electrical Cooperatives also provide electricity to California ratepayers. The only difference is that in an electrical cooperative system, the ratepayers are the ultimate consumer of the electricity provided by the cooperative distribution entity (such as Anza), which distributes the electricity at cost to its rural service area.¹

Electrical Cooperatives operate very similarly to Publicly Owned Utilities. Electrical Cooperatives are owned by their members, but operate as a non-profit public service for end use members. Electrical Cooperatives in California are small utilities located in rural areas facing

¹ Electrical Cooperatives' are defined in Public Utilities Code section 2776 as "any private corporation or association organized for the purposes of transmitting or distributing electricity exclusively to its stockholders or members at cost." Arizona Electric Power Cooperative, Inc. does not have any stockholders; AEPCO has only member-owners. Anza Electric Cooperative, Inc. is a member-owner of AEPCO.

high infrastructure costs and other obstacles as they strive to provide affordable and reliable electric service to their members. As non-profit, member-owned utilities governed by their locally-elected boards of directors, they must adhere to federal Rural Utility Service (RUS) guidelines, but are also subject to many of the same AB 32 mandates as IOUs and POU's.

AEPCO recommends that the Proposed Regulation be revised to include Electrical Cooperatives in the definition of § 95802 (a)(57) and like POU's and IOUs, be eligible to receive electric sector free allowances.² Including this small group of utilities within the definition of § 95802 (a)(57) will not change the scope of the program, nor have an impact on the recent discussions regarding allocation of allowances to the electricity sector, and data from the Electrical cooperatives should already be part of 89 million allowances available for allocation to electrical distribution utilities.

CARB notes that "free allocation of allowances to public utilities on behalf of their customers is designed to help offset the cost impacts of AB 32 policies." (ISOR, p. IX-55)³ As noted above, Electrical Cooperatives have all of the same characteristics as POU's and IOUs, and further meet the requirements of § 95802 (a)(57) for providing "electricity to retail end users in California. Similarly, Electrical Cooperatives will be impacted by many of the same AB 32 obligations associated with mandatory programs established to meet the policies set forth in AB 32, as well as compliance costs associated with the Program. Accordingly, it is appropriate for Electrical Utilities be eligible for the receipt of free allowances on behalf of their customers; and as a non-profit organization, Electrical Cooperatives should have the option to sell its allowances at auction or use them directly for meeting compliance obligations as the POU's do.

CARB notes that "electrical distribution utilities provide electricity to residential and small commercial customers" and proposes to allocate free allowances to them "because electrical distribution utilities are best situated to utilize the value of allowances for ratepayer benefit." (ISOR, p. II-32) Because electrical coops also provide these same services with many of the same responsibilities and obligations as POU's and IOUs and are also similarly situated to maximize the value of the allowances to deliver benefits to their ratepayers, electrical coops are properly included within this definition. All of the reasons that CARB has articulated for allocating allowances to the electrical distribution utilities,⁴ and all the indicia of an electrical distribution utility support the inclusion of Electrical Cooperatives in California's definition of Electrical Distribution Utilities.

² As a practical matter, AEPCO notes that the publicly available data for the State's electrical coops that serve retail end use customers in California has been included in the modeling conducted by the Joint Utility Group, and shown in the spreadsheet results conducted by the Joint Utility Group and Cal EPA in discussions regarding allocation of allowances amongst the sector.

³ Throughout the ISOR, CARB notes that the distinguishing characteristic in the allocation of free allowances is the fact that the utility serves retail end-use customers and has a cost burden under the cap-and-trade program. (*See for example*, p. II-12, II-28, II-32).

⁴ "To ensure that electricity ratepayers do not experience sudden increases in their electricity bills associated with the cap-and-trade regulation, staff proposes to allocate allowances for free to electrical distribution utilities on behalf of ratepayers. The proposed regulation stipulates that electrical distribution utilities must use the value associated with these allowances for the benefit of retail ratepayers of each electrical distribution utility, consistent with the goals of AB 32." (ISOR, p. II-32).

In § 95892 (Allocation to Electrical Distribution Utilities for Protection of Electricity Ratepayers), the Proposed Regulation specifically addresses the need to allocate allowances to Electrical Distribution Utilities “for the protection of electricity ratepayers.” Electrical Cooperatives have electricity ratepayers, the same as all other Electrical Distribution Companies. Unlike energy service providers, Electrical Cooperatives provide more than just the electricity transaction to their customers; therefore, Electrical Utilities function analogously to IOUs and POU’s for the purposes of the Proposed Regulation. If the definition in § 95802 (a)(57) is not changed as described above to include the Electrical Cooperatives, the ratepayers of these entities will bear the total cost of the cap-and-trade regulation.

Accordingly, AEPSCO recommends that § 95802 (a)(57) be revised to read as follows:

“Electrical distribution utility(ies)” means an Investor Owned Utility (IOU) as defined in the Public Utilities Code section 218; a local publicly owned electric utility (POU) as defined in Public Utilities Code section 224.3; or an Electrical Cooperative as defined in Public Utilities Code section 2776, that provides electricity to retail end users in California.

We appreciate the opportunity to present these comments. We look forward to continuing a cooperative dialog on this subject in the future. If you have any questions regarding these comments, please feel free to contact me at 520-586-5122.

Sincerely,



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Manager of Environmental Services

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File: California Regulations/AB 32 Cap and Trade/Correspondence