September 27, 2011

Mary Nichols and California Air Resources Board Members
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: Comments on Second 15-Day Amendments – Voluntary Renewable Electricity Set Aside

Dear Chair Nichols and Members of the Board:

We, representatives of the undersigned organizations, appreciate the opportunity to comment on the second 15-day amendments to the California Cap on Greenhouse Gas (GHG) Emissions and Market-Based Compliance Mechanisms proposed regulations. We are very pleased to see the inclusion of a set aside for the voluntary renewable electricity (VRE) market, and commend CARB for enabling voluntary purchasers of renewable energy to continue to reduce GHG emissions. This provision will further stimulate renewable energy growth in California, thus promoting job creation and reducing GHG emissions beyond the level set by the cap.

While we appreciate the hard work of CARB staff in designing this set aside, altering a few details would enable the program to run more smoothly, present less risk to market participants, and promote more growth of renewable energy capacity within California.

Online Date

Section 95841.1(a) stipulates that only generation from facilities that served load after July 1, 2005 should be eligible for the VRE set aside. We strongly urge CARB staff to reconsider this date, as it is inconsistent with the established new date for the voluntary renewable energy market. The use of this arbitrary cutoff date would exclude a large portion of the renewable energy capacity currently serving the voluntary market in California, resulting in a reduction in environmental benefits currently supported by voluntary customers, removing an important source of revenue for these generators, and negatively impacting the clean energy industry in California.

The voluntary renewable energy market is a national market with an established 15-year rolling online date.[1] Both the U.S. Environmental Protection Agency's Green Power Partnership and Green-e Energy employ this new date. By disallowing California facilities with online dates prior to 2005 to qualify for the VRE set aside, many renewable energy facilities based in California would be excluded from participating in this national market.

Should CARB keep the 2005 new date, approximately half of California capacity selling into the voluntary renewable market would no longer be able to participate in this national market.[2] This figure includes all biomass, geothermal and landfill gas facilities, and half of the wind capacity in California that currently participates in the national

[1] For example, in 2013, the first year of the VRE set aside, facilities must have come online in 1999 to be eligible for the VRE set aside. In 2014, 2000 would be the cut off.

[2] This figure refers to renewable energy capacity based in California and participating in the Green-e Energy program.

voluntary market. These are generators that anticipated REC revenue from the voluntary market in order to be built, and by using a 2005 new date they would no longer receive this revenue.

We suggest not setting an arbitrary new date that puts California capacity at a competitive disadvantage compared to the rest of the U.S. If CARB moves forward with the 2005 date, REC providers both in California and nationally would turn to out-of-state RECs for their green power products, and the role of California generators in this market would be diminished. This would particularly impact California utilities that offer their customers green electricity, as they tend to own their own generation capacity or buy renewable energy generated within the state.

Renewable Energy Tracking Systems

We appreciate the recognition of renewable energy tracking systems in Sections 95841.1(b)(2)(D) and (b)(3)(D). Renewable energy tracking systems are the most secure way to guarantee that RECs are properly retired, and help ensure that the correct number of allowances will be retired on behalf of each renewable energy sale.

We seek clarification regarding the required use of renewable energy tracking systems for VRE participants seeking allowance retirement. As currently written, it is unclear if renewable energy tracking systems are or ever will be required for voluntary market participants. While electronic tracking systems are a preferred means for showing REC retirement, they can be cost-prohibitive to generators below a certain size. It is recommended that if renewable energy tracking systems are required, generators below 10 MW be exempt from this requirement. Instead, for smaller generators not in a tracking system, an attestation should be required which states that the market participant has ownership of the renewable energy generation, and that they have not sold the renewable energy attributes separately to other customers or used it to make other renewable energy claims.[3]

Truing Up

While Section 95841.1 addresses many of the details necessary to effectively operate a VRE set aside, the one key item missing is how to account for oversubscription. CARB should outline exactly what will happen if the number of allowances requested for the VRE set aside in a given year exceeds the size of the set aside specified in Section 95870(c). These details are necessary in order to provide more certainty and less risk to market participants in the event of oversubscription.

The preferable solution is to follow the RGGI Model Rule, and "true up" allowances at the end of each compliance period. In this scenario, a predetermined amount of allowances are taken out of circulation at the beginning of the compliance period. At the end of the period, if the number of allowances requested for the voluntary market exceeds the set aside amount, then the appropriate number of allowances are taken out of circulation in the subsequent compliance period. Having a truing up mechanism reduces the risk that there won’t be enough allowances for all voluntary sales in a given year, thus providing more market certainty and aiding in the growth of renewable energy capacity in California.

[3] For sample language, please see the Green-e Energy Small Generator Attestation and the Green-e Energy Attestation From Program Participant, Appendix H to the Green-e Energy Annual Verification Instructions, both found at: http://www.green-e.org/verif_docs.html

If it is not possible to exceed the amount prescribed in Section 95870(c), it is important that CARB specifies exactly how the limited allowances will be retired on behalf of VRE market participants (i.e. will they be retired for VRE market participants on a first-come first-served basis, or will they be distributed equally among VRE market participants on a MWh or REC basis).

Thank you for the opportunity to comment, and for considering our recommendations.

Sincerely,

Andy Katz
Breathe California

Susan Stephenson
California Interfaith Power and Light

Jennifer Martin
Center for Resource Solutions

Peter Miller
Natural Resources Defense Council

Laura Wisland
Union of Concerned Scientists