

September 19, 2016

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

Re: Comments of Brookfield Energy Marketing LP on Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions

Brookfield Energy Marketing LP (Brookfield) submits these comments in response to the Air Resource Board's (ARB) *Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions*, issued July 19, 2016. Brookfield appreciates ARB Staff's work on implementation and administration of California's Cap and Trade Program and the accompanying Mandatory Reporting Regulation (MRR), and we thank ARB for the opportunity to provide formal comments. Brookfield's comments focus on documentation currently required by ARB to support the veracity of a short-term specified source claim – a subject that has not been addressed as part of the current proposed amendments to the MRR. Furthermore, we highlight through this process outstanding issues for the potential for double-counting related to the currently-designed MRR. Brookfield's input and inquiries on these issues is aimed at improving Program efficiency and clarity while also maintaining efficacy.

I. Documentation for Short-Term Specified Source Transactions

Per Section 95102(a)(358) of the MRR, “a power contract for a specified source is a contract that is contingent upon delivery of power from a particular facility, unit, or asset-controlling supplier's system that is designated at the time the transaction is executed.” The phrase “designated at the time the transaction is executed” thus requires documented proof of

intent on behalf of both the buyer and seller of specified source power, which shows that at the time the transaction was finalized each entity clearly agreed to transact specified source power. Brookfield does not take issue with the current requirement that a showing of intent be made on behalf of both the buyer and seller. Furthermore, we commend ARB on the prior work done to allow for the transacting of specified source power on a short-term basis. However, Brookfield believes ARB Staff's interpretation and administration of the current MRR language regarding proof of intent is overly narrow, thereby creating unnecessary restrictions to the ability for all market participants to transact for short-term specified source power.

Current ARB guidance, found in Section 1.3.3 of the April 2016 version of ARBs *Electric Power Entity Reporting Requirements Frequently Asked Questions (FAQs) for California's Mandatory Greenhouse Gas Reporting Regulation*, states the following:

Short-term power transactions can be verbally transacted via phone. Although an entire short-term transaction can be accomplished via voice record, both buyer and seller may have very different opinions about what product was actually transacted, e.g., whether specified or unspecified power was transacted. Thus, not all short-term transactions may result in an explicit acknowledgement between buyer and seller of the type of power transacted. In this scenario, an EPE may use the voice tape to indicate that the buyer agreed to a specified source product prior to execution of the transaction, and thereby establish evidence of seller warranty, which can then be used as evidence during the verification process.

Per the guidance language, ARB requires voice recording to support the intent of the buyer and seller at the time a transaction occurs. While additional documentation may be provided to support the claim, a voice recording tied to the transaction will always be necessary to establish evidence that the buyer and seller agreed to transact specified source power where trade-specific written confirmations are not used. The problem at hand is a simple: i) negotiations with other market participants have revealed an unwillingness to engage in daily written confirmations and ii) not all entities enlist the use of recorded phone lines to engage in

trading activities. Instead, some entities utilize email to finalize the intent of a transaction, while others may use instant messaging or some other function to agree to terms, in addition to formal written confirmations between the transacting parties (though rarely daily written confirmations). Thus, by requiring that recorded lines be used to support all short-term specified source claims ARB has restricted some market participants from engaging in the sale or purchase of this market product – despite other available means of supporting the intent at the time of a transaction.

Brookfield urges ARB to consider alternatives to the current implementation of Section 95102(a)(358) of the MRR, by first considering the preferred confirmation practices when contemplating any changes to documentation requirements.¹ Furthermore, ARB should consider enabling – without voice recording – the usage of time-stamped email, archived print screens of an instant messaging conversation or instant messaging logs to serve as main support for a short-term specified source claim. If necessary, formal written confirmations like those described above could be used as supporting documentation to the time-stamped email or instant messaging record. Brookfield has been unable to determine why, in particular, providing time-stamped email exchanges, archived print screens of instant messaging conversations between counterparties or instant messaging logs, that explicitly state the terms of a short-term transaction – including acknowledgment of the transaction as the sale and purchase of specified source power, would fail to meet the requirement that intent be shown at the time the transaction occurred. Furthermore, we do not believe such changes would be at odds with the intent of AB 32 or the goals of the Cap and Trade Program. Importantly, because the requirement for voice

¹ Discussions have indicated a preference for weekly and monthly confirms that consists of either the WSPP attachment C-SS with all the specified source trades agreed to for a given week or month included or a custom confirm for specified source, which includes the seller warranty with all the specified source trades agreed to for a given week or month.

record is not explicit in the MRR, we believe such a change requires only a revision to the ARB's guidance document.

II. REC Reporting Requirements

Due to RPS eligibility rules, certain California eligible renewable energy resources (ERRs) generate electricity that does not count toward California RPS compliance. For example, the portion of incremental output counting toward California RPS eligibility may be determined using a methodology which considers a historical baseline and a renewable baseline.² The historical baseline is not counted as eligible under California's RPS, but RECs associated with the historical baseline generation are still created and may be considered eligible under another state's program. Although ARB's prior guidance has addressed REC reporting requirements for specified source imports from facilities that are California ERRs and, separately, from facilities that are not California ERRs,³ it is not explicitly clear how RECs from specified source imports should be treated when the associated RECs, despite being produced by a California ERR, are ineligible under California's RPS. The lack of clarity on treatment of these RECs creates questions and concerns regarding the potential for (or at minimum, appearance of) double-counting of environmental attributes if California-ineligible RECs associated with a specified source import from an ERR are sold under a different state's renewable energy program.

To address this gap, we suggest that ARB require all RECs associated with specified source imports be retired and reportable (i.e., serial numbers) regardless of

² See: California Energy Commission Renewables Portfolio Standard Eligibility Guidebook, issued June 2015: <http://www.energy.ca.gov/2015publications/CEC-300-2015-001/CEC-300-2015-001-ED8-CMF.pdf>

³ See: ARB Electric Power Entity Reporting Requirements Frequently Asked Questions, Section 4: <https://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep-power/epe-faqs.pdf>

California RPS eligibility or RPS Adjustment claim. Doing so would provide the market with clarity it currently lacks and prevent any possibility of counting the same MWh of energy toward carbon goals in one jurisdiction and the RECs toward clean energy goals in another. Furthermore, we recommend that ARB work with the Western Energy Coordinating Council, more broadly, in order to expand the Western Renewable Energy Generation Information System (WREGIS) to track all sources of generation – renewable source or otherwise, generated or consumed in the state. This practice is currently used in New England through the New England Power Pool’s Generation Information System (GIS), which issues and tracks certificates for all MWh of generation, imports and load associated with the ISO New England control area. Similarly, PJM relies upon the Generation Attribute Tracking System (GATS) to track all generation and load served in the PJM control area, and NYSERDA’s New York Generation Attribute Tracking System (NYGATS) was recently developed to track all electricity generated in New York and imports consumed in the state. Each of these systems is designed to track the attributes associated with generation and consumption and to prevent the possibility that the generation attributes from the same MWh might be counted more than once by the applicable region or elsewhere. ARB should seek to promote the same result through WREGIS to avoid further confusion and inadvertent outcomes.

III. Conclusion

Brookfield appreciates the opportunity to participate in ARB’s public stakeholder process, and we look forward to continued program improvements. Should you have any questions regarding the issues raised in our comments please don’t hesitate to contact me directly by email at steven.zuretti@brookfieldrenewable.com or by phone at 310-849-3210.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Zuretti". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Steve Zuretti
Director, Regulatory Affairs
Brookfield Energy Marketing LP