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October 19, 2015 | Submitted Electronically

Mary Nichols, Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95184

Re: SCPPA Comments on Cap-and-Trade Regulation 2016 Amendments

Thank you for the opportunity to provide comments on potential amendments to the Cap-and-Trade Regulation as presented at the October 2, 2015 public workshop on "Potential 2016 Amendments to the Cap-and-Trade Regulation and California Plan for 111(d) Compliance."

The Southern California Public Power Authority (SCPPA) is a joint powers agency whose members include the cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles, Pasadena, Riverside, and Vernon, and the Imperial Irrigation District. Each Member owns and operates a publicly-owned electric utility governed by a board of local officials. Our Members collectively serve nearly five million people in Southern California.

We look forward to working with ARB, other state agencies and stakeholders as the 2016 Cap-and-Trade Regulation Amendments are developed to ensure that the policies considered and the programs ultimately adopted by the State affordably yield the greatest benefits for Californians. SCPPA looks forward to actively participating in the announced upcoming workshops where many of the details of the program will be discussed. At this time, we would like to highlight some broad policy positions that should be considered throughout the process.

- **Allowance Allocations to Electric Utilities Must Be Maintained.** ARB must retain the current methodology for directly allocating allowances to electric utilities through and beyond 2020. No adjustments to the existing 2013-2020 allocation are warranted; adjusting an electric utility's allocation in the third compliance period would unfairly and unreasonably penalize electric utilities that proactively reduced use of, or divested entirely from, long-term ratepayer investments in higher-emitting power plants early in order to comply with California's climate goals more quickly. This would send a negative policy signal that continued efforts by California utilities to transition away from contractual obligations with higher-emitting generating resources early would be imprudent. California utilities that undertake such efforts to divest from coal-fired resources earlier than required should retain their free allowance allocations to help offset the stranded asset costs and the higher cost of the replacement energy. SCPPA urges ARB to ensure that ratepayer impacts are minimized to the maximum extent possible. Additionally, we recommend the following:
  - The total allocation to the electric sector must be *increased* commensurate with expected growth from transportation electrification initiatives, as outlined in Senate Bill 350 (de Leon, 2015): "Policies to be considered shall include, but are not limited to, an allocation of greenhouse gas emissions allowances to retail sellers and local publicly owned electric utilities, or other regulatory mechanisms, to account for increased greenhouse gas emissions in the electric sector from transportation electrification." We urge ARB to consider how an allocation of free allowances to electric utilities can best promote and accelerate transportation electrification initiatives – including initiatives for the build-out and maintenance of vehicle charging infrastructure.
  - The regulation should clearly indicate that any "banked" allowances will be allowed to carry over beyond 2020.

- **EPA Clean Power Plan Implementation.** ARB must consider issues associated with implementation of the U.S. Environmental Protection Agency's (EPA) Clean Power Plan (CPP) Section 111(d) requirements and take the time necessary to address these issues. SCPPA appreciates ARB's desire to protect the integrity of California's Cap-and-

Trade Program. SCPPA also appreciates how important out-of-state resources are to many California utilities to ensure power supply and system reliability, and to minimize costs for California ratepayers; that California leaders desire to expand the California Independent System Operator (CAISO) into a broader regional entity (including the Energy Imbalance Market); and that all other Western states are now also evaluating how they will comply with the Clean Power Plan as EPA seeks to promote broader regional cooperation, particularly through inter-state trading across the West to garner even more significant carbon emissions reductions. Specifically, SCPPA requests that ARB consider and clarify the following:

- **How imported electricity is treated under Cap-and-Trade and its compliance requirements.** SCPPA is keenly aware that AB 32 requires that the State take imported electricity into account in its evaluation of GHG emissions while the CPP (as a nationwide regulation on emissions sources as opposed to overall emissions within a state) does not. The compliance requirements other Western states may place upon their generating resources that supply electricity to California should therefore be addressed such that California's utilities are not unduly subjected to "double compliance" burdens that unfairly raise costs for California ratepayers.
- **Federal enforceability of Cap-and-Trade and of the backstop measure.** SCPPA seeks clarification on how ARB intends to design a federally-enforceable backstop, particularly in relation to the Cap-and-Trade Regulation for California utilities. As SCPPA and other California utilities have previously indicated, the principal benefit of the "state measures approach" is that existing state programs can continue to operate without the imposition of additional burdens or regulatory requirements associated with a plan so long as the state measures achieve carbon performance standards established by the CPP.
- **Streamlining and aligning reporting requirements.** Any CPP implementation amendments should maximize compliance flexibility for regulated entities, and align and streamline administrative reporting obligations.
- **Regional implications of the Cap-and-Trade Program.** SCPPA is also interested in how ARB views the ability of regulated entities in California's Cap-and-Trade Program to use and trade emissions allowances with affected sources in New York – whose governor recently expressed the desire to examine creating a "North American" carbon market – or other states through the emissions trading mechanisms established under the Clean Power Plan. A similar set of issues arises for the trading and use of emissions allowances with sources in Quebec and potentially other Canadian provinces in the future that are not subject to the Clean Power Plan.

- **Cost Containment.** ARB has acknowledged that a Cap-and-Trade cost containment mechanism is critical to ensure the Program's long-term regulatory success and to ensure political stability. In Resolution 13-44, the Board directed that staff develop a plan for a post-2020 Cap-and-Trade Program (including cost containment) prior to 2018 to provide market certainty and to address a potential 2030 emissions reduction target. Governor Jerry Brown has since instituted a 2030 emissions reduction target (via Executive Order B-30-15 issued on April 29, 2015), which was subsequently included in recently-enacted legislation (SB 350 signed into law on October 7, 2015). SCPPA has long urged that ARB not wait until 2017 to act; the "California Utilities" had also previously provided ARB with recommendations on potential measures towards constructing a robust cost containment structure. Given these newly-mandated policy goals, we strongly urge ARB to engage stakeholders as soon as possible – while the market is stable – to design, test, and implement a credible and enforceable cost containment mechanism rather than waiting until abatement costs escalate due to market fluctuations or a market crisis sets in. This should, at minimum, include stringent monitoring of the market (including trading houses) and a re-evaluation of using escrow services provided by Deutsche Bank, which was implicated in the London Interbank Offered Rate (LIBOR) index rigging scandal. Having a clear and transparently-developed cost containment measure would provide regulated entities with the information and the confidence necessary to make policy decisions and prioritize investments in the appropriate areas.

- **Reflect Latest Data and Information.** SCPPA urges ARB to incorporate evaluation of and modeling for policies that can help regulated entities achieve climate change goals. This includes the latest data and information on transportation electrification initiatives (including for heavy-duty hybrid trucks) and along broader regional efforts. SCPPA urges ARB to work with the California Energy Commission, CAISO, and the California Public Utilities Commission to conduct detailed modeling of the final rule and potential implementation avenues under a mass- and rate-based approach to assess whether and to ensure that the proposals will work without huge costs or risks to California consumers. The modeling should also evaluate inter-state benefits and impacts given the inter-connected nature of the Western

electricity grid, and the significant change EPA made to the final rule specifically to promote regional cooperation. This modeling should be conducted in an open and transparent manner, and assess how California can contribute to broader regional collaboration as other Western states assess using a mass- or rate-based approach and potential inter-state trading opportunities to comply with Clean Power Plan requirements.

- **GHG Emissions Reduction Targets for Utilities.** SCPPA requests additional information about, and collaboration with, ARB as it develops greenhouse gas emissions reduction targets in coordination with the California Energy Commission. Senate Bill 350 requires that electric utilities in the state develop an Integrated Resource Plan that demonstrates how the utility will meet GHG emissions reductions targets for the electricity sector and the utility reflecting the electricity sector's percentage of the economy-wide GHG emissions reduction targets of 40% below 1990 levels by 2030. SCPPA specifically asks:
  - What process will ARB undertake to establish the 2030 GHG targets for affected publicly-owned utilities?
  - How will these targets impact the allowance markets and potential for interstate trading?
  - How will the local governing boards of California's publicly-owned utilities influence determinations and future compliance – including any cost containment triggers?

SCPPA would also like to take this opportunity to identify other technical comments for discussion with ARB staff:

- **RPS Adjustment.** SCPPA strongly believes that the Renewables Portfolio Standard (RPS) Adjustment must be retained in the Regulation. Imported renewable electricity resources are essential for many California utilities towards achieving California's increasing RPS target – and will likely continue being so. The RPS, along with the Cap-and-Trade Regulation, are key regulations in the State's efforts to reduce GHG emissions and should complement one another; one program should not reduce the effectiveness of another. Out-of-state renewables are one means of achieving the State's RPS, which combined with the implementation of the federal Clean Power Plan, potential expansion of CAISO and its Energy Imbalance Market, and increasing land-use restrictions that inhibit the ability to build large-scale renewable projects in California (*e.g.*, the Los Angeles County Board of Supervisors recently approved a "Renewables Energy Ordinance" that banned the construction of utility-scale wind projects in unincorporated areas, and placed onerous restrictions on utility-scale solar and associated transmissions projects as well), the RPS Adjustment should ensure fair treatment of RPS-compliant contracts and investments.

  In the October 2011 Final Statement of Reasons for the Mandatory Reporting Regulation amendments (at page 108) ARB states that the RPS Adjustment is "an adjustment to the compliance obligation to recognize the cost to comply with the RPS program" and "ARB included the RPS Adjustment for the specific purpose of reducing the cost of RPS compliance that would be born directly or indirectly by entities that must comply with California's RPS program." The RPS Adjustment is important to offset the Cap-and-Trade compliance cost for imported renewable energy that is indirectly delivered. ARB's concern about double counting can be favorably resolved through good communication between reporting entities and thorough review by the verifiers. It is unnecessary to eliminate the RPS Adjustment credit, and doing so would impose significant additional and unexpected compliance costs on California electric utilities and consumers.

  SCPPA recommends that ARB make the following improvements to the RPS Adjustment:
  - **Properly crediting the 2% transmission line loss correction factor.** The RPS Adjustment does not fully offset GHG emissions for imported renewable electricity that is not directly delivered since it does not include proper crediting for the 2% transmission line loss factor that is automatically added to all unspecified imports including indirectly delivered renewable energy. The transmission line loss factor (which *is* for GHG emissions accounting purposes) should be credited under the RPS Adjustment (which *is not* a recognition of avoided emissions but an adjustment to the Cap-and-Trade compliance obligation). Directly and indirectly delivered renewable energy should be treated equally; there should be no Cap-and-Trade compliance obligation for either one. Adding credit for the 2% transmission line loss factor to the RPS Adjustment will treat directly and indirectly delivered renewable energy equally for purposes of the Cap-and-Trade compliance obligation and will not affect the GHG emissions inventory.

- **Clarifying the Renewable Energy Credit (REC) retirement deadline for RPS Adjustment purposes.** Currently, Section 95852(b)(4) states that RECs must be placed into a retirement account within 45 days of the reporting deadline for the year for which the RPS Adjustment is claimed. "Within 45 days" could be interpreted as between April 15 and July 15. We understand from ARB staff that the intent was to allow RECs to be retired *up to* 45 days after the reporting due date. The rule language should be clarified to specify that RECs claimed for the RPS Adjustment must be retired no later than 45 days following the June 1 reporting deadline.
- **Crediting voluntary green power programs.** The RPS Adjustment applies only to indirectly delivered renewable electricity that is used for RPS Compliance. It does not apply to indirectly delivered renewable electricity that some utilities procure on behalf of "voluntary" green power program customers who pay premiums for the procurement of renewable electricity *above and beyond* a utility's RPS mandate in order to offset their own electricity consumption. This is because the RECs associated with the energy imported for these program customers are not designated as "retired" in the California Energy Commission's accounting system for the purpose of complying with the RPS. Accounting for these voluntary programs was also recognized in the recently-enacted SB 350 and will likely need to be implemented via a rulemaking. SCPPA recommends adding a credit similar to the RPS Adjustment that applies to voluntary green power programs to ensure equal treatment for renewable power procured on behalf of utility customers and to properly reward such initiative taken by individual California consumers.

- **Emergency Exemption for Imported Electricity should apply for <u>ALL</u> California Balancing Authorities.** SCPPA recommends that the definition of "imported electricity" be revised to treat *all* California Balancing Authorities equally. Currently, the "emergency exemption" from reporting and compliance obligations for electricity imported into California for emergency assistance applies only to CAISO. However, all Balancing Authorities have the same responsibility to ensure grid reliability. ARB should ensure that the Regulation treats emergency situations equitably for *all* California consumers – not just those served through CAISO.

- **Qualified Export Adjustment.** The Qualified Export Adjustment does not adequately credit exported electricity. While the intent of this provision was to provide emissions credit for electricity exported from California (in lieu of a "border adjustment"), it does not accomplish that intent. Currently, Section 95852(b)(5) requires the lowest emissions factor from any portion of the imports or exports within each hour be used to calculate the credit. Since most SCPPA member utilities import zero-emission energy (*e.g.*, Hoover Dam, renewables)to comply with California's RPS Program, the lowest emission factor in every hour is zero, which results in zero credit for exported electricity. As a result, California consumers are paying the Cap-and-Trade compliance cost for electricity that is consumed in other states, which is particularly punitive. To address this unintended consequence, SCPPA previously proposed changing the lowest emissions factor used to calculate the Qualified Export Adjustment to the default emissions factor in order to correspond with unspecified imports during each hour. Alternately, the Qualified Export Adjustment could be eliminated by simply deducting emissions for exported electricity on the "Exports" tabs of the Electric Power Entity report from the entity's covered emissions. Deducting emissions for exported electricity is important to accurately reflect GHG emissions for electricity consumed in California (as required by AB 32). There is also pending legislation that proposes to apply GHG emissions data reported to ARB to the California Energy Commission's Power Content Label for electric utility retail sales within California. Emissions for exported electricity should be excluded from covered emissions.

- **Asset Controlling Supplier (ACS) Power.** SCPPA remains extremely concerned with the inconsistent "actual" versus "paperwork" emissions profile treatment of imported zero- and low-GHG emission electricity. For example, directly delivered null power (renewable energy without the RECs) must be reported as specified with a zero emission factor even though the importer purchased the energy without the environmental attributes (RECs). In contrast, directly delivered ACS power must now be reported as unspecified with the (higher) default emission factor instead of the (lower) ACS emissions factor if the importer did not pay a "premium" to the seller to label the power as specified (with environmental attributes). SCPPA continues to question why, if power from another renewable facility is treated as zero emission *without* having to pay a premium to buy the environmental attributes, why ACS system-generated power is treated differently (why isn't power generated by an ACS system treated as low-GHG without having to pay a premium to buy the environmental attributes?). Prior to 2014, all imported ACS power was reported as specified with

the corresponding low-GHG emissions factor and was counted as low-GHG in the statewide GHG emissions inventory. That changed with the 2013 amendments to the Mandatory Reporting Regulation when ARB inserted new contract labeling requirements for ACS power that benefits non-California Asset Controlling Suppliers *to the detriment of* California utilities and consumers *as well as discounting the State's progress towards meeting more aggressive climate change goals*. This must be corrected – especially as California leaders advance a broader regional role for the CAISO, the CAISO Energy Imbalance Market, and the Renewable Energy Transmission Initiative 2.0 effort – to ensure parity and the consistent treatment of power sources market-wide. Counting ACS power as unspecified will hurt California's progress towards achieving its GHG emission reduction goals. This cannot be the State's intent.

- **Programmatic Improvements.** SCPPA greatly appreciates ARB's recognition of and efforts to streamline or eliminate some regulatory requirements. SCPPA urges ARB to work with other state and possibly federal agencies to coordinate data reporting efforts to the greatest extent possible; currently, information reported to one agency is often used in other reports for other state agencies. Linking state and federal data reporting and its usage would help to reduce duplicative work efforts and ensure consistency in reporting which, in turn, improves programmatic understanding and clarifies whether program goals are being achieved or not. We recommend that ARB:
  - Provide as-needed reminders for upcoming deadlines to assist regulated entities towards compliance.
  - Ensure that reporting associated with federal Clean Power Plan compliance matches existing reporting requirements and uses the same data and definitions to the greatest extent possible in order to streamline processes and to avoid over-burdening reporting entities with limited staff resources.
  - Work to improve the information in CITSS as it does not currently include a true and easily legible accounting of past and current actions. SCPPA recommends that ARB work to simplify how allowances are accounted for in CITSS between the various accounts as CITSS does not make it easy to manage and track these allowances.
  - Work to ensure that the verification and update of members involved with CITSS and Cap-and-Trade data is conducted in a more reasonable and easy-to-administer manner.
  - Provide greater transparency and linkage within the context of AB 32, the Low Carbon Fuel Standard, EPA reporting, the Mandatory Reporting Regulation, and the Cap-and-Trade Regulation. There are limited staff resources available to handle the growing data reporting burden for these climate change-related programs. Striving to do so would likely make compliance easier and end-use reporting much more fluid and transparent.
  - Revisit the cumbersome "know your customer" rules with the aim of simplifying and streamlining them.
  - Enable electronic submittal of documents and streamline auction paperwork. SCPPA would support the electronic signature proposals and removal of the "intent to bid" requirement. Both help to reduce administrative burdens and should save time for participants as well as for ARB staff. SCPPA also recommends streamlining attestation requirements by promoting e-signature submittals on-line and electronic submittals for updating corporate associations – both of which would be fabulous technological improvements.
  - Better manages information. SCPPA urges ARB to use the same definitions consistently.

- **Maintain Environmental and Market Integrity.** Another important issue relates to the Cap-and-Trade requirement to surrender emission allowances for emissions that occur outside of California (*i.e.*, emissions from imported electricity). SCPPA believes that it is vital for ARB to obtain clarification from EPA as to how these components of the Cap-and-Trade Program would be viewed before submitting a state measures plan that relies on the Cap-and-Trade program as its primary or only state measure.

Thank you for your time and consideration.

Respectfully submitted,

Tanya DeRivi
Director of Government Affairs