Qualcomm Incorporated

5775 Morehouse Drive, San Diego, CA 92121-1714
www.qualcomm.com

October 27, 2017

Rajinder Sahota
Chief, Climate Change Program Planning & Management Branch
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: Qualcomm Comments on Scope of Amendments for 2018 Cap-and-Trade Rulemaking.

Dear Ms. Sahota:

Qualcomm Inc. provides the following comments in response to the California Air Resources Board's ("ARB") October 12, 2017 Cap-and-Trade Workshop. During the workshop, the ARB staff discussed the potential scope of amendments staff plans to propose in the next Cap-and-Trade Rulemaking, including the implementation of AB 398. Qualcomm respectfully requests that the ARB include two additional amendments in the scope of the upcoming rulemaking that were not discussed at the October 12th workshop.

First, the "but-for-CHP" provision should be amended to ensure that individual and operationally distinct cogeneration units within a single facility are not subject to a direct cap-and-trade compliance obligation when each cogeneration unit's emissions are below 25,000 MT, or when the individual cogeneration unit would otherwise qualify for the but-for-CHP exemption on its own. This clarification is needed to effectuate the original intent of Board Resolution 12-33, which directed the inclusion of the but-for-CHP exemption. As currently applied, the cap-and-trade regulation creates a direct compliance obligation for an owner of multiple, functionally distinct cogeneration units solely due to common ownership and co-location of multiple cogeneration units. These cogeneration units are operated separately, were permitted separately, and have separately metered gas supplies. However, due to the broad definition of "facility" in the Mandatory Reporting Regulation, they are aggregated and cannot qualify for the but-for-CHP exemption. A similarly situated owner of a single cogeneration facility does not pay direct cap-and-trade compliance costs, whereas large employers like Qualcomm that operate corporate campuses in California are subject to direct cap-and-trade compliance costs irrespective of their investment in new, and efficient CHP facilities. To ensure that similarly situated entities are treated similarly, the ARB could quickly issue guidance language clarifying the application of the but-for-CHP exemption. Alternatively, this issue should be scoped into the upcoming Rulemaking.

Second, the ARB should evaluate the inclusion of energy intensive tech companies in the list of eligible Emissions Intensive Trade Exposed ("EITE") industries. Specifically, companies with NAICS Code Section 541990 (engineering, research and development) may qualify as EITE, but have not been studied to date due to the timing of when those companies started operations and came into the program. In addition to scoping in the but-for-CHP exemption, Qualcomm respectfully requests that the ARB include Table 8-1 in the scope of the upcoming Rulemaking and specifically evaluate NAICS Code Section 541990.

I. The ARB Should Clarify the But-for-CHP Exemption.

Board Resolution 12-33 and the but-for-CHP exemption were intended to incentivize new, efficient distributed electricity generation technologies, such as Combined Heat and Power ("CHP"). Section 95852(j) sets forth an important exemption that applies to any "facility with a cogeneration unit that meets the requirements of this section." Based on the language in the exemption, Qualcomm believes that the exemption would be calculated for each "cogeneration unit." It is not clear from the language in Section 95852(j) whether the limited exemption applies at the cogeneration unit level or at the facility level. There are instances where there are multiple cogeneration units within a single facility boundary. The facility definition set forth in the Mandatory Reporting Regulation is broad and in certain instances encompasses multiple cogeneration units that are functionally separate, but are nevertheless part of the same facility due to common ownership. In these instances, if the cogeneration units are functionally separate, the exemption should be applied separately to each cogeneration unit. The ARB should amend Section 95852(j) to clarify that when cogeneration units are operated independently from one another, have separate air permits, and the thermal output is put to separate uses, then the cogeneration units will be evaluated separately under Section 95852(j). In these instances, the calculation set forth in Section 95852(j) should be calculated for each cogeneration unit. If each cogeneration unit satisfies the two conditions set forth in Section 95852(j)(1)(A) and (B), then each cogeneration unit should qualify for the exemption and the total emissions associated with the "facility" should be eligible for the limited exemption.

II. Qualcomm Supports The Evaluation of New EITE Designations.

As a matter of consistency, the ARB should evaluate new EITE designations for entities it may have overlooked in the initial EITE studies it prepared early in the Cap-and-Trade Rulemaking process. California's industrial sector is dynamic and ever-changing. It is also exposed to competition and trade exposure because other states do not place expensive GHG emissions controls on industrial activities. Many industries with emissions starting after 2012 were not studied for inclusion as EITE industries. In addition, companies that are trade exposed solely due to their electricity usage (and that have no direct emissions), may also face leakage risks due to the indirect GHG costs in electricity rates. The ARB should update its list of EITE entities to ensure that similarly situated companies within the industrial sector are treated comparably and the ARB achieves the statutory direction in AB 32 to minimize leakage risks.

Qualcomm appreciates the opportunity to submit these comments and welcomes the opportunity to work collaboratively with the ARB staff to ensure equitable treatment of large employers such as Qualcomm.

Sincerely,

Respectfully submitted,

Gail Welch

Gail Welch
Director of Corporate Sustainability
Qualcomm, Inc.