

13-9-9



F. Jackson Stoddard
Manatt, Phelps & Phillips, LLP
Direct Dial: (415) 291-7548
E-mail: JStoddard@manatt.com

October 24, 2013

VIA E-FILING AND EMAIL

Dr. Steven Cliff
California Air Resources Board
1001 I Street
Sacramento, California 95812

Re: Comments of the County of Los Angeles on Proposed Amendments to Cap and Trade Regulation

Dear Dr. Cliff:

The County of Los Angeles ("LA County" or "the County") submits the following comments on the proposed amendments to the Cap and Trade Regulation ("Proposed Amendments"), as set forth in the September 4, 2013 Proposed Regulation Order, to be considered for adoption by the California Air Resources Board ("ARB" or "Board") on October 24, 2013.¹

I. INTRODUCTION

LA County greatly appreciates ARB staff's efforts to provide transition relief to the County and similarly situated municipal entities in order to ensure that the County can continue to invest in energy efficiency and other greenhouse gas ("GHG") reduction measures.

The County strongly supports allocating allowances to University Covered Entities and Public Service Facilities. While the County supports the general approach contemplated by the Proposed Amendments, however, it respectfully requests clarification and modification of certain provisions pertinent to Public Service Facilities in order to ensure that the effect of the regulation is consistent with ARB's intent.

Specifically, the County requests: (1) modification of the definition of Public Service Facility so as not to exclude facilities that sell a portion of chilled water and steam production to third parties; and, (2) modification of the allocation formula in order to clarify that the allowance

¹ California Air Resources Board Discussion Draft July 2013, Amendments to Title 17 California Code of Regulations, sections 95800-96023.

Dr. Steven Cliff
October 24, 2013
Page 2

allocation for Public Service Facilities will include power provided to public entities at offsite facilities separate from the generation facility.

II. BACKGROUND

A. About LA County's Interests In this Proceeding

LA County faces significant GHG compliance costs resulting from emissions produced by two 25 MW cogeneration facilities owned and operated by the County. Each facility is responsible for approximately 100,000 tons of CO₂ production annually.

The Pitchess Detention Center cogenerator ("Pitchess Cogen") provides steam and electricity for the Pitchess Detention Center which is owned and operated by the County. The County sells, on average, 20 MW of the Pitchess Cogen's electrical output to Southern California Edison ("SCE") pursuant to a 1985 power purchase agreement.

The Civic Center cogenerator ("Civic Center Cogen") provides steam, chilled water and electricity to facilities throughout the County, nearly all of which are owned and/or operated by the County, such as the Hall of Administration and the Disney Center, and two of which are not, the Catholic Archdiocese and the Los Angeles Law Library. The County wheels approximately 21 MW of Civic Center Cogen's electrical output over Los Angeles Department of Power and Water ("LADWP") transmission facilities for use at other County facilities and utilizes 3 MW onsite for chillers and ancillary equipment.²

Between 2002 and 2006, the County invested over \$3 million in efficiency upgrades to the Civic Center Cogen. As a result, the Civic Center Cogen has a significantly lower GHG emissions factor than LADWP grid power. If the County is forced to shut down the Civic Center Cogen due to high operating costs, it will serve the load currently served by Civic Center with purchased power supplied by LADWP, resulting in a net increase in GHG emissions.

In addition to the GHG compliance costs for the County's cogeneration facilities, LA County faces significant embedded GHG costs in utility electric rates. LA County is SCE's largest customer and one of LADWP's largest customers. Pursuant to California Public Utilities Commission Decision ("D.")12-12-033, SCE will provide rebates to certain classes of ratepayers to offset embedded GHG compliance costs. Rebates will be provided to emissions intensive and trade exposed industrial, small business, and residential ratepayers. No rebate will be provided

² In previous informal comments to ARB staff the County incorrectly stated that power produced by Civic Center Cogen was being sold to LADWP. In fact, however, LA County wheels the power over LADWP transmission facilities for use at other County owned facilities. This arrangement is subject to a contract between LADWP and LA County.

Dr. Steven Cliff
October 24, 2013
Page 3

to local governments. The County will receive a de minimus GHG revenue rebate for power purchased from SCE under the small business rate schedule, which is approximately 3% of the County's total load. The vast majority of the County's load is on SCE rate schedules for large customers, which were excluded from relief per D.12-12-033 and Senate Bill 1018.

The County has demonstrated leadership on energy efficiency and sustainability through a number of initiatives, many of which are ongoing. Based on current and planned actions alone, the County will reduce GHG emissions by 15% below 2009 levels by 2020, consistent with the target set by the ARB Scoping Plan. The County's Climate Action Plan, however, shows that the County is likely to exceed the AB 32 target. In addition to achieving GHG reductions in County facilities, the County has developed and supports a number of county-wide and regional programs to facilitate GHG reductions in buildings owned by private businesses and individuals as well as other public agencies. The County anticipates reinvesting any cost savings resulting from allocation of allowances in future additional GHG reduction measures.

III. REQUEST FOR MODIFICATION OF PROPOSED AMENDMENT

LA County proposes the following modifications to the Proposed Amendments prior to adoption by the Board.

A. Definition of Public Service Facility

The definition of Public Service Facility in the Proposed Amendment would limit relief to facilities that "provide steam and chilled water solely to buildings owned by the local government, and may also provide electricity to its own facilities or for sale to an electrical distribution utility."³ The County proposes modifying this provision to be consistent with the definition of University Covered Entity so as not to exclude from relief facilities which sell chilled water and steam.

As described above, the County provides chilled water and steam, but not electricity, to multiple County owned and/or operated facilities, and to two non-County entities, the LA Catholic Archdiocese Cathedral and the Los Angeles Law Library. Under the current Proposed Amendment, the Civic Center Cogen would not be eligible for an allocation of allowances as a Public Service Facility. No similar restriction on sales of steam and chilled water for offsite use applies to University Covered Entities.⁴

It is unclear what purpose would be served by excluding facilities which provide steam and chilled water to third party-owned facilities. To the degree that ARB wishes to avoid

³ Proposed Amendment, p. 41.

⁴ See Proposed Amendment, p. 51.

Dr. Steven Cliff
October 24, 2013
Page 4

allocating allowances to Public Service Facilities for emissions resulting from the sale of chilled water and steam provided to third parties, it should be addressed through the allocation formula, as described below.

As such, the County requests that the definition of Public Service Facility be modified as follows:

“Public Service Facility” means a facility that is a covered entity or opt-in covered entity owned by a local government as defined in Government Code section 53720(a), excluding facilities owned or operated by an electrical distribution utility, ~~that provides steam and chilled water solely to buildings and facilities owned by the local government, and may also~~ which may provide electricity to its own facilities or for sale to an electrical distribution utility.

B. Allowance Allocation Formula for Public Service Facilities

The Proposed Amendment provides for the direct allocation of allowances to Public Service Facilities. The amount of allowances to be allocated is determined by the allocation formula described in section 95891(e). The allocation formula, simplified for the purposes of these comments, would result in an allocation of allowances based on average historical fuel consumption minus power sold or provided for offsite use. While LA County is strongly supportive of allocating allowances for operation of Public Service Facilities, it suggests the following limited modifications to this provision.

- 1. Power produced by a Public Service Facility which is used by the local government at offsite facilities should not be included in e_{sold} .**

The definition of e_{sold} in section 95891(e)(1) of the Proposed Amendment, would exclude from the allocation formula any power generated by the Civic Center Cogen, wheeled over LADWP transmission facilities, and used by the County at “offsite” facilities.⁵ Specifically, the phrase “or provided for off-site use” could be read to exclude from the allocation formula all power wheeled to the Hall of Administration and other County facilities not directly adjacent to the Civic Center Cogen. Given that the significant majority of power output from the Civic Center Cogen is wheeled over LADWP facilities for offsite use at other County-owned facilities, this restriction would completely eliminate any transition assistance for power output from the Civic Center Cogen.

⁵ “Wheeled” power, within the context of these comments, means the provision of power

Dr. Steven Cliff
October 24, 2013
Page 5

It is the County's understanding that the purpose of excluding e_{sold} from the allocation formula is to ensure that transition assistance is not provided for GHG compliance costs which may be passed on to an end-user, such as a power purchaser. This purpose is not served by restricting the County's ability to wheel power to itself. As such, the definition of e_{sold} in section 95891(e)(1) should be modified as follows:

" e_{sold} " is the historical baseline arithmetic mean amount of electricity sold to an entity other than the university or local government which owns the Public Service Facility or provided for off-site use, measured in MWhs.

2. **If the definition of Public Service Facility is modified as described above, the allocation formula should be modified to subtract allowances for sales of chilled water and steam.**

Pursuant to the allocation formula in the Proposed Amendment, simplified for the purposes of these comments, eligible entities would be allocated allowances based on average historical fuel consumption minus power sold or provided for offsite use. If the definition of Public Service Facility is modified to include facilities that sell chilled power and water to unaffiliated entities, as proposed above, the allocation formula should be modified to subtract emissions associated with the production of chilled water and steam.

IV. CONCLUSION

The County strongly supports the allocation of allowances for Public Service Facilities. ARB should move to adopt the Proposed Amendment with the limited clarifications and modifications described above.

Dr. Steven Cliff
October 24, 2013
Page 6

Sincerely,

/s/ F. Jackson Stoddard

F. Jackson Stoddard
Attorney for the County of Los Angeles

cc: Virgil Welch
Richard Corey
Howard Choy