



October 19, 2015

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

Re: Utility Comments on October 2 Air Resources Board Workshop to Discuss Proposed 2016 Amendments to the Cap-and-Trade Program

Dear Ms. Sahota:

Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison (the Utilities) welcome the opportunity to provide input on the Air Resources Board (ARB) October 2 workshop to discuss proposed 2016 amendments to the Cap-and-Trade Regulation (workshop). These comments focus on the Utilities recommended revisions to the Renewable Portfolio Standard (RPS) adjustment sections of the Cap-and-Trade Program and Mandatory Reporting Regulation (MRR).

## I. Summary of Recommendations

The Utilities strongly support ARB's Cap-and-Trade Regulation and the state's greenhouse gas (GHG) reduction programs. As articulated by ARB staff during the workshop there were a number of cases in which two entities claimed the renewable attributes from the same generation source in their 2014 emissions reports. The Utilities believe this stems from how entities interpreted the RPS adjustment provisions and thus offer specific revisions designed to address this issue in Sections II and III below. The Utilities input is based on the following key principles:

- **Any Changes Must Prevent Double-Counting and Improve Implementation:** The Utilities firmly believe that maintaining the environmental integrity of the Cap-and-Trade, MRR, and other GHG reduction programs are paramount to their success. Thus, we fully agree with ARB staff that only one entity should claim the GHG benefit of renewable energy. Additionally, given the administrative demands of Cap-and-Trade and MRR implementation for both ARB and covered entities, the changes must streamline entity compliance and ARB administration. As articulated in the recent workshop, ARB staff is understandably concerned about the number of cases of double counting seen in the 2014 reporting year.
- **Align REC Ownership with Environmental Attributes of Electricity:** Renewable Energy Credits (REC) were developed with the explicit purpose of ensuring ownership and accurate accounting of the renewable attributes of power. Moreover, under REC accounting, if the physical electricity and the associated RECs are sold separately, the electricity is no longer considered 'renewable' or 'green.' According to the United States Environmental Protection

Agency (US EPA), “If the physical electricity and the associated RECs are sold to separate buyers, the electricity is no longer considered ‘renewable’ or ‘green.’ The REC product is what conveys the attributes and benefits of the renewable electricity, not the electricity itself.”<sup>1</sup> Thus, aligning the regulations with REC ownership will prevent double counting.

- **Streamline ARB Administration and Entity Compliance:** REC accounting has been standardized in the Western Electricity Coordinating Council (WECC) region by the Western Renewable Energy Generation Information System (WREGIS). ARB’s administration of the RPS adjustment and specified source imports in the Cap-and-Trade and MRR programs, and compliance by reporting entities, could be simplified and streamlined by simply tracking volumes and ownership of RECs through the fully functional WREGIS REC accounting system.
- **Ensure Utility Customers Receive the Value of Investments in Renewable Energy:** Doing so will ensure California ratepayers are not forced to fund the procurement of millions of dollars’ worth of incremental Cap-and-Trade allowances, despite their prior investments in renewable generation. The RPS adjustment is essential to provide California utility customers the GHG benefit of the renewable procurement in which they have invested.

Accordingly, the Utilities offer the following recommendations, discussed in detail in Sections II through III.

## **II. Proposed Changes to the Cap-and-Trade Regulation**

The Utilities propose revisions to sections 95852(b)(3) and (b)(4) of the Cap-and-Trade regulation to ensure that the GHG benefits of renewable procurement are provided to those who purchased the environmental attribute of such generation. The Cap-and-Trade Regulation must clarify that only entities with ownership or permission to use the RECs can claim imports as originating from a specified source.

The Utilities’ revision to section 95852(b)(3) clarifies that an entity must meet all existing criteria for delivered electricity from a specified source, including REC serial numbers, to report the electricity as specified power. If the entity cannot meet existing criteria, it must report the electricity as unspecified power. Only the entity that owns or has permission to use the REC can claim the carbon benefit under the Cap-and-Trade Program. Similarly, the Utilities propose revising section 95852(b)(4) to clarify that an RPS adjustment cannot be claimed for electricity that meets the criteria of section 95852(b)(3). Together, these revisions will ensure the environmental integrity of the Cap-and-Trade program is maintained and protect the GHG benefits of significant investments made on behalf of California’s ratepayers.

Section 95852(b)(3): The following criteria must be met for electricity importers to claim a compliance obligation for delivered electricity based on a specified source emission factor

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<sup>1</sup> <http://www3.epa.gov/greenpower/gpmarket/rec.htm>

or asset controlling supplier emission factor. If any of the following criteria are not met, then delivered electricity must be reported as an unspecified source pursuant to section 95852(b)(1)(C).

- (A) ~~Electricity deliveries~~ Delivered electricity must be reported to ARB and emissions must be calculated pursuant to MRR section 95111.
  - (B) The electricity importer must be the facility operator or have right of ownership or a written power contract, as defined in MRR section 95102(a), to the amount of electricity claimed and generated by the facility or unit claimed;
  - (C) The electricity must be directly delivered, as defined in MRR section 95102(a), to the California grid; and
  - (D) If RECs were created for the electricity generated and reported pursuant to MRR, then the REC serial numbers must be reported and verified pursuant to MRR and the electricity importer must report and verify its exclusive rights to the RECs (i) as the facility operator with retained rights to the RECs or (ii) by having the right of ownership or a written power contract, as defined in MRR section 95102(a).
- (4) RPS adjustment. Electricity procured from or generated by an eligible renewable energy resource reported pursuant to MRR must meet the following conditions to be included in the calculation of the RPS adjustment:
- (A) The electricity importer must have:
    - 1. Ownership of, or contract rights to procure, the electricity and the associated RECs generated by the eligible renewable energy resource; or
    - 2. A contract with an entity subject to the California RPS that has ownership of, or contract rights to, the electricity and associated RECs generated by the eligible renewable energy resource, as verified pursuant to MRR.
  - (B) The RECs associated with the electricity claimed for the RPS adjustment must be placed in the retirement subaccount of the entity subject to the California RPS, and party to the contract in 95852(b)(4)(A), in the accounting system established by the CEC pursuant to PUC 399.25, and designated as retired for the purpose of compliance with the California RPS program within 45 days of the reporting deadline specified in section 95111(g) of MRR for the year for which the RPS adjustment is claimed.
  - (C) The quantity of emissions included in the RPS adjustment is calculated as the product of the default emission factor for unspecified sources, pursuant to MRR, and the reported electricity generated (MWh) that meets the requirements of this section, 95852(b)(4).
  - (D) No RPS adjustment may be claimed for ~~electricity generated by~~ an eligible renewable energy resource when its electricity meets all the criteria of section 95852(b)(3) and is claimed as a specified source by an electricity importer is directly delivered.

### III. Proposed Regulatory Changes to Mandatory Reporting Regulation

The Utilities propose revisions to sections 95111(a)(4) and (g) of the Mandatory Reporting Regulation. Specifically, the revisions to section 95111(a)(4) and 95111(g)(3) ensure the requirements for a specified source claim are consistent with the Cap-and-Trade regulation.

Revisions to section 95111 (g) remove the interim 45 days deadline to certify RPS adjustment claims and allows the third party verifier to validate the RPS adjustment through the verification period.

Finally, the Utilities propose moving section 95111 (g)(1)(M) to its own section 95111(g)(2) to reflect the fact that this section is not part of the February 1 registration report. The requirements in section 95111(g)(1)(M) are related to the June emission report, not the February registration report and so should be separately addressed.

Section 95111 (a)(4): *Imported Electricity from Specified Facilities or Units.* The electric power entity must report all direct delivery of electricity as from a specified source for facilities or units in which they are a generation providing entity (GPE) or have a written power contract to procure electricity, and meet all of the requirements of section 95852(b)(3) of the cap-and-trade regulation for specified source claims. When reporting imported electricity from specified facilities or units, the electric power entity must disaggregate electricity deliveries and associated GHG emissions by facility or unit and by first point of receipt, as applicable. The reporting entity must also report total GHG emissions and MWh from specified sources and the sum of emissions from specified sources explicitly listed as not covered pursuant to section 95852.2 of the cap-and-trade regulation. The sale or resale of specified source electricity is permitted among entities on the e-tag market path insofar as each sale or resale is for specified source electricity in which sellers have purchased and sold specified source electricity, such that each seller warrants the sale of specified source electricity and, if applicable, RECs associated with the electricity if sourced from an eligible renewable energy resource from the source through the market path.

- (A) Claims of specified sources of imported electricity, defined pursuant to section 95102(a), are calculated pursuant to section 95111(b), must meet the requirements in section 95111(g) and in section 95852(b)(3) of the cap-and-trade regulation, and must include the following information...

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*(g) Requirements for Claims of Specified Sources of Electricity, and for Eligible Renewable Energy Resources in the RPS Adjustment.*

Each reporting entity claiming specified facilities or units for imported or exported electricity must register its anticipated specified sources with ARB pursuant to subsection 95111(g)(1) and by February 1 following each data year to obtain associated emission factors calculated by ARB for use in the emissions data report required to be submitted by June 1 of the same year. If an operator fails to register a specified source by the June 1 reporting deadline specified in section 95103(e), the operator must use the emission factor provided by ARB for a specified facility or unit in the emissions data report required to be submitted by June 1 of

the same year. Each reporting entity claiming specified facilities or units for imported or exported electricity must also meet requirements pursuant to subsection 95111(g)(2)-(5) in the emissions data report. Each reporting entity claiming an RPS adjustment, as defined in section 95111(b)(5), pursuant to section 95852(b)(4) of the cap-and-trade regulation must include registration information for the eligible renewable energy resources pursuant to subsection 95111(g)(1) in the emissions data report. Prior registration and subsection 95111(g)(2)-(5) do not apply to RPS adjustments. Registration information and the amount of electricity claimed in the RPS adjustment must be fully reconciled and corrections must be certified ~~within 45 days following the emissions data report due date~~ by the third party verifier prior to the reporting deadline.

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~~(M)~~(2) *Requirements for Claims from Eligible Renewable Energy Resources.* Provide the primary facility name, total number of Renewable Energy Credits (RECs), the vintage year and month, and serial numbers of the RECs as specified below:

- ~~1~~A. RECs associated with electricity procured from or generated by an eligible renewable energy resource and reported as an RPS adjustment as well as whether the RECs have been placed in a retirement subaccount and designated as retired for the purpose of compliance with the California RPS program.
- ~~2~~B. RECs associated with electricity procured from or generated by an eligible renewable energy resource and reported as an RPS adjustment in a previous emissions data report year that were subsequently withdrawn from the retirement subaccount, or modified the associated emissions data report year the RPS adjustment was claimed, and the date of REC withdrawal or modification.
- ~~3~~C. For imported electricity from a specified source which is an eligible renewable energy resource, RECs associated with electricity generated, directly delivered, and reported as specified imported electricity and whether or not the RECs have been placed in a retirement subaccount. If RECs are not reported then specified source cannot be claimed for such imported electricity and section 95852(b)(1)(C) would apply.

~~(23)~~ *Emission Factors.* The emission factor published on the ARB Mandatory Reporting website, calculated by ARB according to the methods in section 95111(b), must be used when reporting GHG emissions for a specified source of electricity.

~~(34)~~ *Delivery Tracking Conditions Required for Specified Electricity Imports.* Electricity importers may claim a specified source when the electricity delivery meets ~~any~~ of the criteria for direct delivery and for specified source of electricity defined in section 95102(a), and one of the following sets of conditions is satisfied:

(A) The electricity importer is a GPE. If the facility/unit is an eligible renewable energy resource then the GPE must have (1) retained rights to the electricity or generation; (2) retained rights to the associated RECs; and (3) report such REC serial numbers pursuant to section 95111(g)(2); or

(B)The electricity importer has a written power contract for electricity generated by the facility or unit. If the facility/unit is an eligible renewable energy resource then the electricity importer must have (1) a right of ownership or a written power contract to the associated RECs; and (2) report such REC serial numbers pursuant to section 95111(g)(2).

.....  
(56) *Substitute electricity.* Report substitute electricity received from specified and unspecified sources pursuant to the requirements of this section.

(7) Violations. It shall be a violation of this article for an electricity importer to report REC serial numbers pursuant to section 95111(g)(4) when the electricity importer does not have exclusive rights to the associated RECs (A) as the GPE with retained rights to the associated RECs or (B) by having the right of ownership or a written power contract for the associated RECs.

#### IV. Conclusion

The Utilities are committed to working with ARB staff to more clearly align REC ownership with the ability to claim an RPS adjustment. Doing so will ensure California ratepayers are not forced to fund the procurement of millions of dollars' worth of incremental Cap-and-Trade allowances, despite their prior investments in renewable generation. The RPS adjustment is essential to provide California utility customers the GHG benefit of renewable procurement. We look forward to ongoing discussions about how to resolve this issue for future reporting years and to reduce the burden on both staff and reporting entities.

Sincerely,

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