

**DEPARTMENT OF WATER RESOURCES**

1416 NINTH STREET, P.O. BOX 942836  
SACRAMENTO, CA 94236-0001  
(916) 653-5791



October 12, 2018

**VIA ELECTRONIC MAIL**

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

**Re: Comments of the California Department of Water Resources on the Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation and the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions**

The California Department of Water Resources (DWR) appreciates the opportunity to submit its comments regarding the September 4, 2018 proposed amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR) and proposed amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation (Cap-and-Trade Regulation). DWR is committed to contributing to California's efforts to adapt to climate change and supports the California Air Resources Board's (ARB) continued efforts to ensure that the state cost-effectively meets its goals for greenhouse gas (GHG) emissions reductions.

DWR is a state agency within the California Natural Resources Agency. One of DWR's primary responsibilities is the construction, operation, and maintenance of the State Water Project (SWP). As the largest state-owned, multi-purpose water project in the country, the SWP requires a significant amount of energy to reliably deliver water throughout the state. DWR meets the SWP power needs through self-generation, load management including demand response, power exchanges, purchase and sales transactions with other entities, and participation in the California Independent System Operator (CAISO) power markets.

As part of the proposed regulatory amendments, the ARB is proposing, among other things, to establish a process to account for GHG emissions from imported electricity resulting from transfers into the CAISO Energy Imbalance Market (EIM), and to assess a compliance obligation for the EIM GHG emissions. As a participant in the CAISO energy markets, DWR has an interest in ensuring that the ARB's regulations clearly inform the regulated entities about their new obligations so that DWR can adapt its relevant procedures and practices, if necessary, to comply with the regulatory changes.

DWR has the following concerns related to the proposed amendments:

**I. Compliance Obligations Resulting from Generators' Energy Imbalances under the Cap-and-Trade Regulation**

The proposed amendments to Section 95811(b) of the Cap-and-Trade Regulation add a new category of "EIM Purchasers" to the list of covered entities. In Section 95802 of the Cap-and-Trade Regulation and Section 95102 of the MRR, the ARB proposes to define "EIM Purchaser" as "an entity that purchases electricity through the EIM either to serve California load or to deliver or sell the purchased electricity to an entity, or on behalf of an entity, serving California load." The ARB staff has provided the following clarification to this proposed definition: "Under the proposed definition of EIM Purchaser, scheduling coordinators for electricity generators located in California with negative imbalances may also be considered EIM Purchasers, if they are serving those imbalances through imported electricity in EIM." (Notice of Public Hearing, at p. 17; Staff Report: Initial Statement of Reasons, at p. 72.) The ARB staff further explains that scheduling coordinators for California generation with imbalances "will receive a direct compliance obligation for EIM Purchaser emissions." (Staff Report: Initial Statement of Reasons, at p. 72.)

Under the Cap-and-Trade Regulation currently in effect, only GHG emitting generation is subject to the cap-and-trade compliance obligations. According to the ARB staff clarification regarding the new EIM Purchaser definition (as that clarification is understood by DWR), the proposed amendment purports to extend such compliance obligations to all California generators with negative imbalances, regardless of their GHG emitting (or non-emitting) status, so long as those imbalances are served through EIM imports. If DWR is correct in its interpretation of the proposed amendment's scope, then this amendment would amount to a major change to the existing cap-and-trade coverage format, as California generators of renewable and other carbon-free resources would now become covered entities subject to the cap-and-trade compliance requirements. DWR is concerned that this significant change is not apparent from the proposed regulatory text. As drafted, the "EIM Purchaser" definition in Section 95802(a) of the Cap-and-Trade Regulation and Section 95102 of the MRR covers entities that "purchase" electricity through the EIM for the purposes of serving load in California. Nothing in the proposed regulatory language appears to indicate that a California generator's negative imbalance would be considered "purchasing" through the EIM, and therefore would expose such a generator to a direct compliance obligation. If not for the ARB staff's clarification in the staff report, DWR would not have interpreted the proposed EIM Purchaser definition to encompass DWR's carbon-free hydropower generation or renewable resources that DWR acquires under its power purchase agreements.

As a generator and purchaser of energy in the CAISO markets, DWR needs to have a clear understanding of the impacts of the proposed regulatory amendments on DWR's operations and costs of such operations. If the ARB's intent is to extend the cap-and-trade compliance obligations to all California generators with negative imbalances, including generators of renewable and other carbon-free resources, then this intent should be clearly reflected in the proposed regulatory language, so that the

regulated community receives a clear notice of this significant regulatory change.

## **II. EIM Purchasers Compliance Obligations under the MRR**

Pursuant to the proposed amendments to MRR Section 95111(h)(3), the ARB will calculate each EIM Purchaser's "EIM Purchaser's Emissions" for the previous calendar year after the verification deadline for that year. Under the proposed MRR Section 95111(h)(3)(1), each EIM Purchaser Emissions will be calculated based on: (1) that EIM Purchaser's energy imbalances; (2) the sum of EIM Purchases for all EIM Purchasers; and (3) the total EIM Outstanding Emissions. In performing these calculations, the ARB will rely on information reported by EIM Participating Resource Scheduling Coordinators, EIM Purchasers, and the CAISO.

Under the current cap-and-trade program, the ARB determines cap-and-trade compliance obligations for an electricity generation facility based on the GHG emissions associated with that facility's generated energy. In calculating compliance obligations of an electricity importer or exporter, the ARB also relies on data about that specific entity's delivered or imported electricity. Because a covered entity's compliance obligations are currently based on the amount of GHG emissions associated with that entity's own operations, energy generators, importers and exporters can fairly accurately forecast their anticipated GHG emissions and timely acquire the necessary cap-and-trade compliance instruments. In contrast to the existing scheme, determination of an EIM Purchaser's Emissions (and accordingly associated compliance obligations) will be based not only on a covered entity's own GHG emissions data, but also on the market-wide emissions data that will not be determined by the ARB until long after the end of an emissions year. Accordingly, it will be infeasible for EIM Purchasers to forecast their compliance obligations for any future compliance year.

DWR's procurement strategy for cap-and-trade compliance instruments relies heavily on DWR's ability to (1) forecast DWR's covered operations, and (2) based on such forecasting, procure the required allowances in a timely and most cost-effective manner. DWR is concerned that the proposed mechanism and timeline for calculating EIM Purchaser's Emissions would make it infeasible for DWR to forecast its cap-and-trade compliance obligations for the coming emissions years and to procure sufficient compliance instruments from the current year's vintage.

DWR proposes that the ARB consider allowing EIM Purchasers to use future vintage allowances to comply with their compliance obligations associated with the EIM Purchaser's Emissions. DWR notes that this change would not eliminate DWR's concern about inability to accurately forecast its cap-and-trade compliance obligations. However, it would allow DWR to remedy its under-forecasting, at least to a certain extent, by procuring and surrendering compliance instruments from future vintages if DWR has insufficient allowances from the current or previous vintages.

### III. Conclusion

The ARB staff acknowledges that the proposed mechanism for attributing EIM emissions to EIM Purchasers is not perfect and commits to continue working with CAISO in developing a better system for directly accounting for EIM Emissions. (Staff Report: Initial Statement of Reasons, at p. 72.) DWR supports the ARB's and CAISO's continued work on this issue and hopes that a mechanism could be developed that would allow for a more accurate attribution of EIM emissions to the resources that are directly responsible for those emissions.

Sincerely,

A handwritten signature in blue ink that reads "Ghassan ALQaser". The signature is written in a cursive style with a large initial 'G'.

Ghassan ALQaser, Ph.D.  
Chief, Power and Risk Office  
California Department of Water Resources