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October 27, 2017 | Submitted Electronically

Ms. Rajinder Sahota
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: SCPPA Comments on the October 12, 2017 Cap-and-Trade Regulation Workshop

Thank you for the opportunity to provide comments to the California Air Resources Board (CARB or Board) on potential changes to the post-2020 Cap-and-Trade Program (“the Program”) pursuant to recently-enacted legislation and the July 2017 adopted Board resolution.

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. Our Members collectively serve nearly five million people throughout Southern California. Each Member owns and operates a publicly-owned electric utility governed by a board of local officials who are directly accountable to their constituents.

Each SCPPA Member has a duty to provide reliable power to their customers – many of whom reside in disadvantaged communities – at affordable rates, while also complying with all applicable local, regional, state, and federal environmental and energy policies. Currently, SCPPA and our Members own, operate, or have binding long-term procurement arrangements with 39 generation and natural gas projects and three transmission projects, generating power in California or importing from Arizona, New Mexico, Utah, Oregon, Washington, Nevada, Texas, and Wyoming. This is in addition to individual, Member-owned or contracted and operated transmission, generation, and natural gas projects throughout the Western United States. All are funded through municipally-backed financing mechanisms, which often come with terms that complicate our Members’ abilities to quickly respond to substantial policy shifts that require near-term implementation. Any such change in policy direction usually results in significant additional costs which must be borne solely by their customers.

The Program directly impacts electricity sector practices and market operations throughout the Western grid. Therefore, it is of the utmost importance that any proposed regulatory changes reflect well-structured and lasting policies that function in concert to achieve the statutory goals via the most cost-effective means possible. SCPPA and its Members have actively participated in CARB’s public processes and have met continually with staff to discuss the complex and interrelated issues associated with these regulatory packages. As stewards of public funding, we look forward to continuing to work with CARB staff toward a final program design that can be feasibly implemented while achieving our shared interest in maximizing environmental and public health benefits for Californians at an affordable cost.

COMMENTS ON ELECTRIC DISTRIBUTION UTILITIES (EDU) ALLOCATION ISSUES

SCPPA Opposes the Mandated Consignment of POU Allowances

SCPPA and its Members have expressed concern with CARB Staff’s concerted and multi-pronged efforts to treat publicly-owned utilities (POUs) and investor-owned utilities (IOUs) as a single type of entity. The two utility types are fundamentally different in objectives, resource procurement mix, financial structures, and governance. These differences are statutorily

directed and were previously acknowledged by CARB when the Program was initially developed. Yet, there is an ongoing, consistent theme to prescribe uniform policies to these disparate entities.

We recognize the value and importance of consistent policy implementation across Program entities: however, treating public utilities the same as investor-owned utilities is not the way to achieve this goal. Just as there are differences in regional generation make-up that define the impact of regulations on a particular utility and the different objectives amongst the state agencies (*e.g.*, CARB *versus* CEC), the differences amongst POU and IOU customers cannot be understated. CARB should again acknowledge the differences between POU and IOUs, and should refrain from requiring POU into the existing IOU programmatic model of consigning allowances at auction. In the past, SCPPA has noted several important examples of why such a shift is not needed and will cause undo costs and hardships to POU ratepayers under the Program without achieving any additional environmental benefits.

SCPPA and its Members disagree with any policy approach to mandate POU to consign allocated allowances to auction and to further force that the auction proceeds be used for narrowly specified purposes. CARB has historically exercised sound reason in its decision to exclude POU; forcing POU to consign all allocated allowances to auction could introduce sizable financial risks and resource needs for governmental entities that cannot be reasonably addressed, would be administratively inefficient, and would disproportionately affect POU. POU have limited staff to participate in the resource-intensive auction (carbon market) process, and may not have the infrastructure or financial resources to mitigate against financial exposure. CARB stated this fact in its October 2011 Final Statement of Reasons for the Cap-and-Trade Regulations (FSOR)¹:

“POUs and IOUs operate differently with respect to electricity generation. POU generally own and operate generation facilities that they use to provide electricity directly to their end-use customers. **In order to minimize the administrative costs of the program to the POU, and recognizing that directly allocating the allowances to the POU does not distort their economic incentive to make cost-effective emissions reductions, we determined that it would be prudent to allow POU to surrender directly allocated allowances without participating in the auction process.** IOUs, on the other hand, have contracts with electricity generators that do not afford the IOUs the same level of control over the capital investments and operating decisions of the generation facility. We are concerned that the terms of these contracts could be adversely affected by allowing the IOUs to directly surrender allowances on behalf of their counterparties, which could lead to some foregone cost-effective emissions reductions. Instead, by requiring the IOUs to surrender the allowances at auction, the electricity generators will be sure to have a strong incentive to pass their GHG costs back to the IOUs, who will then be able to use their share of the auction revenue to reduce the ratepayer burden in a manner that is consistent with the goals of AB 32.”
[emphasis added]

As CARB is aware, POU, including SCPPA’s Members, unlike the IOUs, are vertically integrated – meaning that they often own and operate much of their generation and transmission assets that serve their local customers. Therefore, POU inherently have the direct programmatic compliance obligation for these assets and are *already incentivized* to ensure that emissions are reduced, minimized, or eliminated to the greatest extent practicable in order to comply with California’s aggressive climate change policies – including compliance with the Cap-and-Trade Program plus the Renewables Portfolio Standard, the Emissions Performance Standard, energy efficiency goals and other local, state, regional, and federal policies that ultimately require utilities to reduce emissions profiles on the demand *and supply side* of operations. Additionally, due to historical long-term contracts for fossil generation (including coal and natural gas), some SCPPA Members would be required to have *significant* capital available (including for transaction costs) to participate in auctions. This is problematic for governmental entities. Particularly as these same entities have and are actively working on early divestiture of coal resources in order to reduce emissions profiles, at significant costs to utility ratepayers, while accelerating investments in renewable technologies, low- or zero-carbon vehicles and charging infrastructure, storage, and local community programs.

¹ See pages 342 and 564 of the October 2011 Final Statement of Reasons for the Cap and Trade Regulations.

In the 2011-adopted regulations, as well as specifically noted in the October 2011 FSOR², CARB correctly acknowledged that POUs may be disproportionately impacted if they were forced to participate in quarterly auctions. This issue is compounded by substantial challenges POUs would face in securing a sufficient line of credit required to participate in the auction process as no dedicated pool of funding is available for this specific purpose. POUs, as governmental entities, do not have shareholder funding to act as a backstop if there are auction challenges. These challenges become even more problematic if the auctions are undersubscribed, as was the case in 2016-17, or become oversubscribed. In these instances, POUs would face substantial financial risks that may impede on their ability to meet compliance obligations due to the resulting financial uncertainties.

Any additional cost burdens incurred by POUs to manage their participation in the Program – including mitigating the aforementioned financial risks associated with the consignment requirement (assuming such mitigation measures reasonably exist) – would negatively impact POUs’ ratepayers, while achieving NO measurable incremental GHG emissions reduction benefits for the State of California. This is particularly true if rates do not cover the added cost of compliance. POU utility rates may not be enough to cover this added cost – with no guarantee of knowing what would be “enough” of a rate increase, no certainty on whether these POUs could or would secure the allowances needed from an auction, and no reliable means of forecasting revenue to pay for defined programs when their allowances sold. These regulatory and financial risks are untenable for governmental entities. We strongly urge CARB to reaffirm its original findings from 2011, thereby avoiding subjecting POUs to uncertainties that jeopardize investments in clean energy projects, and minimizing the risk of utility rate spikes that raise serious questions and concerns amongst locally elected officials that govern publicly-owned utilities.

SCPPA Disagrees with the Concept that EDU Allowances Are Overallocated

While we understand the directive under Assembly Bill 398 (E. Garcia, 2017), for CARB to “[e]valuate and address concerns related to overallocation in the state board’s determination of the number of available allowances for years 2021 to 2030, inclusive, as appropriate” we emphasize here the importance of the “as appropriate” qualifier. SCPPA believes that expanding the scope of the review is not necessary, and in fact, believes that any review should be more narrowly defined.

SCPPA strongly disagrees with the need to re-evaluate recently adopted post-2020 allowance allocations for the electricity sector. SCPPA strongly supported the proposed **cost burden-based approach** for determining post-2020 allowance allocations in the 2015-17 rulemaking. At the time, we urged CARB to consider the interactive effect of the Program with other state policies; in particular, we noted that the regulations should *support* efforts to minimize the overall cost impact to utility customers and avoid price spikes or unnecessary increases in customer bills to help ensure ongoing public support for the Program. Only with this holistic approach could the full cost impact of the State’s policy goals be evaluated, providing a considerably more realistic view of the actual costs that POUs must pass down to their customers as they work toward achieving emissions reduction targets while also addressing complementary policy goals such as building and transportation electrification efforts and an increasing Renewables Portfolio Standard requirement.

We will reemphasize here that, for several of our Members, the significant EDU-specific allocation decreases between 2020 and 2021 (commonly called “the post-2020 cliff”) combined with the drastic differences in percent allocation between 2020 and 2030 illustrates how CARB has *already* dramatically reduced EDU allocations in the post-2020 timeframe. Such steep programmatic reductions could potentially result in large customer bill impacts. Particularly when weighed with anticipated cost increases for increasing renewable mandates and their associated integration costs, promoting electrification and the accompanying infrastructure, and a host of other local, state, regional, and federal mandates.

SCPPA is further concerned that re-evaluating the post-2020 allocation numbers would inadvertently penalize early adopters by failing to recognize utilities’ early actions to divest of carbon-intensive resources as also noted above. Moreover, re-evaluating the EDU allocations would exacerbate concerns of regulatory uncertainty (which resulted in significant quarterly auction instability in 2016-17) and leave the electric utility sector particularly and even further exposed

² See pages 578-579 and 580-581 of the October 2011 Final State of Reasons for the Cap-and-Trade Regulations.

to financial risks linked to investments in resources that are made under existing policies. The electric utility sector has already shouldered a disproportionate programmatic burden and, even so, surpassed initial emissions reduction goals.

Resource planning and procurement are long and continuous processes. Shifting regulatory direction cannot easily be addressed in these processes on short notice without resulting in substantial cost impacts to the utility and its ratepayers. California has, after all, been at the forefront of GHG reduction efforts and has accomplished significantly more than other states – including on the electrification front. For example, accommodating EDUs with increased allowances to correspond with the increased electric load they must serve due to transportation and building electrification efforts is a strong example of a programmatic change that could help alleviate the sudden cost impacts felt in 2021 while incentivizing accelerated deployment of charging infrastructure – particularly towards benefiting disadvantaged communities. This must be recognized and accounted for, and thus far has not been reflected in the post-2020 allowance allocations.

For example, most SCPPA members will experience a significant decline in allocated allowances between 2020 and 2030; however, because of proactive divestiture from coal and early adoption of renewable procurement and local energy efficiency programs, some utilities may have allowances available for consignment to auctions. Proceeds from the sale of allowances are used to advance the goals of AB 32 and directly benefit ratepayers through investments in local programs. However, projections show considerable increases in transportation electrification demand post-2020 associated with Governor Brown’s 1.5 million electric vehicle goal. This increased transportation electrification demand would prompt the retirement of any excess allowances for this cause and, as a result, these offsetting funds would need to be collected directly from customers through increased rates approved by local officials or programs abandoned.

This is also why cost containment policies rightly continue to be a guiding principle of the overall program. Indeed, AB 398 specifically directs CARB to implement a price ceiling – with “speed bumps” – as part of this rulemaking. SCPPA addresses the price containment points in greater detail below.

Clarification on Use of Allowance Proceeds is Needed

SCPPA appreciates the opportunity to seek clarification from CARB to better understand Staff’s prohibition on the “volumetric return of auction proceeds.” Based on prior discussions with CARB Staff, a prohibition seems to have been intended to *narrowly apply* to certain auction-related circumstances. We very much look forward to working with Staff to seek clarification in this regard.

While we understand that CARB staff has expressed concern with certain uses of allowance value, Staff has thus far not provided or detailed specific examples with the utilities. We also request clarification on what it means to require use of allowances proceeds to support AB 32 purposes, as this could potentially be broadly interpreted. SCPPA recognizes that CARB has previously acknowledged that it “does not have authority to appropriate funds. The use of revenue obtained from consignment of allowances is the responsibility of the California Public Utilities Commission (CPUC) for investor-owned utilities and the governing Boards of publicly owned utilities.”³ SCPPA concurs; such decisions are fully under the authority of a POU’s local governing board, and are not decisions to be made by CARB. CARB should refrain from any attempt to extend its limited authority on this matter.

SCPPA stands ready to work with CARB staff to see if there is a mutually agreeable solution to address Staff’s concerns.

Electrification of our Transportation, Building, and Port Sectors Needs to be Recognized

We welcome Staff’s continued recognition of the need and commitment to assess potential upward adjustments to EDU allowance allocations to reflect increased emissions from the State’s efforts to electrify the vast swaths of the California economy, starting with the transportation sector.⁴ SCPPA continues to believe that while having “accurate and verifiable” data is important, that must be balanced with practical implementation constraints. It is critical to consider limitations on the

³ See pages 65-66 of the October 2011 [Final Statement of Reasons](#) for the Cap-and-Trade Regulations.

⁴ As noted on page 4 of [Attachment C: 2021-2030 Allowance Allocation to Electrical Distribution Utilities](#), released with the Cap-and-Trade regulatory package on December 21, 2016.

availability of highly detailed data and recognize that electric utilities would be expected to face real cost and administrative burdens in collecting, managing, and submitting reports on such data. The timeframes in which various solutions could be implemented must also be considered. We encourage CARB not to preclude use of estimation methodologies and look forward to CARB staff's engagement with stakeholders and other agency staff (in particular, those at the California Energy Commission) to identify possible practical solutions in an expedited manner.

COMMENTS ON OTHER PROPOSED REGULATORY CHANGES

SCPPA Supports the Proposed Allowance Banking Rules

SCPPA is supportive of Staff's proposal to continue allowing compliance entities to bank prior or current vintage allowances for use in future compliance periods. The ability to roll-over allowances will become increasingly more important as the overall Program cap of available allowances decreases and EDU allocations, in particular, are reduced. Staff's clarification that this can continue will help mitigate the risk of utility rate shocks and smooth the transition to a lower-emitting mix of generation resources. SCPPA very much appreciates this important clarification and welcomed its confirmation for our Members and their ratepayers.

Proposed Strategy for Determining the Price Ceiling and Containment Points Seems Reasonable

CARB Staff's proposal on its strategy for determining the price ceiling and containment points seems reasonable. We believe the two containment points, or "speed bumps," will provide helpful cost containment relief to protect against rapid escalations in customer rates. In determining the price ceiling, CARB must consider the direct impacts of potential market shifts on utility customers directly. If the price ceiling is not properly set, there could be large impacts to utility customer rates – which have more pronounced effects on low-income customers than on other customers. SCPPA looks forward to working with CARB in the months ahead as the details associated with these key policy points will be important.

"Direct Environmental Benefits" of Offsets Should be Interpreted Broadly to Promote Environmental Outcomes

We believe Staff's view of the offset limit methodology is consistent with statute. However, we are concerned that the potential interpretation of "direct environmental benefits" that was discussed in the workshop could have a large impact on ongoing uses of offset proceeds that provide positive environmental outcomes. In addition, CARB should act deliberately in the way it interprets this provision so as to ensure that it does not fall astray of interstate commerce laws. To cite a specific example, SCPPA has a refrigerator recycling program in which our Members participate. SCPPA Members can recycle their customers' old refrigerators and properly dispose of toxics and air pollutants in doing so. There is a definitive direct environmental benefit to the State, even though the end of life destruction of the gases takes place outside of the State's borders.

Program Linkages Should Not Result in California Ratepayers' Exposure to Disproportionate Market Risks

SCPPA supports the direction provided by the CARB Board regarding continued Staff reports and updates on developments related to program linkages. CARB staff must continue to focus on impacts to California ratepayers as they engage with other jurisdictions on possible new program linkages or changes to existing links. Any issues related to these should not disproportionately expose Californians to market risks that could negatively impact our in-state ratepayers.

Changes to Cap Adjustment Factors (CAF) Could Have Significant Impacts on Affected Entities

For affected highly emissions intensive, highly trade exposed entities – several of which are located in SCPPA Member service territories – SCPPA is supportive of CARB Staff working directly with these affected entities regarding the potential impacts associated with adjusting the CAF. It is critically important for each of these entities, CARB Staff, and stakeholders to fully understand and appreciate how this issue impacts affected businesses, their employees, and the local and surrounding communities. While this change would not directly impact CAF for our EDU Members, it would affect large industrial customers, which substantially contribute to local economies. We strongly encourage CARB Staff to work with affected entities of any proposed changes to CAF before moving forward.

CONCLUSION

SCPPA and our Members continue to seek forward progress on a variety of issues that have been raised over the past several months, but still remain unfinished as of this rulemaking package. We remain ready to constructively meet with CARB Staff and other agencies to work towards mutually agreeable solutions that best advance the State's climate change goals in an affordable manner for California POU ratepayers.

Respectfully submitted,



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