M-S-R Public Power Agency

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October 19, 2015

Rajinder Sahota
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: **Comments 2016 Cap-and-Trade Amendments – RPS Adjustment**

Dear Ms. Sahota:

On October 2, 2015, the California Air Resources Board (CARB) hosted a Kick-Off for 2016 Cap-and-Trade Program Amendments Workshop. While the workshop addressed many important issues that will be the subject of the 2016 rulemaking process, the M-S-R Public Power Agency (M-S-R)[1] submits these comments on the limited issue of potential amendments that would impact the Renewable Portfolio Standard (RPS) Adjustment found in section 95852(b)(4) of the Cap-and-Trade Program regulation.

INTRODUCTION

The RPS Adjustment is an important part of the Cap-and-Trade Program, designed to recognize the significant investments utilities have made in renewable resources, not all of which are located in California. The RPS Adjustment serves an important function in both ensuring that the value of out-of-states renewables are fully realized by the California electricity

1 Created in 1980, the M-S-R Public Power Agency is a public agency formed by the Modesto Irrigation District, the City of Santa Clara, and the City of Redding. M-S-R is authorized to acquire, construct, maintain, and operate facilities for the generation and transmission of electric power and to enter into contractual agreements for the benefit of any of its members. Currently, M-S-R has contractual arrangements for over 625 megawatts of California Energy Commission RPS-certified renewable energy.

customers whose utilities made the investments and recognizing the overlapping policy objectives of two important but separate programs aimed at meeting California's climate change goals. During the workshop, CARB staff indicated that it would be reviewing the RPS Adjustment to determine whether it should be eliminated or remain part of the Cap-and-Trade Program. Staff expressed concerns that the RPS Adjustment was not being utilized in the manner it was intended, and that the potential for double counting could undermine the integrity of the Cap-and-Trade Program. M-S-R shares CARB's concerns about ensuring the integrity of the Cap-and-Trade Program, but does not believe that eliminating the RPS Adjustment is necessary to address those concerns. Indeed, eliminating the RPS Adjustment would result in greater compliance costs for covered entities and provide an inaccurate picture of California's true emissions associated with imported electricity. M-S-R urges CARB to work with stakeholders to address the agency's unease and craft amendments to the current regulation that will ensure the continued integrity of the program and still allow compliance entities to utilize this important compliance tool.

RECOMMENDATIONS

CARB should schedule workshops and stakeholder meetings to engage in meaningful dialogue on this important issue. The first and most important step in the process to resolve this issue is a meaningful discussion between Staff and stakeholders. As Staff noted during the October 2 Workshop, the nuances associated with tracking and reporting the RPS Adjustment can be complicated. However, an open and candid discussion with CARB and electricity stakeholders on the areas of concern and proposed solutions is the simplest and most productive means to address this issue. M-S-R recommends that CARB schedule a workshop or stakeholder meeting that is structured in a fashion that allows participants to share their views and respond to others' input in a roundtable fashion. In this way, stakeholders can discuss the concerns and proposed solutions regarding use of the RPS Adjustment, and collectively work towards a resolution.

To facilitate these discussions, CARB has already been presented with detailed information regarding the significance of the RPS Adjustment and a range of possible alternatives that can be utilized to address Staff's concerns in comments submitted by multiple parties, including the Turlock Irrigation District; Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison; and Ibedrola Renewables. M-S-R urges CARB to schedule a workshop as soon as practicable and to use these proposals as the basis for workshop discussions.

Amendments to the Cap-and-Trade Program Regulation and the Mandatory Reporting Regulation will address both CARB Staff and stakeholders concerns without the need to eliminate the RPS Adjustment. CARB should amend, but not eliminate, the RPS Adjustment. Rather than do away with this important cost-containment measure that helps to protect California ratepayer's long-term investments in renewable energy resources, the regulatory language should be amended to provide for greater clarity. Misunderstandings associated with utilization of the RPS Adjustment are the result of differing interpretations of language found in the Cap-and-Trade Regulation and the Mandatory Reporting Regulation. Modifications to the regulatory language in both regulations that ensure consistency and clarity should go far to ameliorate the current issues regarding RPS Adjustment claims. The Cap-and-Trade Program regulation should be amended to link RPS Adjustment claims to the entity with title to the environmental attributes and should be consistent with the MRR requirements. Ensuring that only the party who owns the environmental attributes associated with the import electricity would be qualified to claim the RPS Adjustment would remove the potential risk of double counting that claim. Making these changes will also make certain that the total emissions attributed to compliance entities like EDUs with contracts for zero-emission renewable energy are accurate. Under the current structure, even when entities like M-S-R settle their transactions contractually, the final emissions factor attributed to the utility does not reflect the zero emissions from the renewable resource, thus providing an inaccurate picture of their emissions profile.[2]

2 M-S-R notes that this inconsistency could result in misconceptions and confusion in the event that bills such as the recent AB 1110 mandate the publication of emissions intensities without the corresponding explanations of the source of those numbers.

Stakeholders and CARB Staff should discuss means by which to improve implementation of the RPS Adjustment. As was evidenced from oral comments during the Workshop, there are differing interpretations of the regulatory language that must be addressed. Compliance entities were not privy to directions provided to verifiers, and the result was confusion and misinterpretations at the eleventh hour. As currently drafted, CARB is concerned that there have been instances of double counting of renewable energy, which undermines the integrity of the Cap-and-Trade Program by underreporting actual emissions. First deliverers are concerned that the verifiers' interpretation of the regulation is not consistent with the contractual practices or their own reading of the regulatory language. Furthermore, the total GHG emissions attributed to compliance entities with claims to the renewable attributes of electricity at issue that were unable to claim the RPS Adjustment reflect a GHG intensity that is greater than the actual emissions. Proposed revisions to the Cap-and-Trade Program regulation and the MRR consistent with the discussion above, as well as continued dialogue between CARB and stakeholders should be able to eliminate this problem.

CONCLUSION

The RPS Adjustment is supported by sound policy. It is an essential tool in managing Cap-and-Trade Program compliance costs and helps to ensure that electricity customers are not paying GHG compliance costs for renewable energy resources. As discussed herein, there are workable and viable options for amending the regulatory language to address the concerns that have been raised and which should be further explored through workshops. M-S-R urges CARB to work with stakeholders on ways to improve the current regulatory language and implementation of this key Cap-and-Trade Program provision, rather than eliminate it.

Respectfully submitted,

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