

**JOINT COMMENTS OF THE EIM ENTITIES
ON THE AMENDMENTS TO THE CALIFORNIA CAP ON
GREENHOUSE GAS EMISSIONS AND MARKET-BASED
COMPLIANCE MECHANISMS REGULATION
September 19, 2016**

A. INTRODUCTION

Energy imbalance market (“EIM”) current and future participants, PacifiCorp, NV Energy, Arizona Public Service, Puget Sound Energy, Portland General Electric, and Idaho Power (“EIM Entities”) hereby submit the following comments to the California Air Resources Board (“CARB”) on its proposed amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation, published August 2, 2016, (“GHG Proposal”).¹ The EIM Entities appreciate the opportunity to provide comments on the GHG Proposal for consideration by CARB.

B. COMMENTS

With respect to CARB’s GHG Proposal, the main goal of the EIM Entities is to ensure the value and integrity of the EIM is not undermined. For the reasons set forth herein, the EIM Entities oppose aspects of the proposed language in the GHG Proposal. Specifically, the EIM Entities believe that: The GHG Proposal is premature, certain definitions are inconsistent, the approach to emissions factors is not supported, the GHG Proposal creates the potential for overlap with other states’ programs, and the proposed removal of the short term exemption for EIM² is unwarranted. The EIM Entities offer the following comments in support of these assertions.

1. The EIM Provides Substantial Economic and Environmental Benefits

Since November 2014, the EIM has produced substantial economic and environmental benefits for customers both inside and outside of California. By accessing a wider portfolio of resources, the EIM reduces the amount of reserves needed to maintain system balancing within an intra-hour time interval and optimizes the generation needed to meet system imbalances. The geographical diversity of loads and resources participating in the EIM enables improved

¹ The GHG Proposal provides proposed amendments to Title 17, California Code of Regulations, Sections 95801-96022 (*hereinafter* the “Cap-and Trade” Regulations) and Title 17, California Code of Regulations, Sections 951009-95158 (*hereinafter* the “MRR,” a.k.a. the Regulation for the Mandatory Reporting of GHG Emissions).

² GHG Proposal at p. 125.

integration of renewable resources which can be followed more closely and at lower cost using the EIM's wide-area dispatch model. Further, the geographic diversity of the multi-state EIM can reduce the curtailment of renewable resources, including California's, by having access to more resources capable of being displaced by carbon-free generation in real-time.

In terms of economic benefits, the California ISO ("ISO") has estimated EIM benefits to customers totaling \$88.19 million from November 2014 through June 2016.³ In terms of environmental benefits, the ISO calculates that in the second quarter of 2016, the EIM allowed the ISO to avoid renewable curtailment of 158,806 MWh,⁴ and that for the first and second quarters of 2016, the EIM dispatch reduced GHG emissions in the footprint by 291,998 MTons.⁵

These benefits are expected to grow in magnitude as new EIM entities begin participation in 2016 (Arizona Public Service and Puget Sound Energy), 2017 (Portland General Electric), 2018 (Idaho Power), and beyond.

2. CARB's GHG Proposal is Premature

The EIM Entities believe that CARB's GHG Proposal is premature, as the ISO has not issued, and CARB has not considered, a revised proposed methodology for allocating EIM GHG compliance costs to EIM entities. Any changes to CARB's regulations should be done simultaneously with any proposed changes to EIM operations. In addition, CARB's GHG Proposal is not clear with respect to how the changes will be implemented.

3. CARB's GHG Proposed Definitions

The proposed definitions for "EIM Purchaser" and "Imported Electricity" are not consistent between Cap-and-Trade Regulations and MRR.⁶ These discrepancies lead to confusion over their meaning and how to determine compliance obligations for EIM entities.

4. ISO's Emission Factor

The proposed MRR amendments require that the ISO annually calculate/report/verify the volume of emissions applicable to the "remaining emissions" in the EIM. An "unspecified emission factor" is used to calculate the total California EIM dispatch emissions. However, the term "unspecified emission factor" is not defined in the CARB regulations. It is unclear if this is a default emission factor used elsewhere in the CARB regulations, or is a factor calculated

³ ISO EIM Benefits Report Q2 2016, http://www.caiso.com/Documents/ISO-EIMBenefitsReportQ2_2016.pdf.

⁴ Id at p. 7

⁵ Briefing on western energy imbalance market, presentation to the ISO Board of Governors August 31, 2016, by Mark Rothleder, p. 11, http://www.caiso.com/Documents/BOGBriefing_WesternEnergyImbalanceMarket-Presentation-Aug2016.pdf

⁶ Cap-and-Trade Regulation, Section 95802(a), Definitions, "EIM Purchaser" and "Imported Electricity"; MRR Section 95102(a), Definitions, "EIM Purchaser" and "Imported Electricity."

annually by the ISO. If the ISO calculates this factor annually, EIM entities will be unable to forecast the volume of GHG compliance obligations that will result from engagement in the EIM, short of disallowing any transfers to California. This is because the EIM entity will not control whether it is dispatched into California, and if it is, whether the dispatch is its own generating unit with a specified emissions factor or a purchase in the EIM that is dispatched from the EIM entity into California to which the ISO annual unspecified emissions factor will be applied.

5. Potential Overlap with Other States' GHG Compliance Programs

The CARB regulations as drafted, pose the broad problem of possible overlap with other states' regulatory requirements. For instance, the Washington State Clean Air Rule (CAR),⁷ currently scheduled to take effect on January 1, 2017,⁸ regulates GHG emissions from certain sources including electric power generators. When sources exceed the GHG emissions thresholds established by CAR, entities become subject to the regulation and must acquire emission reduction units to cover emissions above threshold levels.⁹ The regulation does not make any exceptions for where electric power is delivered. As a result, there could be energy generated in Washington State, which is dispatched into California in the EIM, which would result in dual GHG compliance obligations under CAR and CARB. The issue associated with multiple state carbon policies overlapping without formal linkages to California is likely to become worse as states develop Clean Power Plan compliance plans and potentially their own state-specific carbon policies. As noted with respect to the CAR, regulation by the jurisdiction where the resources are located, as contemplated by the Clean Power Plan, is likely to create overlapping and double regulation which is likely to create inefficiencies and increased costs without an associated benefit. In addition, if any state adopts a program regulating electricity imports but does not formally link with California, the complexity of the EIM accounting may be significantly amplified.

6. Resource Shuffling Requirement Causes Regulatory Uncertainty and Risk

The EIM Entities oppose the proposed language in the GHG Proposal stating that the short-term resource shuffling exemption¹⁰ does not apply to the EIM. EIM entities have limited control over resource dispatch in the real-time markets following their hourly base schedule submittals and thus, have little control over the manner in which the resources are deemed delivered to California. Therefore, an EIM entity could be deemed to be in violation of the requirement

⁷ Washington Administrative Code (*hereinafter*, "WAC") 173-442, Clean Air Rule.

⁸ The commenters understand that CARB's proposed amendments are tentatively scheduled to take effect on January 1, 2018, on a prospective basis only.

⁹ WAC 173-442-100, Emission Reduction Units.

¹⁰ GHG Proposal at p. 125.

through normal and rational participation in the market, which heightens the regulatory risk. The existing resource shuffling exemption for short-term sales is appropriate given the nature of the short-term markets. Removing the existing resource shuffling safe harbor for short-term sales would increase the compliance risk of participating in the real-time markets and may result in a significant reduction in EIM participation.

Additionally, the GHG Proposal does not describe the factors that CARB will use to determine that an EIM transfer is considered resource shuffling, which prevents EIM entities from being able to control compliance regulations, even if they could control transfers. The market dispatch of the EIM removes control from EIM entities to determine when and where a dispatch will flow once made available to the market, which prevents EIM entities from being able to control compliance with the regulations and creates a regulatory risk. This uncertainty and lack of control could lead to reduced liquidity or participation in the EIM if entities decide not to join, not to bid in, or not to flow energy to California.

C. CONCLUSION

The EIM Entities are grateful for the opportunity to submit these comments and appreciate CARB's consideration.