



CALPINE CORPORATION

4160 Dublin Boulevard
Suite 100
Dublin CA 94568
925.557.2238

Electronically filed at:

http://www.arb.ca.gov/lispub/comm2/bcsubform.php?listname=2030targetspws&comm_period=1

October 16, 2015

Edie Chang
Deputy Executive Officer
California Air Resources Board
1001 I Street
Sacramento, CA 94812

Subject: Comments on 2030 Target Scoping Plan

Dear Ms. Chang:

Calpine Corporation (“Calpine”) is writing to express its support for the California Air Resources Board’s (“ARB”) kick-off of efforts to update the Assembly Bill (“AB”) 32 Scoping Plan to meet the 2030 target established by Governor Brown by executive order of reducing greenhouse gas (“GHG”) emissions to 40 percent (%) below 1990 levels by 2030.

Founded in San Jose, California, Calpine has been committed to sustainability since the company’s inception over 30 years ago. Our fleet of clean, flexible natural gas and geothermal power plants has the lowest emissions of criteria pollutants of the 10 largest U.S. electricity generators.¹ Calpine has also distinguished itself as a progressive leader among its peers in industry and has a long record of taking an active role to support state and federal initiatives to reduce air pollution and carbon emissions. As the most recent example, Calpine was the lone energy producer to file an *amicus curiae* brief supporting the U.S. Environmental Protection Agency (“EPA”) in early litigation seeking to prevent the EPA from finalizing the Clean Power Plan (“CPP”).²

¹ Natural Resources Defense Council, *et al.*, Benchmarking Air Emissions of the 100 Largest Electric Power Producers in the United States, at 10 (July 2015), available at: <http://www.nrdc.org/air/pollution/benchmarking/files/benchmarking-2015.pdf>.

² See *In re: Murray Energy Corp. v. EPA*, 788 F.3d 330 (D.C. Cir. 2015) (denying petitions filed under the All Writs Act for a mandate precluding EPA from finalizing CPP). A copy of Calpine’s brief is available at: http://www.edf.org/sites/default/files/content/amicus_for_respondent_brief_filed_by_calpine_corporation.pdf

Calpine has been a strong supporter of AB 32 and ARB's Cap-and-Trade Program because it harnesses market forces to drive meaningful reductions in GHG emissions in the most cost-effective manner. Calpine therefore supported Senate Bill ("SB") 32 (Pavley) and is hopeful that it will be reintroduced in 2016 to affirm the Governor's 2030 target in legislation. Calpine also supported AB 1288 (Atkins), as it appeared until the final weeks of the legislative session, because it would have affirmed ARB's authority to continue relying upon the Cap-and-Trade Program to deliver the reductions needed to achieve the State's GHG reduction goals beyond 2020.

Calpine also supported SB 350 (de Leon) and its goals of increasing the amount of renewable energy generated to 50% by 2030 and incentivizing the electrification of transportation that will be needed, both to achieve the State's GHG reduction goals,³ and to attain the National Ambient Air Quality Standards under the Clean Air Act ("CAA").⁴ SB 350 contemplates the shift in emissions among sectors that may be needed to achieve these goals.⁵ Calpine believes that California's implementation of its economy-wide program under AB 32 to-date demonstrates the flexibility needed to accommodate such shifts.

Although SB 32 was not passed this year and AB 1288 was substantially revised before passage, Calpine applauds ARB's efforts to begin charting how the State will achieve the 2030 targets and to develop amendments for continuation of the Cap-and-Trade Program beyond 2020. Calpine has always supported ARB's authority under AB 32 "to maintain *and continue reductions in greenhouse gas emissions beyond 2020.*" Cal. Health & Saf. Code § 38551(b) (emphasis added). We are also mindful of ARB's role in development of California's state plan for submission to the EPA pursuant to the CPP, which was promulgated under Section 111(d) of the CAA and requires states to achieve the CPP's final goals by 2030.⁶ Calpine therefore urges ARB to

³ See SB 350, § 32(a)(1)(D) (adding section 740.12 to Public Utilities Code) (the Legislature finds and declares that "[r]educing emissions of greenhouse gases to 40 percent below 1990 levels by 2030 and to 80 percent below 1990 levels by 2050 will require widespread transportation electrification.").

⁴ See *id.* at § 32(b).

⁵ See *id.* at § 3(b) (adding Section 44258.5 to the Health and Safety Code) (requiring ARB to adopt policies or regulations "to remove regulatory disincentives preventing ... the achievement of greenhouse gas emission reductions in other sectors through increased investments in transportation electrification."); see also *id.* at § 20(b)(5)(D) (amending section 399.15 of the Public Utilities Code) (creating a waiver process from Renewable Portfolio Standard procurement requirements if the retail seller demonstrates "[u]nanticipated increase in retail sales due to transportation electrification.").

⁶ See Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (Aug. 3, 2015) (pre-publication version) (hereinafter, "CPP"), *available at*: <http://www2.epa.gov/sites/production/files/2015-08/documents/cpp-final-rule.pdf>. In this context, it bears noting that the process for submission of plans under the CPP must be similar to the process for submission of criteria pollutant state implementation plans under Section 110 of the CAA. See CAA § 111(d)(1), 42 U.S.C. § 7411(d)(1) (mandating that EPA "shall prescribe regulations which shall establish a procedure similar to that provided by section 7410 of this title under which each shall submit to the Administrator a plan..."). ARB has been authorized to submit the state's plan to satisfy the requirements of the CAA for several decades. See Cal. Health & Saf. Code § 39602 ("The state board is designated as

Edie Chang
Deputy Executive Officer
October 16, 2015
Page 3

proceed with updating the Scoping Plan to achieve the 2030 target in a manner that aligns with the State's obligations under the CPP and the flexibility it affords to rely upon market-based programs to achieve its goals. Indeed, the CPP stands as testament to the success of the Cap-and-Trade Program and reflects the fulfillment of one of ARB's primary purposes in proceeding with implementation of the Cap-and-Trade Program, in the absence of any national or broader regional trading program.⁷

In light of the foregoing, Calpine would strongly encourage ARB to continue relying upon the Cap-and-Trade Program as the centerpiece of the Scoping Plan and the tool that insures the required reductions will be achieved, irrespective of the success of any complementary measures. Finally, it is critically important for ARB to proceed with developing the Scoping Plan update now—in advance of legislation affirming its authority to do so—both to provide market certainty prior to commencement of the third compliance period under the Cap-and-Trade Program and to assure that the supporting economic and environmental analyses consider the state measures to be implemented pursuant to the CPP, including any backstop mechanisms required thereunder.

Thank you for the opportunity to submit these comments. Please contact me if you have any questions regarding these comments.

Sincerely,

/S/

Barbara McBride
Director—Environmental Services
Calpine Corporation

cc: Hon. Mary Nichols, Chair
Richard Corey, Executive Officer
Michael Gibbs, Assistant Executive Officer
Rajinder Sahota, Branch Chief, Cap-and-Trade Program

the state agency responsible for the preparation of the state implementation plan required by the Clean Air Act (42 U.S.C., Sec. 7401, et seq.)...”). Accordingly, ARB’s authority to proceed with development of a plan to achieve the CPP’s goals is clear.

⁷ See CPP (pre-publication version) at 324, 374, 629, 898-899, 1172 and 1270 (recognizing that the EPA considered California’s experience in developing a GHG trading program in formulating the “best system of emissions reduction” for existing fossil fuel-fired electric generating units and in designing other elements of the CPP).