

Tamara Rasberry

Manager

State Regulatory Affairs

925 L Street, Suite 650

Sacramento, CA 95814

(916) 492-4252

trasberry@semprautilities.com

April 4, 2014

California Air Resources Board

1001 I Street

Sacramento CA 95814

**RE: Proposed Amendments to the California Cap on Greenhouse Gas Emissions and**

**Market-based Compliance Mechanisms**

Dear Board Members:

San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) appreciate the opportunity to submit comments on the Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-based Compliance Mechanisms. As an initial matter, SDG&E and SoCalGas support most of the 45-day changes proposed last fall as well as the 15-day changes issued on March 21, 2014. Specifically, we strongly support the addition of a section on Natural Gas Suppliers and the provision for allocating allowances to natural gas suppliers for the benefit of their customers. The 15-day changes include additional improvements, including changes to clarify some of the registration and reporting requirements.

SDG&E and SoCalGas appreciate the changes made to improve and refine the regulation. In the comments below we offer minor clarifying language for several sections. We also request additional direction about the transfer of allocated allowances to natural gas supplier accounts and ask that provisions be made for the natural gas utilities’ responsibility to cover the exemption for qualifying “but for” CHP facilities.

1. **Section § 95802(a)(147): Definition of “First Point of Receipt”**

SDG&E and SoCalGas have proposed minor clarifying language to the definition of “First Point of Receipt” in Section 95802(a)(147) to improve readability as follows:

“First Point of Receipt” means ~~the, where~~ defined points that have been established through the NERC Registry.  When NERC e-Tags are not used to document electricity deliveries, as may be the case within a balancing authority, the first point of receipt is the location of the individual generating facility or unit, or group of generating facilities or units.  Imported electricity and wheeled electricity are disaggregated by the first point of receipt on the NERC e-Tag.

1. **Section 95830(f)(1): Updating Registration Information**

Section 95830(f)(1) modifies the timelines for updating registration information in a manner that promotes efficiency while maintaining market integrity. SDG&E and SoCalGas have proposed language to clarify the applicable timelines and have not proposed any substantive changes to Section 95830(f)(1):

Registered entities must update their registration information as follows:

1. The information identified in section 95830(c)(1)(A)-(G) and section 95830(c)(1)(J)within 30 calendar days after the changes become effective.
2. The information identified in section 95830(c)(1)(H) for entities that are registered in the Cap-and-Trade Program within 30 calendar days after the changes become effective.
3. The information identified in section 95830(c)(1)(H) for entities that are not registered in the Cap-and-Trade Program no later than the auction registration deadline established in section 95912 after the changes become effective.
4. The information identified in section 95830(c)(1)(I) no later than the auction registration deadline established in section 95912 after the changes become effective.
5. **Section 95833(e)(3): Disclosure of Corporate Associations**

Section 95830(e)(3) also modifies the timeline for disclosing corporate associations in a manner that promotes efficiency while maintaining market integrity. SDG&E and SoCalGas have proposed language to clarify the applicable timeline and have not proposed any substantive changes to Section 95833(e)(3):

No later than the auction registration deadline established in section 95912 after the changes become effective for any changes to the information disclosed on corporate, direct and indirect corporate associations, pursuant to section 95830(f)(1); and

1. **Section 95851(c) “But for” CHP**

This proposed modification extends the limited exemption of emissions for qualified thermal output through the third compliance period and moves the compliance obligation for these emissions to the natural gas supplier.

SDG&E and SoCalGas are concerned that the proposed amendment package does not allocate an incremental quantity of allowances to natural gas suppliers to cover this additional compliance obligation, as the record from the October 25, 2013 Board meeting[[1]](#footnote-1) reflects a commitment from staff to propose an additional allocation to the natural gas utility.

We request that ARB act on this commitment to provide natural gas suppliers with allowances for the “but for” CHP facilities, and clearly describe how the allocation is to be calculated and deposited into natural gas suppliers’ accounts.

(c) Operators of cogeneration facilities and district heating facilities that have been approved by the Executive Officer for a limited exemption of emissions from the production of qualified thermal output pursuant to section 95852(j), that meet or exceed the annual threshold in section 95812~~(d)~~(c) will have ~~a~~no compliance obligation and are not covered entities ~~beginning with the second~~during the first, second, and third compliance periods. The compliance obligation **during the second and third compliance periods** for these exempt facilities will be held by the upstream natural gas supplier. Facilities that are not approved by the Executive Officer for a limited exemption of emissions will have a compliance obligation. **The 2011 baseline allocation for natural gas utilities will be adjusted to include the emissions of approved facilities beginning in 2015.**

1. **Section 95896(g)(1)(A): Timely Surrender of Compliance Instruments by a Covered Entity**

SDG&E and SoCalGas have proposed the following minor clarification to Section 95856(g)(1)(A) for internal consistency:

Retire the compliance instruments surrendered in accordance with section 95856(h); and

1. **Section 95856(d)(4): Deadline for Surrender of Annual Compliance Obligations**

SDG&E and SoCalGas have proposed a minor modification to Section 95856(d)(4) to ensure that restrictions on transfers to compliance accounts do not preclude entities from meeting the deadline for surrender of annual compliance obligations. The minor modification confirms that there will be no restrictions on transfers to compliance accounts during the last two business days before the deadline:

Transfers to compliance accounts may be restricted during the time the tracking system is processing the surrender of the annual compliance obligation, except that there shall be no restrictions during the last two business days before each deadline for surrender of annual compliance obligations.

1. **Section 95894(b)(1)(A): Transfer to Natural Gas Supplier Accounts**

SDG&E and SoCalGas strongly support the allocation of allowances to natural gas suppliers for the protection of natural gas ratepayers. The proposed methodology allocates allowances to suppliers for most of their emissions and requires suppliers to consign a portion of these allowances to the auction. The revenue generated from the consigned allowances is required to be used on behalf of the rate payers. In 2015, suppliers would be required to consign 25 percent of their allowances to auction, with the amount consigned increasing at five percent a year. The required consignment percentages are stated in Table 9.4.

In section 95894(b)(1)(A), which pertains to the transfer of allowances to natural gas supplier accounts, there is language that can be used to define the consignment percentages in Table 9.4 as minimum percentages. Our understanding is that the intent of the regulation was to establish limited consignment at 25% graduated by 5% per year to 50% by 2020. As such, we request that ARB clarify their intention that the required consignment percentages in Table 9.4 are as stated and that, at an appropriate time, the following changes be made to the regulation.

(b) Transfer to Natural Gas Supplier Accounts

(1) When a natural gas supplier as defined in section 95811(c) is eligible for a direct allocation, ~~it shall inform~~ the Executive Officer will allocate on on October 24, or the first business day thereafter, of each calendar year from 2015-2020, annual allowance budgets into the natural gas supplier’s compliance account, minus the quantity placed into the Limited Use Holding Account. ~~By September 1, or the first business day thereafter of the amount of allowances to be placed into its Compliance and Limited Use Holding Account with the following constraints. If an entity fails to submit its distribution preference by this deadline, ARB will automatically place all directly allocated allowances for the following budget year in the entity’s Limited Use Holding Account~~:

(A) The quantity of allowances placed into the Limited Use Holding Account will equal ~~at least~~ the amount of allowances provided in section 95893(a) multiplied by the applicable percentage in Table 9-4, rounded down to the nearest whole allowance.

1. **Section 95914(c)(2)(D): Non-disclosure of Bidding Information**

Section 95914(c)(2)(D) on non-disclosure of bidding information provides helpful guidance on permissible release of information required by an agency with regulatory jurisdiction over privately owned utilities. SDG&E and SoCalGas have proposed additional clarifying language below. The proposed language clarifies that Section 95914(c)(2)(D) addresses the information identified in Section 95914(c)(1)(A)-(D) for internal consistency. The proposed language also provides for regulatory efficiency by not requiring a notice to the Executive Officer of information that ARB has previously confirmed in writing is permissible for release to the regulatory agency.

When the release is by an entity regulated by an agency that has regulatory jurisdiction over privately owned utilities in the State of California of information identified in section 95914(c)(1)(A)-(D)specifically required or authorized by the regulatory agency pursuant to any of its applicable rules, orders, or decisions. In the event of a disclosure pursuant to this section, the entity regulated by the agency must provide to the Executive Officer within 10 business days, the statutory or regulatory reference or the general order, decision, or ruling to ARB that requires the disclosure of the specific information, unless ARB has previously confirmed in writing that release of the information is permissible.

1. **Issue previously raised by SDG&E and SoCalGas and not addressed in the 15-day changes:**

**Section 95852.2(b)(4): Emissions without a compliance obligation**

Under the proposed amendments to Section 95852.2(b)(4), vented emissions from underground storage facilities will count towards the inclusion threshold. Vented and fugitive emissions can only be excluded for industry segments “onshore natural gas transmission compression” (95152(e)) and “natural gas distribution” (95152(i)). Vented and fugitive emissions for underground natural gas storage (95152(f)) are not included in this exemption because ARB assumes that the injection and withdrawal meters are located downstream of injection/withdrawal compressors. Downstream metering excludes gas vented at a compressor and therefore these emissions must be accounted for. Injection meters at SoCalGas are located upstream of the compressor and therefore inclusion of venting emissions will be double counting. Compressors are not used for withdrawing gas from storage, so withdrawal meter location is not an issue.

**Modification to Section 95890**

(4) Vented and fugitive emissions for the following industry segments by local distribution companies that report under section 95122 of MRR;

(A) 95152(e) and 95152 (i) of MRR

(B) 95152(f) of MRR if injection and withdrawal meters are located upstream of an injection or withdrawal compressor



1. The record from the October 25, 2013 Board meeting reflects the following comments from staff on this issue: “What we've actually proposed in this attachment . . . to the Resolution this morning is that we would exempt but-for going forward. So they won't be a covered entity. In that vein, I don't think there is a need for transition assistance. You heard PG&E mention they saw this late. It essentially pushes the obligation upstream to the natural gas utility. And we have a proposal for allocation to the natural gas utility.I think that that should cover the issue with the but-for CHP.” [↑](#footnote-ref-1)