

October 26, 2015

Rajinder Sahota
Chief, Climate Change Program Planning & Management Branch
California Air Resources Board
1001 I Street
Sacramento, CA 95812-2828

Re: Pacific Gas and Electric Company's Comments on the Air Resources Board's October 2 Workshop on Potential 2016 Amendments to the Cap-and-Trade Regulation

Dear Ms. Sahota:

Pacific Gas and Electric Company (PG&E) appreciates the opportunity to provide comments on the Air Resources Board's (ARB) October 2 Workshop on Potential 2016 Amendments to the Cap-and-Trade Regulation.

I. INTRODUCTION

PG&E has consistently supported a multi-sector Cap-and-Trade program—linked with emerging regional, national, and international programs—that will allow California to meet its greenhouse gas (GHG) reduction goals in a cost-effective manner, as required by Assembly Bill (AB) 32 (Nuñez), Chapter 488, Statutes of 2006. PG&E believes that a well-designed post-2020 Cap-and-Trade program, accompanied by appropriate cost-containment mechanisms, will send a strong market signal to businesses to invest in a wide array of GHG reduction strategies.

At the October 2 Workshop, ARB discussed the potential scope of 2016 amendments for both the third compliance period, and a potential post-2020 program. PG&E looks forward to working with ARB staff to develop these topics at subsequent workshops. Additionally, ARB Staff presented their initial ideas for streamlining the Cap-and-Trade regulation, and post-2020 cost containment and publication of market data. PG&E provides specific comments on these topics in Sections II through IV. In summary, PG&E's key points are:

- **PG&E looks forward to engaging in future ARB workshops to provide detailed input on post-2020 emission caps:** ARB should maintain a broad scope of sectors covered under the cap, which will be necessary to achieve the post-2020 emission goals cost-effectively, and consider the appropriate treatment of electricity imports in California's Cap-and-Trade program in the context of the Federal Clean Power Plan (CPP).
- **ARB should consider a price ceiling as part of the 2016 Rulemaking:** ARB can both provide sufficient incentive for investment in GHG reductions while limiting overall program costs. A price ceiling is the only way to *ensure* prices remain below the Auction Price Containment Reserve (APCR) third tier.

- **PG&E supports the publication and availability of additional market information while preserving the confidentiality of market participants:** PG&E supports the publication and availability of additional market information and requests that ARB be consistent with the confidentiality protocols as adopted by the CPUC in their GHG Proceedings.
- **PG&E supports ARB's efforts to streamline the offset issuance process:** The use of high-quality offset credits is an effective cost-containment tool and a critical component of a successful Cap-and-Trade program. PG&E recommends shortening the offset application timeline and increasing reliance on the verifier.
- **PG&E supports streamlining of information management:** PG&E supports moving to online submission and encourages staff to explore this as part of the 2016 rulemaking. PG&E recommends that, wherever possible, ARB move to date-certain filings on a quarterly basis for registration filings and update requirements.

II. POST-2020 CAP-AND-TRADE

PG&E looks forward to engaging in future ARB workshops to provide detailed input on post-2020 emission caps. At this time, PG&E offers a few high-level suggestions. First, PG&E supports a continued broad scope of sector coverage as the incentives it creates for GHG reduction across the economy will be necessary to achieve the post-2020 emission goals cost-effectively.

Second, PG&E sees post-2020 cap-setting and cost-containment as linked, and appreciates that ARB has proposed to hold a workshop to discuss the issues together. PG&E believes it is worth exploring alternative emission cap trajectories between 2021 and 2029 that would support cost-containment and maintain a trajectory toward the 2030 goal. Third, PG&E encourages ARB to consider Federal developments, such as the CPP, in establishing post-2020 emissions caps. In particular, ARB and stakeholders should consider the appropriate treatment of electricity imports in California's Cap-and-Trade program in the context of CPP implementation in Western states and how the post-2020 emission caps would change if the scope of emission imports included in California's program changed.

III. COST-CONTAINMENT AND MARKET OVERSIGHT PROVISIONS

At the October 2 Workshop, ARB Staff presented some initial ideas for cost containment and market oversight provisions. PG&E provides preliminary input below on the need for a price ceiling (Section A), balancing the publication of market information with the need for confidentiality (Section B), and our concerns about the Nicholas Institute Double Cap concept (Section C). Additionally, PG&E notes that the Joint Utility Group provided cost containment ideas to ARB as part of the 2013 Cap-and-Trade Rulemaking. PG&E incorporates these by reference and attaches them to these comments.

A. Price Ceiling

PG&E believes that ARB can sufficiently incent investment in GHG reductions through the Cap-and-Trade program, while limiting overall program costs. Accordingly, in 2013, PG&E recommended that the Cap-and-Trade regulation include a price ceiling for allowance auctions to ensure that prices will

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not exceed the APCR third tier,¹ consistent with ARB Board Direction.² PG&E again reiterates the need for a firm price ceiling and recommends ARB consider it as part of this rulemaking.

Ultimately, as part of the 2013 Cap-and-Trade rulemaking, ARB declined to adopt a price ceiling, citing confidence in its existing cost containment provisions.³ While PG&E agrees that ARB's cost containment proposals effectively address short-lived price increases, they cannot *ensure* that prices will remain below the APCR third tier. Moreover, the lack of effective long run cost-containment has been acknowledged by ARB: "if unanticipated conditions create a long-term and persistent increase in the demand for allowances through 2020, the [cost containment] proposal may not be sufficient to fill all accepted bids at the highest price tier" and that "the effectiveness of the staff proposal is reduced as the program approaches 2020."⁴

Finally, PG&E recommends that the escalation rate escalation for both the auction reserve price and the APCR prices be reevaluated. Assuming continuation of a low annual inflation rate of 2 percent combined with the 5 percent escalation rate, the highest tier APCR price in 2030 is expected to reach \$156 per allowance. PG&E feels that a price ceiling at that level may not adequately protect the customers. In addition, the current escalation factor would lead to an increased spread between the auction reserve price and the first-tier APCR price from \$30 (between a \$10 reserve and a \$40 tier one price) in 2013 to over \$90 in 2030. Allowing this large of a price range defeats the purpose of a price collar to provide some price certainty for compliance entities while also providing an upper bound against market manipulation.

B. Publication of Market Information

PG&E supports the publication and availability of additional market information while preserving the confidentiality of market participants. ARB should publicly release transaction information related to quantity, price and type of compliance instruments transacted in summary form by covered entity category.

In addition, compliance entities regulated by the California Public Utilities Commission (CPUC) are subject to restrictions concerning allowance and offset procurement to which other entities are not held.⁵ Therefore, it may be valuable to separate information concerning electric power entities based on whether compliance instrument procurement is regulated by the CPUC. Aggregation will serve ARB's purpose to provide the market information concerning compliance instrument transfer prices and quantities while preserving confidentiality of specific entities and transaction details.

¹ See Section I of PG&E's comments on the Air Resource Board 45-day Amendments to the Cap-and-Trade Program dated October 18, 2013 (pages 2-4)

² Air Resources Board. October, 2012. California Cap-and-Trade Program: Resolution12-51. Website: <http://www.arb.ca.gov/cc/capandtrade/final-resolution-october-2012.pdf>. Pg. 2.

³ Air Resources Board. May, 2014. Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms, Final Statement of Reasons. Website: <http://www.arb.ca.gov/regact/2013/capandtrade13/ctfsor.pdf>. Pg. 537-538.

⁴ Air Resources Board. September, 2013. Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms, Initial Statement of Reasons. Website: <http://www.arb.ca.gov/regact/2013/capandtrade13/capandtrade13isor.pdf>. Pg. 42-43.

⁵ California Public Utility Commission. April, 2012. Decision on System Track I and Rules Track III of the Long-Term Procurement Plan Proceeding and Approving Settlement (D.12-04-046). Website: http://docs.cpuc.ca.gov/PublishEdDocs/WORD_PDF/FINAL_DECISION/164799.PDF

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When publishing aggregated data, ARB should provide additional granularity on offset transactions by category of covered entity and respective invalidation periods. This level of detail will provide the market and ARB information concerning the premium, if any, of a shortened invalidation period. ARB can release this information in aggregate form without the party information of each transaction to preserve the confidentiality of each participating entity.

To the extent that ARB seeks to release information in a disaggregated form, the ARB should delay the release of such information until it is unlikely to cause harm to the regulated entities or their customers. The CPUC has worked extensively to balance stakeholders' interests in transparency with market participants' interest in confidentiality by adopting protocols for confidentiality of procurement information.

To the extent that the ARB intends to release entity-specific information, PG&E requests that ARB be consistent with the confidentiality protocols as adopted by the CPUC in its GHG Proceeding.⁶ The CPUC provided protection of GHG procurement information as was previously provided to other Electric Procurement Data in D.06-06-066.⁷ Under D.06-06-066, a window of confidentiality was established for data protection three years into the future, or one year following contract expiration, whichever is first. PG&E suggests ARB release specific information only after this confidentiality window has passed.

C. Nicholas Institute Double Cap

At the October 2 Workshop, ARB discussed a "Double Cap" proposal from the Nicholas Institute. Conceptually, under a Double Cap, ARB would set one cap based on the limit achievable through known technologies and a second based on the limit achievable through expected technologies. ARB would allocate allowances based on the more stringent cap, holding the difference between the lower and higher caps in a reserve.

While PG&E has not seen detailed analysis on workings, potential benefits and risks of a Double Cap approach could include requiring, wholesale changes to California's current program, which would be disruptive to both ARB and covered entities. PG&E recommends that ARB retain a single cap, unless there are specific and well-supported reasons that the current program design cannot be successfully updated to meet 2020 and 2030 targets, and successfully contain costs.

IV. GENERAL CAP-AND-TRADE REGULATION AMENDMENTS

At the October 2 Workshop, ARB Staff presented their initial ideas for streamlining the Cap-and-Trade regulation. PG&E provides input on modifications to the RPS Adjustment (Section A), and streamlining offsets, auctions, and information management (Section B, C and D).

⁶ See Application (A.) 13-08-002; Decision (D.) 14-10-033.

⁷ California Public Utilities Commission. July, 2006. Interim Opinion Implementing Senate Bill No. 1488, Relating to Confidentiality of Electric Procurement Data Submitted to the Commission (D.06-06-066). Website: http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/57772.PDF

A. RPS Adjustment

As articulated by ARB staff at the Workshop, in the 2014 reporting year, there were a number of cases in which two entities claimed the renewable attributes for a generation source. PG&E believes this stems from how entities interpreted the RPS Adjustment and specified source requirements provisions within the Cap-and-Trade and Mandatory Reporting Regulations. PG&E and other utilities offered specific suggestions in a Joint Utility letter to ARB.⁸ When considering amendments to the RPS Adjustment provisions, PG&E asks that any modifications must prevent double-counting and improve implementation, and align REC ownership with environmental attributes of electricity.

B. Streamlining Offsets

PG&E supports ARB's efforts to streamline the offset issuance process. The use of high-quality offset credits is an effective cost-containment tool and a critical component of a successful Cap-and-Trade program. PG&E, along with other stakeholders, have expressed concerns about insufficient offset supply in the market. ARB should build on the success of past offset programs, to ensure the market has access to high-quality offsets in every period of the program.

PG&E understands that developing and administering ARB's offset program takes a tremendous commitment from ARB Staff. Unfortunately, the actual volumes of offsets approved and issued by ARB have fallen short of the amount allowed. However, from PG&E's interactions with offset project developers, verifiers, and registries, it appears that the Program will not reach an offset supply sufficient to satisfy the 8 percent limit on offsets in the current Cap-and-Trade program.

PG&E recommends shortening the offset application approval or rejection period to 30 days, which will provide the applicant with greater certainty on timing. PG&E recommends that the ARB put more of the onus of offset validation on third-party verifiers and hold offset registries accountable for offset quality to decrease the amount of work required by the ARB to issue offset credits.

For early action offset credits, PG&E recommends that ARB rely on the original verification for these projects and provide assurance to the market that any necessary project alterations would only impact future vintage offset credits from those projects. Additionally, ARB should consider amending the regulation to provide early action offsets the same issuance timeline as other offsets.

C. Streamlining Auctions

PG&E supports efforts to streamline auction participation. At the October 2 Workshop, ARB Staff considered the opportunity to streamline auctions by allowing registered eligible auction participants that qualify for one auction to be qualified for subsequent auctions if there are no material changes. PG&E is supportive of streamlining auction participation for any participants who elect to participate in multiple auctions within a year. However, given that a "material change" is not clearly defined in the regulation, it is difficult for an entity to evaluate whether it is able to use this provision. Therefore,

⁸ Pacific Gas and Electric, San Diego Gas and Electric, and Southern California Edison. October, 2015. Utility Comments on October 2 Air Resources Board Workshop to Discuss Proposed 2016 Amendments to the Cap-and-Trade Program. Website: <http://www.arb.ca.gov/lists/com-attach/17-ct2016amendments-ws-VD1cNVMnVlpXMgdo.pdf>

ARB should revise the regulation to formalize and clearly identify which events set forth in section 95912(d)(4) concerning auction applications and which events set forth in section 95830 would qualify as a “material change.”

D. Streamlining Information Management

1. Electronic Reporting

At the October 2 Workshop, ARB Staff indicated they would explore online submission for entity information not reported in CITSS (in lieu of a hardcopy).⁹ PG&E supports this suggestion and encourages staff to explore this as part of the 2016 rulemaking.

Allowing electronic reporting and signature of information required by ARB (including attestations) will allow PG&E to optimize its internal reporting processes and make submittals of information to ARB consistent with submittals of reports to other regulators. Additionally, electronic submissions will provide eligible participating entities to more clearly document receipt and delivery of documentation to ARB. This will minimize any additional efforts necessary to obtain delivery confirmation from ARB or carriers.

2. Registration Requirements

The Cap-and-Trade Regulation requires entities to register for an account and provide a number of disclosures.¹⁰ With the exception of employees with knowledge of the entity’s market position, any change to this information triggers a registration update within 30-days of the change becoming effective.¹¹ Similarly, PG&E is required to report disclosures to the California Public Utilities Commission,¹² within 10 business days of releasing the information.¹³

PG&E recommends that, wherever possible, ARB move to date-certain filings on a quarterly basis. Requiring trigger-based filings substantially increases compliance burden and risk. Further, quarterly reporting is likely to reduce administrative burden on both regulated entities and the ARB.

For entities subject to a large set of compliance requirements, the ability to define recurrence of compliance obligations allows for more efficient compliance processes and reduced compliance risk. Currently, to ensure that changes are reported within the 30-day time period, PG&E must continually monitor and compile information. Likewise, extensive administrative efforts are spent ensuring that CPUC required releases are reported to the ARB within the compliance window. Having date-certain requirements allows the entity to focus its compliance efforts on those dates, eliminating the need for continual and often redundant data collection efforts.

Moreover, there does not appear to be a clear need for trigger-based filings in some cases. Filings based on a triggering events are more appropriate when the change in information requires a clear and rapid response. However, information on individuals and entities with knowledge of and influence

⁹ ARB, op. cit., pg. 33.

¹⁰ Section 95830(c)

¹¹ Section 95830(f)(1)

¹² Section 95830(f)(1)

¹³ Section 95915 (c)

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over an entity's market participation is important for monitoring purposes, but does not require an immediate action. Moreover the generation of piecemeal and incremental information may in fact be more cumbersome for ARB staff, leading to less effective market oversight, in contrast to information collected through set reporting dates.

V. Conclusion

Thank you for the opportunity to submit these comments on the October 2 Workshop on potential 2016 amendments to the Cap-and-Trade regulation. PG&E looks forward to continuing to work with ARB to ensure the success of the Cap-and-Trade program.

Sincerely,

/s/

Mark C. Krausse
Senior Director, State Agency Relations

1. Joint Utilities Cap-and-Trade Cost Containment Proposals

The following recommendations constitute essential components of a robust cost containment structure that should be adopted as a single package. The recommendations fall into three categories, described below. It is important to implement multiple (if not all) measures from each category in the 2013 amendments to the Cap and Trade Regulation. Doing so will provide needed certainty to the regulated community and the market that there are mechanisms in place to ensure prices do not exceed the third tier of the allowance price containment reserve (APCR).

A) Measures that take effect now and gradually over time reduce the likelihood of prices rising above the APCR in the future by: 1) reducing demand for compliance instruments; 2) increasing the supply of compliance instruments; and 3) ensuring that compliance instruments are accessible in the marketplace.

B) Measures that, when triggered, would quickly alter compliance instrument demand/supply dynamics and constrain upward pressure on market prices for a period of time. An example trigger is a percentage level of depletion of the APCR.

C) Measures that, when triggered, would keep allowance prices at the third tier of the APCR regardless of current demand, while preserving the environmental integrity of the Cap and Trade Program over time.

A) Potential measures that could be implemented now to reduce the likelihood of prices rising above the APCR in the future:

1. Approve more offset protocols to increase the supply of offsets.
2. Exempt offsets from projects within California from the 8% offset limit.
3. Allow each covered entity to carry over any unused portion of its 8% offset limit for use in future compliance periods.
4. Address constraints imposed by the current holding limit.
5. Hold an additional auction after the end of each compliance period:
 - Redistribute allowances between auctions to allow for one additional auction per compliance period, and/or acquire allowances for auction per B2 below.
 - This auction should be held between September 1 of the year following the end of a compliance period, when verification statements for prior-year emissions are due (section 95103(f) of the MRR), and November 1, when compliance entities are required to demonstrate compliance (section 95856(f)(1) of the Cap and Trade Regulation).
6. Provide allowances to electrical distribution utilities to cover emissions from electrification of transportation and distributed fuel uses in California.

- Each allowance provided to EDUs for electrification represents significantly greater reduction in transportation and distributed fuel sector demand for compliance instruments, lowering demand in comparison to supply.
- This proposal would be limited to electrification that is incremental from the date this measure is adopted and can be reliably measured.

B) Potential measures that would take effect when a specified trigger is reached (e.g. the APCR is 40% depleted) to quickly alter compliance instrument demand/supply dynamics and constrain upward pressure on market prices for a period of time:

1. Unused offset proposal:

- ARB would track the number of offsets used for compliance (cumulatively) compared to the number of offsets that would have been used if every covered entity exhausted its 8% limit.
- The difference between the two numbers would be the “8% offset shortfall.”
- When the trigger is reached, ARB will announce an increase in the maximum level of each entity’s offset usage for the current compliance period. The increase will be calculated to ensure that, if all covered entities surrender offsets up to the new higher level, the 8% offset shortfall will be used up but not exceeded.
- If the 8% offset shortfall is not used up in that compliance period, a new offset level will be calculated for the next compliance period.

2. Compliance account proposal:

- When the trigger is reached, allow covered entities the flexibility to transfer surplus allowances from their compliance account to their limited use holding account.
- This allows entities that have built up a bank of allowances in excess of their compliance needs to re-inject those allowances into the market.

3. Limited borrowing proposal:

- When the trigger is reached, allow covered entities to surrender for compliance allowances with vintages of the current year and the following year (not applicable post-2020).

4. Offset geographic scope proposal:

- When the trigger is reached, increase the number of compliance-grade offsets by expanding the geographic scope of the approved offset protocols to North America.

5. Offset project start date proposal:

- When the trigger is reached, increase the number of compliance-grade offsets by changing the Offset Project Commencement date in sections 95973(a)(2)(B) and (c) of the Cap and Trade Regulation to an earlier date.

C) Potential measure that would be triggered only if and when the third tier of the APCR is depleted, to keep prices at the third tier level, while preserving environmental integrity:

Allowance-offset proposal: Upon depletion of the highest tier of the APCR, the Executive Officer will make available (through the APCR sale mechanism) additional allowances, in excess of the cap, necessary to satisfy the demand of compliance or opt-in compliance entities at the price set for the highest tier of the APCR in the relevant year. The Executive Officer will use the funds raised by the sale of additional allowances to reduce GHG emissions, with the intent that emissions reductions will be equal to or larger than the number of additional allowances sold.

The options available to the Executive Officer for reducing GHG emissions include, but are not limited to, one or more of the following:

- Commission a third party to obtain and retire high-quality offsets not otherwise eligible to satisfy the compliance obligations of compliance entities.
- Commission a third party to purchase and retire allowances from emissions trading programs outside of California and linked jurisdictions.
- Commission a third party to invest funds in emission reduction projects outside the capped sectors.
- Mandate emission reductions in sectors not covered by the Cap and Trade Regulation.