



May 14, 2018

California Air Resources Board
1001 I Street
Sacramento, CA 95841

RE: Comments of the Alliance for Retail Energy Markets on *Draft Staff Report – Senate Bill 350 Integrated Resource Planning Electricity Sector Greenhouse Gas Planning Targets*

The Alliance for Retail Energy Markets (“AReM”)¹ is a California mutual benefit corporation whose members are electric service providers (“ESPs”) providing direct access (“DA”) service to retail end-use customers throughout the state. AReM appreciates the opportunity to provide comments on the *Draft Staff Report -- Senate Bill 350 Integrated Resource Planning Electricity Sector Greenhouse Gas Planning Targets* (“Draft Staff Report”), which was issued on April 27, 2018 by the California Air Resources Board (“CARB”).

ESPs are competitive load-serving entities (“LSEs”) and are subject to regulatory oversight and compliance obligations, including those related to Resource Adequacy (“RA”), Renewable Portfolio Standards (“RPS”), Energy Storage, and Integrated Resource Plans (“IRPs”). ESPs are required to submit their initial IRPs to the California Public Utilities Commission (“CPUC”) on August 1, 2018, in accordance with Decision (“D.”) 18-02-018. The Draft Staff Report proposes an approach for setting greenhouse gas (“GHG”) target ranges for ESPs to be used in developing their IRPs.² AReM supports much of the proposal, but is concerned about the proposed use of confidential information in calculating the ESPs’ targets.

¹ AReM is a California non-profit mutual benefit corporation formed by electric service providers that are active in the California’s direct access market. This filing represents the position of AReM, but not necessarily that of a particular member or any affiliates of its members with respect to the issues addressed herein.

² Draft Staff Report, p. 27 and p. 29.

As discussed below, AReM suggests a simple remedy to permit calculation of each ESP's GHG target range, while ensuring protection of confidential information.

AReM Supports the Proposed Overall Approach for Setting GHG Target Ranges for ESPs.

The Draft Staff Report establishes GHG target ranges for each LSE, consistent with the requirements of Senate Bill 350. Establishing target ranges for GHG emissions, rather than setting a specific GHG target, is a reasonable and appropriate approach for the planning activities contemplated in the IRP regulations. In addition, GHG target ranges likely involve a lower administrative burden than having to comply with a specific GHG target number in the IRP.

Staff's overall approach for calculating the GHG target range specific to each ESP also seems reasonable. As AReM understands the process, Staff will calculate a GHG target range for each ESP based on the ESP's proportional load share of the direct access load in the service territory of each investor-owned utility ("IOU"). Because ESPs serve load in multiple IOU service territories, Staff will then calculate a statewide GHG target range for each ESP³ by adding together the ESP's GHG target ranges for each IOU service territory in which it serves load.

In addition, Staff confirmed at the April 30th workshop that an ESP's proportional load share is calculated based on the ESP's annual gigawatt-hours (GWh) of load. AReM supports using GWh data to calculate the GHG target ranges. The approach is simple, understandable, and avoids problematic issues that arise if peak data were used instead. AReM also supports using a three-year average based on historical ESP load data.⁴

³ Draft Staff Report, footnote 52, p. 27.

⁴ Draft Staff Report, p. 29.

However, Staff's three-year average approach would incorporate confidential ESP information, which is easily avoidable. As explained below, protection of confidential information is critical to the competitive retail market.

Protection of Confidential Information is Critical for Competitive Markets.

ESPs compete directly with other ESPs and LSEs to serve customers in the competitive retail market. These customers actively seek the best options for meeting their loads, which may include switching to another ESP or returning to bundled service provided through the IOUs. Unlike the IOUs, ESPs have no guaranteed cost recovery and must attract and retain customers and recover all their costs in the market -- or go out of business. Thus, information about ESPs' loads and procurement plans is market sensitive and highly confidential. Accordingly, both the CPUC and the California Energy Commission ("CEC") afford ESPs confidential protection for their market-sensitive information submitted for regulatory purposes.

For example, certain information contained in RPS reports is eligible for confidential treatment under the provisions of CPUC D.06-06-066 and the *Matrix of Allowed Confidential Treatment Energy Service Provider (ESP) Data*, as modified by D.08-04-023. The CPUC is obligated to protect this confidential information so as to avoid material harm to the submitting ESP or its customers. Specifically, the submitting ESP's prior year's retail sales, current year retail sales, and the first three years of its forecast retail sales, as well as certain RPS-eligible procurement/supply data that could be used to derive such information, are eligible for confidential treatment under the ESP Matrix. Similar protections must be afforded to ESP data by CARB.

Proposed Remedy to Avoid Using Confidential ESP Data to Calculate GHG Target Ranges.

Staff proposes to calculate each ESP's GHG target range using a three-year average of historical data and then publishing the calculated GHG target range for each ESP.⁵ For the initial target ranges to be established in 2018, Staff proposes using data for years 2015 to 2017 obtained from Form CEC-1306B.⁶ ESPs submit this form quarterly to the CEC on a confidential basis. The CEC affords confidentiality protection to the historical data submitted by the ESPs for the current and immediately preceding year. Thus, data for 2018 and 2017 are protected. Data for 2016 and earlier are not.

The use of information that is confidential should be avoided to prevent the competitive harm that can come from the release of confidential data. To accomplish this, AReM respectfully requests that CARB revise its proposal to calculate the three-year historical average for ESPs based solely on non-confidential data. Thus, for the GHG target range set in 2018, CARB would calculate the historical average using data obtained from Form CEC-1306B for years **2014** through **2016**. All of these data are public and no longer subject to confidentiality protection. This simple remedy will ensure continued protection of the ESPs' critical confidential information and permit CARB to move forward with its proposal to publish a specific GHG target range for each ESP.

AReM appreciates CARB's consideration of its proposal and will be happy to answer any questions from Staff on these comments or the proposal.

Sincerely,



⁵ See Table 4, Draft Staff Report, p. 29.

⁶ Draft Staff Report, footnote 54, p. 29.

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ON BEHALF OF
ALLIANCE FOR RETAIL ENERGY MARKETS