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September 19, 2016

Clerk of the Board
California Air Resources Board
1001 "I" Street
Sacramento, CA 95814

Dear Clerk of the Board:

Subject: Comments on the Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (posted July 19, 2016)

Below are comments from the Los Angeles Department of Water and Power (LADWP) on the proposed amendments to the California Air Resources Board (ARB) Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (MRR).

1) The verification deadline should be bifurcated [95103(f) and (h)]

ARB staff has proposed moving the deadline for completing verification of the annual Greenhouse Gas (GHG) Emissions reports forward an entire month from September 1 to August 1. The rationale for this proposed change is to allow ARB staff more time to perform quality assurance checks, calculations, analysis, data notifications and postings, assess a compliance obligation to all covered entities, as well as calculate allowance allocation amounts prior to the November 1 Cap-and-Trade Regulation compliance deadline. This additional time will provide covered entities time to review their compliance obligation, assess how many allowances they receive, and make arrangements to acquire any additional compliance instruments needed for timely compliance¹.

While an August 1 deadline may be achievable for verifying the less complicated facility reports, it would be very difficult to achieve for the more complicated entity level reports. The Electric Power Entity reports are already very complex, and ARB's recently proposed amendments and RPS Adjustment guidance will make these reports even more time intensive to verify.

The amount of time allotted for verification of the annual GHG emission reports should be no less than three (3) months. The verification process includes site visits, data checks, resolving questions and making corrections to the report if needed. Some of the verification questions really dig into the details. For example, demonstrating that 1.0 is the appropriate transmission loss factor for electricity imported from a specified generating facility may require review of multiple transmission services agreements. Another example is the new RPS Adjustment guidance that requires the reporting entity to demonstrate that "null power" from out-of-state renewable generating facilities was not directly delivered into California before the reporting entity can claim the RPS Adjustment credit to offset reported GHG emissions for firmed/shaped renewable electricity that is imported into California.

¹ From Page 5 of the Initial Statement of Reasons for the Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions

It is not feasible to verify data to this level of detail in less than three (3) months. Rather than a one-size-fits-all deadline of August 1 for all GHG emission reports, LADWP recommends a bifurcated approach with two different verification deadlines: 1) August 1 for facility level reports that have a reporting deadline of April 10, and 2) September 1 for entity level reports that have a reporting deadline of June 1. There should be an option for facility level reports to apply to ARB for an extension of the verification deadline to September 1 if needed. This compromise seeks to strike a balance between ARB's desire to have finalized data sooner for determining the Cap & Trade compliance obligation, and conducting thorough verification of the reports to ensure good quality data.

2) It may not be feasible to associate RECs with electricity “not directly delivered to California” [§95105(d)(6)]

ARB staff is proposing to add the following to the Electric Power Entity GHG Inventory Program recordkeeping requirements: to show *how the entity determined that electricity associated with RECs claimed for the RPS Adjustment credit was not directly delivered to California, if reporting an RPS Adjustment*. This proposed recordkeeping requirement is not feasible for the following reasons: 1) The owner of the RECs may not have access to documentation showing where the electricity (“null” power) went after it was sold to another party, and 2) There is a disconnect between hourly E-tags (used to document electricity delivery) and RECs (in the form of monthly certificates), and the two cannot be associated on an hourly basis. LADWP recommends this proposed amendment be withdrawn because it is not feasible to comply.

3) All electricity importers including Generation Providing Entities (GPE) should have to satisfy all four criteria specified in the Cap & Trade regulation to claim a compliance obligation based on a specified source emission factor [§95111(a)(4)].

ARB staff is proposing to add the following new requirement: “A GPE must report imported electricity as from a specified source when the importer is a GPE of that facility.” However, this proposed amendment is not consistent with the existing requirements in section 95852(b)(3) of the Cap & Trade regulation which requires that all four (4) criteria must be met for an electricity importer to claim a compliance obligation based on a specified source emission factor:

95852(b)(3) The following criteria must be met for electricity importers to claim a compliance obligation for delivered electricity based on a specified source emission factor or asset controlling supplier emission factor.

(A) Electricity deliveries must be reported to ARB and emissions must be calculated pursuant to MRR section 95111.

(B) The electricity importer must be the facility operator or have right of ownership or a written power contract, as defined in MRR section 95102(a), to the amount of electricity claimed and generated by the facility or unit claimed;

(C) The electricity must be directly delivered, as defined in MRR section 95102(a), to the California grid; and

(D) If RECs were created for the electricity generated and reported pursuant to MRR, then the REC serial numbers must be reported and verified pursuant to MRR.

For consistency between the MRR and Cap & Trade regulations, an electricity importer that is a GPE should not be allowed to claim imported electricity as specified unless they meet all four of the criteria for claiming a compliance obligation based on a specified source emission factor. LADWP recommends that this proposed amendment be withdrawn.

4) The exemption from the “lesser of analysis” for grandfathered RPS contracts and dynamically tagged power deliveries should be retained [§95111(b)(2)(E)]

ARB is proposing the following amendments to the “lesser of analysis” requirement for specified imports of zero emission electricity:

(E) Meter Data Requirement. For verification purposes, electric power entities shall retain meter generation data to document that the power claimed by the reporting entity was generated by the facility or unit at the time the power was directly delivered.

- 1) ~~This provision~~ A lesser of analysis is applicable to imports from specified sources, including imported electricity under EIM, for which ARB has calculated an emission factor of zero, and for imports from California Renewable Portfolio Standard (RPS) eligible resources, excluding the following: (1) contract or ownership agreements, known as grandfathered contracts that meet California RPS program requirements in Public Utilities Code Section 399.16(d) or California Code of Regulations, Title 20 Section 3202(a)(2)(A); (2) dynamically tagged power deliveries; (3) ~~untagged power deliveries, including EIM imports;~~ (4) nuclear power; (5) asset controlling supplier power; and (6) imports from hydroelectric facilities for which an entity’s share of metered output on an hourly basis is not established by power contract.

Accordingly, a lesser of analysis is required pursuant to the following equation:

$$\text{Sum of Lesser of MWh} = \sum \text{HMsp} \min(\text{MGsp}, \text{TGsp})$$

Where:

$\sum \text{HMsp}$ = Sum of the Hourly Minimum of MGsp and TGsp (MWh).

MGsp = metered facility or unit net generation (MWh).

Ssp = entity’s share of metered output.

TGsp = tagged or transmitted energy at the transmission or sub-transmission level imported to California (MWh).

- 2) An EPE may conduct the lesser of analysis voluntarily for those resources excluded in section 95111(b)(2)(E)(1.).

The proposed deletion of the exemption for grandfathered RPS contracts and dynamically tagged power deliveries is inconsistent with California’s RPS regulations. Under the RPS regulations, the “lesser of” analysis applies only to Portfolio Content Category 1 renewable energy, which is electricity procured from an eligible renewable energy resource under a contract executed after June 2010 that is directly delivered from the generating facility to California, where the energy is not imported on a dynamic E-tag.

It may not be feasible to perform the “lesser of analysis” for grandfathered contracts and dynamically tagged power deliveries because the reporting entity may not have the contractual

right to hourly meter data under legacy power purchase agreements. The consequence of not being able to perform the "lesser of analysis" would be a non-conformance and a Qualified Positive verification statement. This result would be unfair to reporting entities whose report satisfies all the other rule requirements.

LADWP recommends that the "lesser of analysis" requirement should be limited to only electricity imported from Portfolio Content Category 1 renewable generating resources for which the "lesser of" analysis is required under the RPS regulations. Grandfathered contracts and dynamically tagged power deliveries should continue to be exempt from the "lesser of analysis".

In closing, LADWP appreciates the opportunity to provide these comments, and looks forward to working with ARB staff to address these items.

If you have any questions, please contact me at (213) 367-0403 or Ms. Cindy Parsons (213) 367-0636.

Sincerely,

Handwritten signature of Mark J. Sedlacek in cursive, with the initials "mjs" written below the name.

Mark J. Sedlacek
Director of Environmental Affairs

CP:

c: Ms. Rajinder Sahota, ARB
Mr. Craig Segall, ARB
Ms. Mary Jane Coombs, ARB
Ms. Brienne Aguila, ARB
Mr. Wade McCartney, ARB
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