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## **Sacramento Municipal Utility District's Comments Regarding the February 24, 2016 workshop on Mandatory Reporting and Cap and Trade Regulation Modifications**

SMUD appreciates the opportunity to comment on prospective changes to the Mandatory Reporting Regulations and the Cap and Trade structure in response to experience with the program, the USEPA's adoption of the Clean Power Plan for existing power plants, and the enactment of Senate Bill 350 this year. SMUD has extensive comments on these issues as noted below, particularly on the proposal to revise the annual reporting deadline for verified emissions from September 1<sup>st</sup> to August 1<sup>st</sup>, potential changes to the RPS Adjustment, and the proposed compliance period and backstop provisions discussed in relation to the federal Clean Power Plan.

### **I. Proposed Verification Deadline Change**

SMUD understands and appreciates the reasons why CARB is proposing to change the verification deadline from September 1<sup>st</sup> to August 1<sup>st</sup>. The proposed deadline would allow CARB additional time to review the reported data and provide accurate allocations for Cap and Trade purposes. However, SMUD is concerned that reducing the time allowed for verification could adversely impact the quality of the verification process.

During the February 24<sup>th</sup> workshop, it was suggested that entities could mitigate the impacts of the August 1<sup>st</sup> verification deadline by reporting data to CARB a month earlier. In SMUD's experience, the proposed reduction in the period for reporting presents significant challenges. In particular, entities that report power transactions would face added hardships because they rely on third-parties to provide e-Tag data. Reporting power-transaction data requires entities to gather and provide information from and for several sources, including Open Access Technology International Inc. (OATI), Western Renewable Energy Generation Information System (WREGIS), the California ISO, and other entities that import or export power.

For example, SMUD provides data to the Western Area Power Association (WAPA) required for WAPA's Electric Power Entity – Power Transactions (EPE) report due by June 1<sup>st</sup>. To provide WAPA the same amount of time to verify its data, SMUD would have to request this transaction data earlier from the third party entities mentioned above. But SMUD may not receive the data earlier because it would be subject to timelines that are out of SMUD's control. Moreover, once the data is collected from these parties, SMUD cannot simply pass the data on to WAPA, but must review the data and make sure that it meets SMUD's internal standards. The data review process requires a significant amount of time and effort, including time that may be necessary to investigate any discrepancies (one cannot assume that there will be none, and hence not plan for this time). For these reasons, SMUD feels that reporting the data before the current June 1<sup>st</sup> deadline is not a viable alternative.

Also, in SMUD's experience, if CARB were to shorten the time between reporting unverified and verified data to two months, this is not enough time to complete the required verification activities for imported emissions without significantly compromising the integrity of the process. Below is a detailed timeline of SMUD's 2015 verification activities, which illustrates how the current three-month verification period, and the time prior to that period, is utilized. SMUD is providing this schedule to emphasize that these periods are necessary and to stress that it would be difficult to condense all the activities earlier in the reporting year.

In 2015, SMUD began discussions with the verifier on March 9<sup>th</sup> and conducted the required site visits in early June. Despite these early efforts, SMUD needed until August 31<sup>st</sup> to complete its verification. Some of the reasons for this were:

- In 2015, SMUD hired a new verifier that was unfamiliar with SMUD or SMUD's emissions profile. Additional time was spent familiarizing the verifier with SMUD's operations, and providing access to SMUD facilities and data. Even when the verifying company remains the same, the personnel can change, requiring significant education and familiarization.
- Changes to the mandatory reporting regulations, such as reporting data for Legacy Contracts, required new block diagrams and additional information that was not previously reported. This additional requirement presented new challenges to SMUD and the verifiers who worked with CARB to properly report the data. SMUD completed five revisions to block diagrams before the report was finalized.
- SMUD had to allocate time and resources to work with WAPA during WAPA's verification. SMUD provides verification support to WAPA for data that SMUD provides as part of the EPE reporting.

SMUD also believes that the ARB should avoid setting any interim deadlines, a proposal by CARB staff during the February 24<sup>th</sup> workshop. Rather than streamlining the reporting and verification process, adding interim deadlines would simply reduce

verification flexibility and add additional steps which would have the effect of further straining the verification timeline.

**2015 SMUD Verification Activities and Schedule:**

<b>Time Period:</b>	<b>Task</b>
Mar 19	Verification Kick-off meeting.
Mar 26	SMUD inventory management plan provided to Verification Body so its verifiers could begin preparations for upcoming verification.
Apr 6	SMUD provided to the verifier preliminary information on EGU and Cogen facilities.
May 15-31	Verifier conducted Strategic Analysis and developed Sampling Plan.
Jun 17-19	Verifier conducted site visit.
Jun 19	Verification Body delivered initial draft of Issues Log.
Jun 19-Jul 1	SMUD provided additional data requested after the site visit.
Jul 1-Aug 15	Verification Body conducted desktop review and worked with SMUD to resolve any potential findings or issues.
Jul 29	SMUD provided documentation for WAPA's verification.
Jul 29-Aug 25	Upon CARB's request, the Cal e-GGRT reports were modified to comply with the new MRR Steam Legacy Contract Requirements. Fifth and final revision of Cal e-GGRT reports and Block Diagram were submitted on August 24 <sup>th</sup> .
Aug 25-31	Verification Body drafted Verification Report and performed independent review.
Aug 31	Verification Statements submitted to Cal e-GGRT.

SMUD hopes that based on its experience, CARB will better understand the effort required for a successful verification and will reconsider the proposal to change the verification deadline. If, however, CARB still believes it is necessary to accelerate the deadline to August 1<sup>st</sup>; SMUD offers the following suggestions to help CARB achieve its objective, without compromising the integrity of the verification process.

- The proposed verification change may be more feasible if the verification process starts expeditiously when the necessary data is available.

- Often, entities find that data cannot be easily provided because the basic reporting templates from CARB, which are updated each year, are not available when data starts rolling in. Without access to the templates (and the required parameters), it is challenging to foresee what data sets may or may not be required by CARB for the reporting year. In addition, the CARB guidance documents for using the templates can be delayed. For example, for the 2015 reporting year, the reporting templates were not published until March 15<sup>th</sup>, and the EPE guidance documents have yet to be released.
- Consider staggering the verification deadlines to allow entities that report on June 1<sup>st</sup> to maintain a September 1<sup>st</sup> verification deadline, while entities that report on April 10<sup>th</sup> must verify by August 1<sup>st</sup>, if this can be done without excessively complicating the process (for example, requiring more than one verifier site visit to a facility because of the separation). This would allow entities, verifiers, and CARB to focus on the data submitted on April 10<sup>th</sup> in the interim, and then concentrate on the data that is due in June. SMUD feels the additional month (as is currently the schedule) is very beneficial for the verification of power transaction data.
- CARB should provide specialized training for Power Transactions in addition to the current general transaction specialist training. This would enable verifiers to better understand power transaction data, such as e-Tags and renewable energy certificates.
- Extend the six-year time limit to eight years for providing verification services to the same reporting entity. This will increase the availability and speed of verifiers and would streamline the process by reducing the amount of time needed for a new verifier to familiarize themselves with an entity's processes and data, as well as likely lead to additional verifiers over time.
- CARB could provide some additional transparency to the verification information available during the verification process by making verification schedules/work-progress available to the reporting entities, via data presented in a similar fashion to the table on Slide 8 of the Amendments to Mandatory Reporting and Cap-and-Trade Regulations presentation. With this information at the market level, reporting entities may be better positioned to coordinate visits and verification work since they will be more aware of the verifications workload and constraints.

SMUD hopes these suggestions would help ease some of the potential burden as a consequence of moving the verification deadline to August 1<sup>st</sup>. SMUD also supports the streamlining concepts presented in Slides 16 and 17 at the February 24<sup>th</sup> workshop, except for the concept of requiring certification by reporting entities at least 7 days prior to

the deadline. As mentioned above, SMUD does not believe that interim deadlines will improve the verification process.

## **II. Other MRR Clarifications And Issues**

**A. Sales into the CAISO.** SMUD supports clarification of the requirements for reporting sales into the CAISO. Entities sell into the CAISO under varying circumstances, and there needs to be more transparency about when and how those sales must be reported in each circumstance. This is particularly important to POU's selling into the CAISO because the Cap and Trade regulations continue to prohibit the use of administrative allowances or the revenue from the consigned auction of those allowances to support sales into the CAISO.

SMUD realizes that the MRR regulations were modified in 2014-2015 to provide exemptions for POU reporting of sales into the CAISO. For example, SMUD understands that those POU's that are fully in the CAISO must sell all their generation into the CAISO, and that the MRR was amended so that this type of CAISO sale did not need to be reported. Similarly, sales into the CAISO without a compliance obligation are not required to be reported, nor are CAISO sales required to be reported when a POU has opted to place all allowances for the data year in their limited use holding account. However, a blanket prohibition of using allowances and allowance value for sales into the CAISO in the Cap and Trade Regulations seem to conflict with at least two of these reporting exemptions, which could cause confusion amongst the EDUs as to exactly how any sales into the CAISO are to be handled and reported.

Clarification of this issue may require changes to the Cap and Trade regulations in this area as well as the MRR regulations.

**B. Verification Requirements for EGUs Below Threshold.** Slide 27 in the workshop stated that CARB "may extend verification requirement to EGUs with emissions below verification threshold". SMUD wants CARB to clarify that this extension is *only* for those EGUs that become regulated under Cap and Trade, for example because they are a covered EGU under the Federal CPP.

**C. RPS Adjustment.** SMUD filed extensive comments on the RPS Adjustment question earlier this year, and will not repeat those here. SMUD reiterates that the resources for which the RPS Adjustment is used most are an important component of the complementary RPS policy in California (hence the name "RPS Adjustment") because it preserves value paid for by California ratepayers. It is important that this component be preserved in the RPS, and facilitated through the RPS Adjustment in the Cap and Trade program. Removing the RPS Adjustment will simply add costs to California's ratepayers without providing any air quality benefit. SMUD looks forward to finding a solution to the issues raised by ARB staff after initial experience with the RPS Adjustment.

**D. MRR requirements for RECs.** The MRR requires reporting information with respect to RECs, including REC serial numbers, by February 1<sup>st</sup>. However, this information is not fully available by February 1<sup>st</sup>, and in practice is normally provided with the later June 1<sup>st</sup> reporting (though the MRR requires the information on February 1<sup>st</sup>). This could be solved by simply removing the REC requirement from the prior registration section and placing it in more appropriate sections of the regulations, as follows:

*95111(g) Requirements for Claims of Specified Sources of Electricity and for Eligible Renewable Energy Resources in the RPS Adjustment.*

Each reporting entity claiming specified facilities or units for imported or exported electricity must register its anticipated specified sources with ARB pursuant to subsection 95111(g)(1) and by February 1 following each data year to obtain associated emission factors calculated by ARB for use in the emissions data report required to be submitted by June 1 of the same year. If an operator fails to register specified source by the June 1 reporting deadline specified in section 95103(e), the operator must use the emission factor provided by ARB for a specified facility or unit in the emissions data report required to be submitted by June 1 of the same year. Each reporting entity claiming specified facilities or units for imported or exported electricity must also meet requirements pursuant to subsection 95111(g)(2)-(5) in the emissions data report. Each reporting entity claiming an RPS adjustment, as defined in section 95111(b)(5), pursuant to section 95852(b)(4) of the cap-and-trade regulation must include registration information for the eligible renewable energy resources pursuant to subsection 95111(g)(1) in the emissions data report. Prior registration and subsection 95111(g)(2)-(5) do not apply to RPS adjustments. Registration information and the amount of electricity claimed in the RPS adjustment must be fully reconciled and corrections must be certified within 45 days following the emissions data report due date.

(1) *Registration Information for Specified Sources and Eligible Renewable Energy Resources in the RPS Adjustment.* The following information is required:

~~(M) Provide the primary facility name, total number of Renewable Energy Credits (RECs), the vintage year and month, and serial numbers of the RECs as specified below:~~

~~1. RECs associated with electricity procured from an eligible renewable energy resource and reported as an RPS adjustment as well as Legal Disclaimer: Unofficial electronic version of the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions. The official legal~~

~~edition is available at the OAL website:~~

~~<http://www.oal.ca.gov/CGR.htm> California Air Resources Board 111 February 2015 whether the RECs have been placed in a retirement subaccount and designated as retired for the purpose of compliance with the California RPS program.~~

- ~~2. RECs associated with electricity procured from an eligible renewable energy resource and reported as an RPS adjustment in a previous emissions data report year that were subsequently withdrawn from the retirement subaccount, or modified the associated emissions data report year the RPS adjustment was claimed, and the date of REC withdrawal or modification.~~
- ~~3. RECs associated with electricity generated, directly delivered, and reported as specified imported electricity and whether or not the RECs have been placed in a retirement subaccount.~~

(4) *Additional Information for Specified Sources.* For each claim to a specified source of electricity, the electricity importer must indicate whether one or more of the following descriptions applies, and provide information as appropriate for the description:

(F) Deliveries from sources including Renewable Energy Credits (RECs): report the total number, vintage years and months, and serial numbers of all RECs, and whether or not the RECs have been placed in a retirement subaccount.

(5) Additional Information for RPS Adjustment Sources:

(A) RECs associated with electricity procured from an eligible renewable energy resource and reported as an RPS adjustment, as well as whether the RECs have been placed in a retirement subaccount and designated as retired for the purpose of compliance with the California RPS program.

(B) RECs associated with electricity procured from an eligible renewable energy resource and reported as an RPS adjustment in a previous emissions data report year that were subsequently withdrawn from the retirement subaccount, or modified the associated emissions data report year the RPS adjustment was claimed, and the date of REC withdrawal or modification.

~~(5) — Substitute electricity.~~

- (C) Report substitute electricity received from specified and unspecified sources pursuant to the requirements of this section.

**E. Lesser of Analysis:** The MRR regulations indicate that for certain resources an hourly comparison between metered and “scheduled” data must be made and the sum of the lesser of these hourly values be calculated for reporting purposes. It is unclear from the language exactly how the proposed “lesser of” analysis should affect emission factors used in mandatory reporting. The implication and common practice, supported by guidance, is that the specified source emission factor would only be used for the generation that results from the “lesser of” calculation. However, this is not explicitly stated in the regulatory language nor is there clarity in the language about what emission factor should be used for any remaining generation that is scheduled into California above the result of the lesser-of analysis. It may seem reasonable to use the “unspecified” emission factor for this remaining generation, but this is not explicitly stated. In addition, the term “S<sub>sp</sub>”, which brings into the equation the entity’s share of output from the facility, is listed but is not used in the equation like it should be. SMUD suggests the following edits to clarify these issues:

95111(b)(2)(E): Meter Data Requirement. For verification purposes, electric power entities shall retain **all available** 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. This provision is applicable to imports from specified sources for which ARB has calculated an emission factor of zero, and for imports from California Renewable Portfolio Standard (RPS) eligible resources, excluding: (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. **For these resources Accordingly, a specified source emission factor shall be applied only to the amount of generation calculated through** a lesser of analysis **is required** pursuant to the following equation:

$$\text{Sum of Lesser of MWh} = \underline{S_{sp}} * \sum H_{M_{sp}} \min (MG_{sp}, TG_{sp})$$

Where:

$\sum H_{M_{sp}}$  = Sum of the Hourly Minimum of  $MG_{sp}$  and  $TG_{sp}$  (MWh).

$MG_{sp}$  = metered facility or unit net generation (MWh).



$S_{sp}$  = entity's share of metered output.  
 $TG_{sp}$  = tagged or transmitted energy at the transmission or subtransmission level imported to California (MWh).

Any remaining scheduled energy should use the unspecified emission factor and is considered not directly delivered.

Even with these clarifications, however, there is a potential mismatch with the CEC/CPUC RPS policy, since in that structure the “lesser-of” analysis does not distinguish between zero-emission renewable resources and unspecified emitting resources, but rather between two types of zero emission renewable resources – those directly delivered and those not. The ARB could potentially handle this discrepancy by allowing the “RPS adjustment” to be used to offset the associated emissions from the generation excluded by the “lesser of” analysis, but there is currently a question about the structure of the “RPS Adjustment”.

### **III. Compliance Period Coordination With Clean Power Plan**

At the workshop, ARB proposed post-2020 compliance periods for Cap and Trade that are not entirely consistent with the adopted USEPA CPP compliance periods. ARB proposed a two-year “bridge compliance period” in 2021-2022, covering one year before CPP starts and the first year of CPP compliance, and a second two-year compliance period to match-up with the end of the first, three-year CPP compliance period in 2024. Following these two somewhat mismatched compliance periods, ARB proposes the Cap and Trade compliance periods match the next three-year CPP- compliance period and then all of the remaining two-year CPP compliance periods.

While this seems workable, SMUD believes that a better structure would be to collapse the first two-proposed Cap and Trade compliance periods into one four-year period. In effect, ARB would be simply adding the 2021 “gap” year to the first CPP compliance period to establish the first Cap and Trade compliance period. SMUD believes this structure provides a better transition between the three-year Cap and Trade compliance periods today and the eventual two-year compliance periods under CPP for the following reasons.

Three-year compliance periods are much better at providing flexibility to deal with adverse hydro conditions and other cyclical or temporary situations than two-year compliance periods, and by 2020 will be the primary experience of California entities under Cap and Trade. A four-year period is even better at providing flexibility and would also be easier for covered entities to adjust to than would a two-year period. The post-2020 period will likely see significant increases in the rate of year-to-year cap reduction, increasing the importance of multi-year flexibility to deal with unexpected short-term emissions. An initial four-year compliance period would provide more time to transition to both the steeper reductions required in the initial post-2020 Cap and Trade period and the beginning of joint CPP/Cap and Trade compliance.

With 30% annual surrender under Cap and Trade, it is unlikely that a four-year initial post-2020 compliance period will raise any problems with achieving the emission reductions expected in the period.

In addition, an initial four-year compliance period provides for a simpler and better matchup with the CPP compliance periods. While the 2021 gap year must be dealt with, SMUD believes it is better to deal with it by incorporating it in a Cap and Trade compliance period that encompasses the initial CPP compliance period, providing one initial compliance period for both with a common end date. This is simpler than having a Cap and Trade compliance period that is “half-in and half-out” of the first-year CPP compliance period, as well as another Cap and Trade compliance period that does not fully cover the initial CPP compliance period. More complexity and discrepancy between compliance periods and compliance events between the programs increases the risk of adverse interference between them. Having one initial and simultaneous compliance event, as the Cap and Trade is extended and the CPP begins, will be significantly easier on obligated entities and ARB staff.

In addition to simplicity, SMUD believes that there are three questions that ARB should consider. First, would a Cap and Trade compliance event in the first year of the initial CPP compliance period, as in the ARB proposal, cause any problems with how California accomplishes the initial goals of CPP and post-2020 Cap and Trade? Second, would having a Cap and Trade compliance period that begins within and is shorter than the initial CPP compliance period, as in the ARB proposal, cause any problems with accomplishing the initial goals of CPP and post-2020 Cap and Trade? And third, would adding an additional year to the first Cap and Trade compliance period that matches up with the first CPP compliance period, as SMUD proposes, cause any problems with how California accomplishes the initial goals of CPP and post-2020 Cap and Trade?

#### **IV. Backstop For Clean Power Plan**

At the workshop, ARB proposed that the CPP backstop for EGUs, required within the proposed state measures plan to be submitted by the state, could consist of:

- A “set-aside” of 10 million allowances held back from the post-2020 Cap and Trade structure.
- In the event the backstop is triggered, the group of EGUs covered by the CPP must collectively procure sufficient allowances from this set-aside to cover the emissions above the required EGU levels, in proportion to each EGU’s actual emissions, and at prices that are at the fairly high levels in the APCR.
- Allowances only (no offsets) are allowed for backstop purposes.
- If the set-aside is depleted, it would be replenished with allowances from the APCR.

SMUD sees several potential problems with this approach. First, it is unclear that the approach is acceptable by the USEPA, since it relies on allowances from other economic sectors outside the covered EGUs, whereas the default Federal plan relies only on emissions and allowances from within the group. Second, it sets up a potential situation where California EGUs, if the backstop is triggered, may face sharply different costs than EGUs in connected states, with APCR-related carbon prices compared to the prices for CPP allowances that develop nationally or in neighboring state markets. Third, it establishes a structure where even low-emitting EGUs that have sufficient allowances to cover their emissions within the proportionate CPP target glide-path for the sector must procure and surrender additional allowances. Fourth, it removes allowances from the general California Cap and Trade marketplace, which will have the effect of increasing Cap and Trade prices and costs for other participants in that market, including other components of the electricity sector.

SMUD suggests an alternative set-aside structure that addresses many of these deficiencies, with the following components:

- The approach includes a 10 million allowance set-aside, although more thought about the appropriate amount of set-aside allowances for this purpose should occur.
- In the event that the backstop is triggered, ARB would provide EGUs with sufficient allowances from the set-aside and require their sale at auction in the Cap and Trade market, thereby keeping the allowances within the Cap and Trade system.
- The revenue from these sales would be required to be used to procure CPP allowances from EGUs outside of California. California's EGUs would cover their emissions (for CPP purposes) by procuring and retiring sufficient allowances from these other EGUs, independent of the ongoing Cap and Trade accounting specific to California. Meeting the CPP targets in this manner keeps the commitment within the CPP-covered EGU sector by including a degree of compliance sourced from other states, without requiring "linkage" with those states. CPP compliance in the source states is preserved as allowances are procured from their system and retired.
- As CPP compliance periods pass without triggering the backstop, a commensurate portion of the allowances set-aside would be released back into the Cap and Trade market. As time progresses, experience will inform about the actual likelihood of the rather unlikely triggering of the backstop, and if so by how much compliance would be in question, and CARB can determine how many unneeded allowances can be returned to the Cap and Trade system based on this information.

- If the set-aside is depleted, EGUs would still be required to purchase and retire CPP allowances from other states to achieve compliance.

This approach addresses all of the concerns suggested above. The approach preserves the CPP structure of achieving compliance within the group of covered EGUs. The approach preserves relative cost-parity between California EGUs and those outside the State. The approach does not penalize those low-emitting EGUs that are not the primary cause of the non-compliance, because there are revenues made available to procure the needed CPP allowances.

Similarly, the approach preserves a degree of consistency in costs between covered EGUs and the remainder of the electricity sector in the Cap and Trade program. Finally, the approach keeps the set-aside Cap and Trade allowances within the Cap and Trade marketplace, avoiding a California-wide impact on Cap and Trade costs.

## **V. Other Clean Power Plan Issues**

SMUD supports the proposal by ARB staff that the “Glide Path” emissions targets for EGUs in the backstop be set “at or near” federal targets. SMUD sees no reason to deviate in this case from Federal targets – just adopt those. There is no need to complicate the structure in California with backstop targets that differ from the Federal targets -- this will inevitably lead to analysis of compliance with both the adopted targets **and** the Federal targets, an unnecessary distraction.

SMUD also agrees with the ARB staff proposal that no formal “new source component” is necessary to address leakage. Staff’s logic about both existing and new sources being covered by the more stringent Cap and Trade program makes sense, and allows this welcome simplification as the State Plan is prepared and the CPP structure is implemented. In addition, SMUD believes that other state policies, such as the 50% RPS policy, act to incentivize new resource development away from new sources that would potentially constitute “leakage”.

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