

December 4, 2017

Ms. Rajinder Sahota
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Dear Ms. Sahota:

Subject: Los Angeles Department of Water and Power's Comments on California Air Resources Board's Cap-and-Trade Regulation Workshop presented on October 12, 2017

The Los Angeles Department of Water and Power (LADWP) appreciate the opportunity to provide comments to the California Air Resources Board (ARB) on the Cap-and-Trade Regulation Workshop presented on October 12, 2017.

In submitting these comments, LADWP reaffirms its strong support of the Assembly Bill 32 (AB 32) and Senate Bill 32 (SB 32) goals of expeditiously achieving substantial greenhouse gas (GHG) emission reductions in a cost-effective manner that protects its ratepayers and minimizes impacts to low-income communities.

I. LADWP's Strong Support for ARB's Current Allocation Policy

As LADWP has stated in its previous comments, LADWP supports ARB's existing regulatory structure that allows publicly owned utilities (POUs) the option to surrender directly allocated allowances for compliance or to consign portions of their allocated allowances to auction. In the 2017 Final Statement of Reasons for the California Cap-and-Trade Regulation (2017 FSOR), the ARB staff stated that

"ARB seeks "alignment" in this case in the sense that it seeks for its policies to result in equitable treatment for ratepayers who are customers of different entities. ARB finds this goal of equitable treatment to be reasonable."¹

¹ From the 2017 Final Statement of Reasons for the California Cap-and-Trade Regulation, page 1033

LADWP supports the goal of “equitable treatment of ratepayers.” However, to reach the goal of “equitable treatment for ratepayers,” ARB must recognize the reality that neither investor owned utilities (IOUs) nor POU are structured nor governed the same way.

LADWP is striving to continue GHG reduction efforts pursuant to AB 32 and SB 32, and continues to invest in cleaner and renewable energy. LADWP, as part of a vertically integrated electric utility system, owns generation facilities that have direct compliance obligations. For these facilities to remain in compliance with the Cap-and-Trade Regulation, LADWP will need to invest in upgrading these facilities and other programs to reduce GHG emissions. Therefore, it is unreasonable to expect POU to have the same financial ability as IOUs, to fund GHG reduction measures and buy allowances, in addition to keeping rates low for ratepayers. As a load-serving entity, LADWP is in the best position to make investments in GHG reduction measures for the exclusive benefit of their customers. From 2013 to 2016, LADWP’s GHG reduction measures (i.e. increase in renewable energy and use of the carbon cost adder) have resulted in overall CO₂ emissions reduction of 26%. In order to continue making investments and provide competitive rates, LADWP will need the continuation of the current requirements.

LADWP’s Non-Volumetric Distribution of Allowance Value

LADWP believes that funding programs that directly provide ratepayers with energy efficiency products or a rebate for verified energy efficient purchases is a better alternative to a mandated non-volumetric distribution of allowance value to customers. LADWP offers various programs that help ratepayers save money, reduce electricity demand, and as a consequence reduce GHG emissions. Some of these programs include the Consumer Rebate Program and Efficient Product Marketplace (both programs promote energy efficiency and provide rebates), and the Refrigerator Exchange Program (LADWP will give customers a free refrigerator in exchange for a qualified older model). By giving ratepayers the opportunity to adopt energy efficient products (i.e. by literally giving away LED bulbs), LADWP believes this will lead to improved energy efficiency on the demand-side. A climate-related credit to ratepayers may not necessarily lead to adoption of energy efficient products, because ratepayers generally would not associate a credit on their bill as an opportunity to go out and buy LED bulbs.

The ARB also should keep in mind that there is no explicit mandate under AB 32 or other state law for POU to distribute the allowance value in an equal amount to all of its customers only through some type of climate dividend credit in their electricity bills. Due to this statutory silence by the legislature, we believe that the “off-bill” approaches that LADWP and other POU are currently using to decarbonize their electricity power systems provide an effective way to distribute in the allowance value back to our customers.

No Changed Circumstances Justifying a New ARB Allocation Policy

Finally, allocating allowances to POU does not distort their incentive to reduce emissions from their facilities because POU are under a mandate to deliver electricity as cost-effectively as possible to their customers. The ARB has expressly recognized this in fact in

the 2010 Final Statement of Reasons for the California Cap-and-Trade Regulation (2010 FSOR), stating that:

In order to minimize the administrative costs of the program to the POU, and recognizing that directly allocating the allowances to the POU does not distort their economic incentive to make cost-effective emissions reductions, we determined that it would be prudent to allow POU to surrender directly allocated allowances without participating in the auction process.

Similarly, the 2010 FSOR contains other findings that expressly support the direct allocation of allowances to POU for compliance and not requiring the consignment of some or all of those allowances to auction. In particular, ARB recognized that POU-owned generation is typically used only to serve POU ratepayers, whereas IOU subsidiaries can profit from selling power from their merchant generators. As a result, the 2010 FSOR concludes that not-for-profit POU have no incentive to use allowance allocations to artificially lower the price of the power from their owned resources in order to increase market share and, as a result, the concerns that animated the ARB's decision to require IOUs to consign allowances to auction do not apply to POU.²

ARB has not identified any changed circumstances that could justify any substantial revision to the current allowance allocation policy to POU. As a result, LADWP believes that ARB lacks a reasoned basis or justification for changing that policy by requiring the consignment of all allocated allowances to the auction for POU.

II. Definition of "Direct Environmental Benefits"

LADWP understands the need to establish new offset credit limits pursuant to AB 398, and appreciates ARB Staff's effort to request feedback on the definition of "direct environmental benefits." LADWP supports ARB Staff in seeking clarification on this issue and believes that they are correct in stating that:

"...many offset projects are located in California, and directly result in benefits to California. A significant portion of the ozone-depleting substances destroyed out-of-

² See 2010: ISOR: Rationale for Section 95892(c). "Monetization of allowances through auction is intended to ensure that the amount of value given to distribution utilities is transparent to the public, and that this value is used on behalf of electricity ratepayers. This practice will also ensure that freely allocated allowances to a distribution utility will not impact competition in the electricity generation market (where utilities compete with merchant power producers)."; 2010 ISOR: "By requiring IOUs to put their allowances up for auction, the regulation maintains the current competitiveness of the deregulated California electricity market. In this way, utility-owned generation and independent generation have equal access to allowances."; 2010 FSOR: "In order to minimize the administrative costs of the program to the POU, and recognizing that directly allocating the allowances to the POU does not distort their economic incentive to make cost-effective emissions reductions, we determined that it would be prudent to allow POU to surrender directly allocated allowances without participating in the auction process."

state are recovered from communities throughout California, resulting in direct emissions reductions in California.”³

This example of ozone-depleting substances (ODS) being collected in California, and being destroyed out-of-state, is the type of offset projects that LADWP participates in. LADWP’s Residential Appliance Recycling Program offers a rebate for qualifying refrigerators, freezers, and air conditioners from residential electric customers. Pursuant to CARB’s Compliance Offset Protocol ODS Projects, a third-party contractor collects the refrigerant from these appliances and sends them out-of-state to destroy them. LADWP believes that the crucial factor in ARB’s analysis is that the ODS is being collected in California and it is immaterial where the ODS is being destroyed. Furthermore, there can be no doubt that the destruction of the ODS in either California or another state clearly results in a direct environmental benefits to California because the inventory of ODS that can be used is lowered, therefore directly benefitting the global environment.

As ARB Staff has mentioned, the location of GHG reductions is not relevant from a climate perspective, because global warming is a global issue. Therefore, to address the “no more than one-half [of the offsets] may be sourced from projects that do not provide direct environmental benefits in the state” criteria, ARB should focus on whether or not the project was sourced from California. The reason being that all offset projects should be associated with real GHG reductions and any GHG reductions are a “direct environmental benefit.” In the example above, the direct emissions reduction should be attributed to California because the ODS was collected from California communities.

III. Methodologies for Additional Allocation for Transportation Electrification Load Growth

CARB’s Board Resolution 17-21 directs staff to “... evaluate appropriate quantification methodologies for additional electrical distribution utility allocation that would provide ratepayer benefit for the Cap-and Trade Program cost burden associated with transportation electrification load growth (in recognition of the requirements of SB 350).” California has adopted ambitious mandatory targets for reducing its greenhouse gas (GHG) emissions on an economy-wide basis. These reduction targets call for California to return to its 1990 GHG emission levels by 2020⁴ and then continue that reduction trend by achieving a 40% reduction in economy-wide GHG emissions by 2030.⁵ Additionally, Governor Brown set the goal of over 1.5 million zero-emission vehicles (ZEV) on California roads by 2025.⁶ To achieve GHG reduction levels of this magnitude, and to meet the ZEV goal, it will clearly be necessary for California to electrify the transportation sector, which currently produces 42% of the State’s CO₂ emissions.

³ From the 2017 Final Statement of Reasons for the California Cap-and-Trade Regulation, page 406

⁴ See Assembly Bill 32 (AB 32).

⁵ See Senate Bill 32 (SB 32).

⁶ See Executive Order B-16-2012

Achieving these steep CO₂ reduction levels will be made more difficult if the ARB advances policies to increase the cost of electricity that would be used to power the transportation sector. To put in other words, regulatory policies that drive up the cost of electricity will increase the cost of electricity that consumers must purchase for their vehicles and that these electricity cost increases would consequently have the counterproductive effect of discouraging this critical shift from gasoline-powered vehicles to electric vehicles for a large segment of transportation sector.

Given the importance of electrification in achieving the climate change goals for California, it is critically important that the ARB develop effective allowance allocation methodologies that do not penalize the electric power sector, but instead encourage the electrification of the transportation sector. As previous stated, LADWP urges ARB to consider methodologies that allocate allowances based on projected emission increases due to projected actual use of electrification infrastructure. These additional allowances would be distributed from an allowance reserve specifically established for Electric Distribution Utilities (EDUs) that document the expected increases in load needed to meet projected future increases in transportation electrification in each EDU service territory.

To quantify the number of allowances needed by an EDU, the methodology should rely on EDU-specific generation data and emission factors. For generation data, ARB should first utilize a projection of expected electricity demand increases associated with the utility's electrification efforts. ARB could utilize EDU Integrated Resource Plans developed as part of the SB 350 process or California Energy Commission (CEC) electric utility data. The demand, in the case of electric vehicles, could be based on EDU-specific forecasts of electric vehicle penetration in its service territory, average kwh/mi electric vehicle efficiency ratings taken from published U.S. Department of Energy (DOE) and U.S. Environmental Protection Agency (EPA) data, and mile per year per vehicle information taken from ARB's EMFAC model. For EDU-specific emission factors, ARB should utilize a three-year average of each EDU's system-wide emission rate. Quantification could be updated annually.

After estimating an EDU's projected increase in electricity demand (and the resulting GHG emissions) due to electrification, ARB would allocate to the covered EDUs an extra allocation of non-tradeable allowances that they would hold in their allowance accounts. This extra allocation of non-tradeable allowances would be sufficient in number to cover their increased emissions attributable to supply the transportation sector and would only remain available for that limited purpose.

Finally, LADWP has concerns on the methodology for projecting the extra allocation of allowances for meeting projected electricity demand increases due to electrification. Specifically, we believe that it is unnecessary for ARB to establish overly stringent verification requirements that will impose considerable complexity and excessive accounting burdens on EGUs. Rather, LADWP believes that better approach is for ARB to restrict the ability of EDUs to sell or trade those allowances allocated to cover costs associated with electrification. This approach assures that these non-tradeable allowances can only be used for meeting increased electricity demand due to transportation electrification for which

substantial net GHG reductions would accrue. Under this approach, any unused allowances would be surrendered and permanently retired in accordance with procedures established by the ARB.

IV. Methods to Accurately Quantify Transportation Related Load Growth and Corresponding Emissions

In the 2017 FSOR,

“ARB staff notes that any method would need to be as accurate and verifiable as the methods used to calculate product-based allocation for industrial sectors. It would not need to be calculated in advance of load and cost burden increases, but could be based on actual data with allocation occurring in arrears. Use of actual load and emissions/cost burden increase data can minimize or eliminate the use of estimation. Minimizing estimation will ensure that the allocation is appropriate for actual deployment of electrified transportation...it is important to avoid incentivizing load increases which do not reduce net GHG emissions.”⁷

While LADWP agrees with ARB staff that it is important to avoid incentivizing load increases that do not reduce net GHG emissions, as this may result in a disincentive for energy efficiency measures, LADWP is questioning the availability of appropriate data sources that is accurate and verifiable. In the electric transportation sector, a robust tracking system does not exist. At best, data in the electric transportation sector is based on estimation methodology, similar to the one used in the Low Carbon Fuel Standard (LCFS) program. It would be difficult to accurately attribute load increase to electrification transportation using actual data, and to also verify that the electrons generated are going to electric transportation, due to the lack of separate and dedicated metering for electric transportation charging. In the LADWP service territory, approximately 25% of LADWP’s customers have separate and dedicated metering for EV charging. Many of LADWP’s customers live in multi-unit dwellings where the installation of a dedicated meter for EV charging is not possible or economically feasible. Furthermore, to acquire dedicated meters is not the most economical option right now, as many EVs are supplied with Tier 1 chargers from the manufacturers.

Until an accurate tracking system is developed, LADWP recommends that ARB use an estimation methodology similar to the LCFS, where the ARB staff estimates the electrification transportation increase in load demand based on each EDU’s service territory. ARB can then allocate to EDUs an extra allocation of non-tradeable allowances that they would hold in their allowance accounts. This extra allocation of non-tradeable allowances would be sufficient in number to cover their increased emissions attributable to supply the transportation sector and would only remain available for that limited purpose.

In the alternative, the ARB could provide each utility an adjustment to their compliance obligation. Similar to getting additional allocation of non-tradeable allowances, as described

⁷ From the 2017 Final Statement of Reasons for the California Cap-and-Trade Regulation, page 56

above, an electric transportation adjustment will help lower the Cap-and-Trade cost burden due to increase in load demand. However, unlike the additional allowance allocation, EDUs will not be getting actual allowances, but adjustments to their annual compliance obligations. This will eliminate issues associated with the auction and uses of auction proceeds.

V. Allowance Banking Rules that Discourage Speculation

LADWP believes that ARB's current strategies, as detailed in the Cap and Trade Market Oversight and Enforcement document⁸, already discourage speculation and prevent gaming of the carbon market. The current language establishes limits on how many allowances an entity can purchase from the auctions (purchase limit) and how many they can bank (holding limit and limited exemption). Additionally, there are rules governing the usage of the various accounts (holding account, compliance account, limited use holding account, etc.). The Market Monitor will ensure that the markets are free of abuse and disruptive activities. Furthermore, LADWP believes that the proposed price ceiling and intermediate price signals will help with volatility in the market. For these reasons, there is no need for ARB to establish at this time additional rules to discourage speculation, avoid financial windfall, and ensuring the integrity of the carbon market.

If you have any questions, please contact me at (213) 367-0403 or Ms. Jodean Giese at (213) 367-0409.

Sincerely,



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Director of Environmental Affairs

BP:rs

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⁸ https://www.arb.ca.gov/cc/capandtrade/market_oversight.pdf