



Public Power Agency

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Submitted electronically

Rajinder Sahota
Branch Chief, Cap-and-Trade Program
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: Comments on October 21 Workshop

Dear Ms. Sahota:

The M-S-R Public Power Agency (M-S-R)¹ offers these comments to California Air Resources Board (CARB) staff in response to discussions during the October 21 Workshop regarding proposed amendments to the Cap-and-Trade Program, and Staff's initial proposal for post-2020 allowance allocation to electrical distribution utilities (EDUs). M-S-R strongly supports continuation of the cap-and-trade program and appreciates staff's engagement of stakeholders on proposed amendments to the program. However, as more fully set forth herein, staff's proposal for allocation of allowances to the EDUs for 2021-2030 leaves M-S-R member utilities significantly short of the number of allowances necessary to mitigate their costs to comply with mandates required to meet the state's clean-energy goals. The combination of the drastic reduction in the number of allowances allocated beginning in 2021, the steep decline in allocations in the following years, and a tightening emission reduction cap leaves the EDUs without enough allowances to meet their cost burden. M-S-R appreciates the opportunity to provide this feedback to staff on the issues addressed during the October 21 workshop.

Post-2020 Electrical Distribution Utility Allowance Allocation

In these comments, M-S-R notes overarching concerns with the current allocation proposal. However, M-S-R continues to work with the other utilities and staff to assess the data used and appropriate application of the relevant data, and looks forward to working with staff on resolution of these and other determinative issues as the 15-day language is developed.

- *Ensuring Data Accuracy*: Since the release of the initial proposal, several inconsistencies and questions have been identified regarding the underlying data and applicable

¹ Created in 1980, the M-S-R Public Power Agency is a public agency formed by the Modesto Irrigation District, the City of Santa Clara, and the City of Redding.

calculations used to compute the allocation proposal. As these issues are addressed and the methodology further refined, more questions may arise; it is important that these issues be fully resolved prior to finalizing any allocation proposal for inclusion in 15-day changes.

- *2021 Starting Point:* As proposed, there will be an abrupt decline in the number of allowances EDUs receive in 2021. The severe impact of this difference is exacerbated by the aggressive cap decline factor that is applied to the annual allocations. Further compounding the impacts is application of the 50% RPS applied to load based on forecast data from the relevant S-2 filings. The allocation proposal ultimately proffered in 15-day changes should reflect a “flatter” reduction trajectory to ensure that EDUs are not faced with allowances shortages in the program’s later years.
- *Calculating Cost Burden:* Allocation of allowances to EDUs is the most effective way to alleviate the impacts of ever-increasing clean-energy program costs on electricity customers. The basic tenant of this mitigation is based on providing EDUs with allowances to cover their cost burden. Defining that cost burden is a critical element of the ultimate allocation methodology. The initial proposal applies a definition of cost burden that leaves EDUs significantly short of the number of allowances needed to offset their cost burden. The basis for determining the EDUs’ cost burden must recognize the inter-related nature of various emissions reduction measures and programs identified in the Scoping Plan to which the EDUs are subject. M-S-R strongly encourages staff to continue to work with stakeholders on seeking a resolution to this important issue that ensures the ability of EDUs to affect the greatest emission reductions in the most cost-effective manner, while providing much needed mitigation to alleviate the impacts of these aggressive carbon reduction measures on California’s residential, commercial, and industrial electricity customers.
- *Allocation methodology should account for load growth:* Staff has proposed two different options for dealing with an EDU’s load when calculating allowance allocation. M-S-R believes that the calculation should be based on changes in the EDU’s load over time, and not be fixed. Beyond the impacts on utilities from transportation, many utilities expect to see significant load growth in the next decade. This results not just from expanding economies, but from the extent to which other sectors of the economy increasingly turn to electrification. Allocation based on a 2020 fixed load estimate would severely cut the mitigation available to utilities to meet their compliance burden in the face of increasing load.
- *Calculation of RPS should be applied to retail sales, not load:* The state’s renewable portfolio standard (RPS) program mandates minimum procurement of energy from eligible renewable resources based on a load serving entity’s retail sales. (Public Utilities Code section 399.13 and 399.30) The current proposal erroneously applies the RPS mandate to the EDU’s load, rather than retail sales. Under any allocation methodology in which the EDU’s RPS mandate is incorporated, the applicable metric must be consistent with state law. To do otherwise overstates the amount of carbon-free resources and cost burden in the utility’s portfolio.
- *Industrial Customer Purchased Electricity:* Staff’s initial proposal continues to include a reduction in the EDU allowance allocation for industrial covered entities’ purchased

electricity. Reducing allowances for one class of electricity customers could result in diminishing the benefits of the allowance proceeds to remaining customers. To the extent that the POU's allowance value is used for programs and measures that benefit an entire customer class, those benefits would inure to covered entities for which the POU received no allowances. Furthermore, despite differing designs for distributing allowance value to customers between POU's and IOU's, there is no evidence to support a claim that the POU customers are disadvantaged or under-compensated. Indeed, such differences are an element of the different governing structures under which the various utilities operate, and are further reflected in the varied rates and services offered within any given service territory. Finally, given the different metric used to determine the number of allowances that industrial customers will receive to account for their electricity purchases and the reduction in EDU allowances for that purchased electricity, it is likely that the industrial customers will see an overall reduction in mitigation. M-S-R strongly encourages staff to revise their recommendations for industrial and EDU allocations to remove this proposal.

- *Retaining the RPS Adjustment:* M-S-R fully supports and appreciates staff's current recommendation to retain the RPS adjustment in the post-2020 program. The alternate proposal to remove this important program element and replace it with a scheme that allocated allowances under a metric that failed to account for the actual RPS-eligible deliveries that a EDU has invested in would have cost M-S-R's member agencies millions of dollars in additional compliance costs each year and depreciated the value of the RPS-eligible resources for which their ratepayers paid a premium. Retaining the RPS adjustment is far superior to such an outcome. However, work is still needed to ensure that the RPS adjustment is properly claimed, and that the entity who paid the premium for the renewable energy credit (REC) that triggers the adjustment can realize the benefit of this claim. Part of that process will involve ongoing discussions with reporters and staff. Resolution of this issue must also be addressed through further proposed changes to the Cap-and-Trade Program regulation and the Mandatory Reporting Regulation that retains REC-reporting and verification requirements. This is necessary because without alignment with the state's RPS program, the value of the RPS adjustment would be marginalized or even exploited by entities with no rights to the REC; it is the REC that creates the GHG-free nature of the electricity import. M-S-R looks forward to working with staff on further refinements to address this issue in 15-day language.
- *Transportation Electrification:* Staff has indicated its intent to continue to coordinate with stakeholders and the state's energy agencies on the potential for allocation of allowances to address the increased use of electricity in the transportation sector, but does not include any such allocation in the current proposal. It is important that this issue be discussed in a coordinated manner amongst the energy agencies and that it be addressed as part of this rulemaking, and not deferred. Transportation electrification will impact the entire electricity sector, but some EDUs' forecasts show significant changes in the near-term because of TE. Resolution of this issue should not be put off.

Accounting for Emissions in the CAISO Energy Imbalance Market

The impacts of cap-and-trade program revisions to address staff's concern that GHG emissions from the EIM are not properly captured will not be limited solely to Program participants. Whether intended or not, any such changes will alter the overall efficacy of the EIM and influence discussions on the regional ISO. There are concurrent CARB and CAISO

proceedings addressing this issue, and while staff from both entities are working together, the proposals being concerned are not identical. Not only does this duplicative process put pressure on limited resources for those following this issue, but there is no way for stakeholders to provide meaningful feedback or adequately address all aspects of this issue when the discussions are taking place in multiple forums. M-S-R urges CARB and the ISO to coordinate discussions on this issue so that a workable solution can be developed with appropriate stakeholder participation. At a minimum, CARB and ISO should be assessing the same options or what may be deemed workable by one entity could be totally infeasible for another. These coordinated discussions must also ensure that the cost of carbon is incorporated into the dispatch and not merely “allocated” to California compliance entities. Application of a “hurdle rate” is not appropriate because it is not market-based and could result in disparate treatment between in-state and out-of-state resources. To the extent that staff has determined that a proposal on this issue must be part of the current rulemaking, it is incumbent upon the agency to ensure that the proposal is workable as part of the cap-and-trade program *and* EIM, that it is developed with meaningful input from stakeholders, and that it does not undermine the price optimization that is the basis for the EIM.

AB 197 & Post-2020 Cap-and-Trade Program Design

Assembly Bill (AB) 197 requires CARB to do many things, but it does not mandate any changes to the cap-and-trade program. While CARB continues to review and assess various options for meeting the state’s emission reduction objectives, it will do so in the context of the direction provided in AB 197 and further developed through the Scoping Plan Update. However, that separate assessment should not be pre-supposed or used as the basis for cap-and-trade program design changes. During the October 21 workshop, staff set forth several program design changes being considered in response to AB 197 expectations and influenced by feedback to the September 14 Preliminary Assessment of the Cap-and-Trade program. The result of these changes would be to increase cap-and-trade program compliance costs. The most notably of these being the proposal to retire all state-owned allowances not sold in the auction by the end of 2020. Stakeholders raised a number of concerns with a previous proposal to take these allowances out of the market and move them into the allowance price containment reserve; those same issues are implicated here, only adverse impacts are compounded by the fact that this proposal would remove the allowances entirely from the market, eliminating even the option of going to the APCR for them in a constrained market. The post-2020 program implements a more aggressive emissions target that will see a significant increase in the pace at which compliance entities will need to reduce emissions; this comes at the same time that EDUs will be called upon to increase renewable energy procurement and accelerate savings from energy efficiency programs, all of which will come at a cost to electricity customers. In light of all these converging factors, and in the absence of a mandate in AB 197 to alter the design of the cap-and-trade program, staff should avoid making any changes to the post-2020 cap-and-trade program that would limit the availability of compliance instruments or increase compliance costs.

Market Data Transparency

Although not previously addressed in the context of this rulemaking, during the October 21 workshop, staff introduced additional data regarding the cap-and-trade program being considered for publication. As the basis for this discussion, staff referenced the 2014 report by the Emissions Market Advisor Committee recommendation on the release of additional data specific to entity-level holdings. M-S-R strongly cautions against the release of any additional entity-level information without a full assessment of the potential implications for compliance entities and the markets, and in the absence of a finding that the publication of such information directly benefits CARB's oversight of the market or the efficient operation of the market. Releasing any further entity-specific data compromises compliance entities' positions in the market. Even in a form that masks identities, when this information is released, there is a risk that the data can be used to make assumptions about an entities' need for additional compliance instruments at any given time which could adversely impact the ability to obtain those compliance instruments. Providing data on "entity-level holdings vs. obligations" is not germane to market monitoring or ensuring market efficiencies. Rather, it appears the value of such information would come from insights into compliance strategies. However, the release of entity specific information for purposes of assessing the merits of an entity's emissions reduction strategy is not relevant to ensuring a properly functioning market, nor is it properly deemed "market data." Program compliance is separately measures and enforced. Staff's presentation included a list of the many different data sets made publicly available, including information on entity-level compliance and annual emissions reports upon which the compliance obligation is based. This distinction should be fully recognized in the context of reviewing the efficacy of any new publication or disclosures.

The cap-and-trade program is an essential tool in California's arsenal for affecting real emission reductions and helping the state achieve its aggressive climate goals. It has proven effective in reducing overall statewide emissions and has provided valuable funds to further emissions reduction efforts across the state. However, to ensure the continued success of the program, amendments to the regulation must ensure that compliance entities' ability to comply are not hampered by unnecessary programmatic restrictions and under-recognized cost burdens. As M-S-R previously noted, the proposed amendments should allow for the continued successful administration of the cap-and-trade program, and "enhance, rather than inhibit, the ability of compliance entities such as M-R-S to reduce their GHG emissions in the most cost-effective and technologically feasible manner possible." M-S-R appreciates the opportunity to continue to engage with CARB staff on developing amendments that will do so.

Respectfully submitted,



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M-S-R Public Power Agency