



January 20, 2017

VIA ELECTRONIC SUBMISSION

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

Re: Comments of PacifiCorp on the December 21, 2016 Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation and the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions

PacifiCorp respectfully submits these comments on the December 21, 2016 proposed amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation (“Cap-and-Trade Program”) and the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (“MRR”).

PacifiCorp does not own or operate emitting resources in California and is subject to the Cap-and-Trade Program and MRR solely as an electricity importer: PacifiCorp imports energy into California through service to its California retail load, bilateral wholesale transactions, and the Energy Imbalance Market (“EIM”). PacifiCorp’s comments are provided in two parts: one from its perspective as a Multi-Jurisdictional Retail Provider (“MJRP”) serving retail load in California and one from its perspective as an electricity importer via the EIM.

I. Energy Imbalance Market Reporting Requirements

A. PacifiCorp accepts ARB’s interim proposal

While PacifiCorp continues to have concerns with respect to how emissions associated with energy imported into California via the EIM are identified and measured, PacifiCorp is supportive of the California Air Resources Board (“ARB”) proposal to adopt an interim approach that may be applied outside of the EIM optimization. The adoption of an interim approach should enable the development of a long-term approach that is legally durable and less disruptive to the market. Adopting an interim approach should also allow more time for meaningful analysis and input from ARB, the California Independent System Operator (“ISO”), and stakeholders on these highly complex and challenging issues.

As a long-term approach evolves, PacifiCorp continues to strongly urge better alignment of the ISO and ARB stakeholder processes. In the context of the EIM and a potential regional system operator, fundamental shifts in how electricity imports are treated under MRR and the Cap-and-Trade Program require closer coordination between ARB and the ISO. Important legal and policy questions regarding the appropriate scope and reach of the Cap-and-Trade Program cannot be separated from technical implementation of any changes as well as Federal Energy Regulatory Commission (“FERC”) policy considerations. Going forward, PacifiCorp requests

that ARB and the ISO establish a timeline setting forth each relevant stakeholder process and how the implementation of any changes to the EIM optimization will be designed to align with associated rulemaking activity at ARB.

B. ARB should not exclude EIM from the resource shuffling safe harbor

PacifiCorp continues to have significant concerns regarding the proposed exclusion of EIM from the resource shuffling safe harbor. As noted in earlier comments, entities participating in the EIM only control whether, and at what price, to allow resources to participate in the EIM. EIM entities have no control over how resources are dispatched in the EIM or how resources are deemed delivered to California. While EIM entities may designate specific resources as unavailable to be deemed delivered to California (thereby reducing or avoiding a compliance obligation under the Cap-and-Trade Program), EIM participants cannot know or unilaterally direct whether or which resources may be substituted for resources unavailable for delivery to California. ARB should not penalize, or threaten to penalize, entities for activity over which they have no control. To do so is to make participation in EIM an act of resource shuffling, an outcome that would have a significant chilling effect on market participation.

Moreover, ARB has provided no guidance or information regarding its view on how resource shuffling may occur in the EIM. Nor has ARB provided any rationale for the adoption of an illogical policy that excludes transactions of less than 12 months in duration but *includes* transactions occurring every five minutes. As with the short-term bilateral market, rational market behavior in the EIM is essentially indistinguishable from a specific plan, scheme, or artifice to reduce a compliance obligation through substituting resources. As PacifiCorp has noted in prior comments, from a market perspective, all else being equal, California's policy creates an incentive for the import of cleaner resources. The current EIM optimization reflects this incentive by solving to lower the total cost—in part through lowering the overall compliance obligation. The Cap-and-Trade Program introduces a cost to the market which the market is, by design, incentivized to reduce.

Though ARB staff indicates that it anticipates that it may withdraw the proposed modification to the safe harbor provision in a future 15-day notice package, this is not sufficient assurance for entities participating in the EIM, or considering participation in the EIM, who may face significant penalty exposure for activities over which they have no control and/or activity that reflects rational market behavior. The specter of *any* penalties is likely to create an unacceptable level of regulatory risk for many entities, including PacifiCorp. Since penalty exposure may be unavoidable, the only available alternative to remove this risk may be to discontinue participation in the EIM altogether. Given the significant financial and environmental benefits being realized through the EIM, this outcome should be avoided.

PacifiCorp understands that ARB staff's intent may be to highlight this issue as one for discussion and further the understanding by all parties regarding how the EIM works. PacifiCorp fully acknowledges that these issues are complicated and PacifiCorp is more than willing to work through them with ARB staff and other stakeholders. However, assuming this is an accurate reflection of ARB staff's intent, opening an important dialogue by perfunctorily excluding the EIM from the resource shuffling safe harbor without explanation is fundamentally inappropriate

and unfair. Proposing to expose entities to significant penalties for behavior that may be entirely out of their control is not the best way to begin an important and complex policy and technical conversation. This approach immediately puts regulated entities in a position which is defensive rather than constructive and makes reaching an effective solution more difficult.

With this 15-day package, ARB has released an analysis of the EIM and is starting to articulate its specific concerns with the existing EIM optimization. This information is very helpful: PacifiCorp appreciates this additional information and context presenting ARB staff's perspective. However, this analysis does not address resource shuffling or identify specific concerns regarding exactly how resource shuffling may be occurring or could occur in the EIM. As opposed to proposing to exclude the EIM from the resource shuffling safe harbor without explanation, ARB staff should first articulate its specific concern. At that point, parties may weigh in on whether or not such exclusion is likely to address the concern identified or whether there may be other less disruptive methods that would address the concern. Given the foregoing, PacifiCorp urges ARB to withdraw the proposed exclusion of EIM from the resource shuffling safe harbor and instead engage with stakeholders to identify its specific concerns and work constructively toward effective solutions.

C. ARB's EIM Analysis should clearly state that it is not an environmental assessment of the EIM

As noted above, PacifiCorp appreciates ARB staff's publication of an analysis paper that begins to clearly articulate ARB's specific concerns with the existing EIM optimization and deemed delivery approach. Though PacifiCorp is supportive of ARB's proposed interim approach given the complexity of the issues involved, PacifiCorp has some concern with ARB's conclusions regarding underreported EIM emissions in the EIM. ARB staff ultimately concludes that undercounting occurs when the greenhouse gas attribution is attached to a different specified resource than the resource in an EIM balancing authority area from which actual electricity was dispatched and physically transferred to California. However, ARB staff's quantification seems to assume that this occurs in every instance where the EIM optimization identifies a zero-emitting resource as deemed delivered to California. In other words, it assumes in *all cases* where, for example, PacifiCorp's hydro resources were deemed delivered to California, that California load was actually served by a marginal gas resource. The reality is likely more complicated: certainly in some instances California load is actually served by zero-emitting resources. It is therefore not necessarily the case that underreported emissions are even occurring in the EIM. Regardless, this overly simplified assumption likely overstates any quantity of underreported emissions.

PacifiCorp is concerned with this approach and potential overstatement of underreported emissions because it presents a potentially misleading view of the overall environmental impact of the EIM. The EIM has, and continues to have, an overall positive environmental impact by enabling the greater integration of variable renewable resources. In part due to its participation in the EIM, PacifiCorp's overall 2016 carbon emissions from owned resources decreased by 11 percent as compared to an average of the last five years. This reduction is based on actual monitored data at PacifiCorp's generating resources and does not involve any complex accounting and attribution assumptions. The environmental benefits associated with the EIM are

likely to increase as more entities join and are able to more effectively integrate renewable generation on their systems. Though PacifiCorp understands ARB's concern with respect to its accounting methodology, the emissions identified as underreported are a specific function of ARB's accounting methodology and California's regulatory framework and does not reflect an assessment of the overall emissions impact of the EIM.

PacifiCorp urges ARB staff to consider the opportunities presented by the EIM for California to increasingly rely on zero-emitting resources to serve its load and to displace emitting resources outside of California. PacifiCorp continues to object to ARB staff's characterization of its objective as capturing all emissions experienced by the atmosphere as a result of electricity imported to serve California load while simultaneously discounting or ignoring emissions reductions experienced by the atmosphere from zero-emitting electricity exports. PacifiCorp is concerned that ARB's analysis may be perceived as an overall assessment of the emissions impacts of the EIM and requests that ARB clarify that this is not the case.

II. MJRP Comments

PacifiCorp continues to support ARB's "cost burden" approach to post-2020 utility allowance allocations. Given its unique status as the only MJRP in California, PacifiCorp appreciates ARB staff's willingness to work with PacifiCorp to develop an allocation methodology that is based on public information and reflects PacifiCorp's MJRP status. One amendment PacifiCorp requests be made to its allocation calculation is to *not* include New Class 2 demand-side management as a zero-emitting system resource in the company's projected energy mix. This would be consistent with ARB's treatment of the other California utilities, where ARB is not including additional achievable energy efficiency in the allowance allocation calculations.

PacifiCorp does, however, continue to have concern with respect to the significant reduction in allowances from 2020-2021. Though this change may not result in rate shock as that term is typically used, it may significantly impact customers who have come to rely on a certain level of climate dividend each year. It is reasonable to provide some mechanism to ease or transition this change so that it is not done so dramatically over the course of one year. PacifiCorp supports the proposals set forth by the Joint Utility Group to ease this burden on customers and increase the transparency and fairness with which the allocations were developed.

PacifiCorp appreciates the opportunity to submit these comments and is also available to discuss the issues addressed herein with ARB staff if doing so would be constructive.

Dated: January 20, 2017

Respectfully submitted,

By */Mary Wiencke*

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