October 21, 2013

Dr. Steve Cliff, Chief
Climate Change Program Evaluation Branch
California Air Resources Board
1001 "I" Street
Sacramento, CA 95812

Dear Dr. Cliff:

Subject: Los Angeles Department of Water and Power (LADWP) Comments
California Air Resources Board (CARB) Greenhouse Gas Cap-and-Trade Regulation

The LADWP appreciates the opportunity to submit the following comments on CARB's proposed changes to the California Greenhouse Gas Cap-and-Trade Regulations released on September 4, 2013.

1. §95802(130) Definition of Execution Date

The proposed amendments define "Execution Date" as "a provision of a transaction agreement that requires the transfer of compliance instruments on or before a date specified in the agreement."

The term "Execution Date" is used in §95921(a)(3)(A) to prescribe the process of transferring compliance instruments between entity accounts: "The parties to a transfer will be in violation and penalties may apply if the above process is completed: …(B) More than three days after the *execution date* [emphasis added] or termination date of the transaction agreement…" The term "Execution Date" in itself can cause confusion, as it would imply the date that the transaction is agreed upon, not the date of compliance instrument transfer.

Furthermore, Sections 95921(a)(1)(E) and 95921(a)(3)(C) refer to the "day of settlement of the transaction agreement" or a date "as provided by the transaction agreement." In addition, the terms "settlement" and "termination date (§95921(a)(3)(B))" are undefined. The use of multiple phrases which appear to have the same meaning and that contain undefined terms could create confusion for compliance entities. In the energy markets, "execution date" may be different from the "settlement date." For consistency and to

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avoid confusion, LADWP recommends that the defined term "Execution Date" and phrases "day of settlement of the transaction agreement" and "date as provided by the transaction agreement" be replaced with a single term or phrase. LADWP recommends use of the phrase "Compliance Instrument Transfer Settlement Date" instead of "Execution Date."

2. §95102 (179) Definition of First Point of Receipt

The Air Resources Board (ARB) is proposing to amend the definition of "First Point of Receipt" to clarify that for Greenhouse Gas (GHG) reporting purposes, the *"First Point of Receipt" means the location from which a Generator delivers its output to the transmission system (the closest POR to the generation source).*

LADWP recommends an additional clarification to the definition of "First Point of Receipt" to address cases where the generation source and the first point of receipt on the North American Electric Reliability Corporation (NERC) E-tag are located in different states. For example, a NERC E-tag may show electricity generated in Needles, California flowing to a first point of receipt located in Arizona, then flowing back into California to serve customer load. Based on the definition of Imported Electricity, energy that is generated and consumed in California is not an import. However, since the first point of receipt is the basis for aggregating and reporting unspecified imports and exports, and the first point of receipt on the E-tag is located outside of California, this energy flow looks like an import. As a result, an E-tag with the generation source and load (sink) located inside California and the first point of receipt located outside California could mistakenly be reported as an unspecified import.

To address this, LADWP recommends adding the following sentence to the definition of "First Point of Receipt":

> *In cases where the generation source and the first point of receipt are not located within the same geographic jurisdiction relative to the physical boundaries of California, the first point of receipt is the location of the generating facility or unit.*

This would clarify what jurisdiction should be used as the origin of the energy in cases where the generation source and the first point of receipt are located in different states.

LADWP recommends the definition of "First Point of Receipt" be modified as follows:

> *~~176~~179) "First point of receipt" means the location from which a Generator delivers its output to the transmission system (the closest POR to the generation source) ~~generation source specified on the NERC e-Tag~~, where defined points have been established through the NERC Registry. In cases where the generation source and the first point of receipt are not located within the same*

> *geographic jurisdiction relative to the physical boundaries of California, the first point of receipt is the location of the generating facility or unit. When NERC e-Tags are not used to document electricity deliveries, as may be the case within a balancing authority, the first point of receipt is the location of the individual generating facility or unit, or group of generating facilities or units. Imported electricity and wheeled electricity are disaggregated by the first point of receipt on the NERC e-Tag.*

3. §95102 (245) Definition of Imported Electricity

ARB is proposing to add the following sentence to the definition of "Imported Electricity":

> *Imported Electricity does not include electricity imported into California by an Independent System Operator to obtain or provide emergency assistance under applicable emergency preparedness and operations reliability standards of the North American Reliability Corporation or Western Electricity Coordinating Council.*

It appears that "Independent System Operator" refers to the California Independent System Operator (CAISO). The Initial Statement of Reasons (ISOR) states that this amendment is necessary to exclude electricity imported into California to meet emergency assistance requirements. Although the CAISO is a large balancing authority in California, there are a number of other balancing authorities in California including the LADWP that are also subject to the emergency preparedness and operations reliability standards of the NERC and the Western Electricity Coordinating Council (WECC). (See NERC Reliability Standard EOP-002-3[1] and WECC Reliability Coordinator responsibilities in RC EOP-002).[2] The NERC standards specify that in the event of a power system emergency, neighboring balancing authorities should be contacted to provide assistance. LADWP has provided emergency assistance to the CAISO in the past, and could be required to import energy into California to provide emergency assistance to the CAISO or a neighboring balancing authority in the future. Therefore, the exclusion for electricity imported into California to obtain or provide emergency assistance under NERC or WECC emergency preparedness and operations reliability standards should apply to all California balancing authorities, not just the CAISO.

To be equitable and clarify exactly who this exclusion applies to, LADWP recommends that the proposed amendment be revised to apply to a "Balancing Authority" which is a defined term in the regulation, rather than an independent system operator which is not defined. Balancing authorities such as the CAISO and LADWP function the same as the responsible entities that integrate resource

[1] http://www.nerc.com/files/EOP-002-3.pdf

[2] http://www.wecc.biz/awareness/Reliability/WECC%20RC%20Operating%20Procedures/WECC%20RC%20EOP-002%20-%20Capacity%20and%20Energy%20Emergencies.pdf

plans ahead of time, maintain load-interchange-generation balance within their respective balancing authority areas, and support interconnection frequency in real time.

Therefore, LADWP recommends revising the following sentence in the definition of "Imported Electricity" as follows:

> *Imported Electricity does not include electricity imported into California by a ~~an Independent System Operator~~ balancing authority to meet NERC Reliability Standards addressing capacity and energy emergencies.*

4. § 95802(336) Definition of Spot

The proposed amendments add a new definition, "spot," which "means a contract for the immediate delivery of and payment for a product." In the proposed definition, the terms "contract" and "immediate" are not defined. The use of the term "spot" in commodity markets appears to be more complex than defined in the cap-and-trade amendments.

CARB seems to be entering into an area that may be wholly or partially governed by the Commodity Futures Trading Commission (CFTC) rulemaking and/or the Securities and Exchange Commission related to a number of federal laws, including, for example, the Commodity Exchange, 7 U.S.C. 1, et seq., and the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203 (2010), commonly referred to as the "Dodd-Frank Act" This may be especially true as CARB considers coordinating its Cap and Trade Program with provinces in Canada, such as the Canadian Province of Quebec.

In 17 CFR §15.00(a), "Cash, or Spot, when used in connection with any commodity, means the actual commodity as distinguished from a futures or options contract in such commodity."

The CFTC Guidance on, and Acceptable Practices in, Compliance with Core Principles (17 CFR Part 36, Appendix B) discusses "spot-month positions:"

> "Limitations on spot-month positions. Spot-month limits should be adopted for significant price discovery contracts to minimize the susceptibility of the market to manipulation or price distortions, including squeezes and corners or other abusive trading practices."

Thus, LADWP recommends that the definition either be further clarified or that CARB rely on the CFTC definitions and interpretations as they relate to spot transactions.[3]

5. §95812(f)(1) – (3), §95812(g). Proposed Allowance Surrender Requirements

The proposed amendments include new language that would require an entity receiving direct allocation of allowances under §95870 to surrender allowances for any facility that "ceases all operation or shuts down." §95870 authorizes the disposition of allowances to electrical distribution utilities and industrial covered entities.

The ISOR states that the addition of the proposed amendments is to clarify the requirements applicable to an operator of an eligible facility that receives a direct allocation of allowances, but shuts down operations prior to incurring a surrender obligation. "Direct allocation," in the ISOR's discussion of this section, refers to allocations provided to minimize leakage or to provide transition assistance and assists an entity in meeting a surrender obligation in the compliance period for which the allocation was received.

Since leakage and transition assistance are associated with determination of allowance allocations for industrial covered entities, the proposed surrender requirement appears to be intended to apply to industrial covered entities and is a mechanism that works in tandem with the true-up mechanism established for industrial covered entities. Specifically, the surrender requirement would apply to allowances allocated for the current compliance period to an entity that completely shuts down prior to its surrender obligation, while the true-up mechanism would effectively eliminate the allocation for future years due to shutdown based on new production data.

Thus, LADWP recommends that CARB clarify that the proposed surrender requirement applies only to industrial covered entities, and not to electrical distribution utilities and make the following modifications:

> *"95812(f) If an entity receives a direct allocation of allowances for its facilities pursuant to section 95870(e), but ceases….."*

Or in the alternate, move §95812(f) and (g) to §95891 (Allocation for Industry Assistance) as new sections §95891(g) and (h).

If CARB has intended new §95812(f) and (g) to apply to electrical distribution utilities, this proposed surrender requirement represents a major departure from the existing regulatory framework that allocated specific amounts to each electrical distribution utility, not facility, for the years 2013 through 2020 based on compliance burden,

[3] Also, see e.g., 17 CFR 34.2(g) (Regulation of Hybrid Instruments); 17 CFR 151.4 (Position limits, which includes swaps);

projected energy efficiency and renewable penetration. This proposed surrender requirement, if applicable to electrical distribution utilities, would penalize utilities for shutting down existing, higher emitting generating units and replacing them with energy efficiency and demand response measures, renewable resources and low-emitting generating units. In addition, if an electrical distribution utility were required to surrender allowances attributable to shutdown units, the electrical distribution utility would not receive any allowances for new electric generating units (e.g. replacement units) brought online, unlike the industrial covered entities.

6. §95814(a)(3) Voluntary Associated Entities (VAE) and Other Registered Participants and §95830(c)(1)(I) Registration with ARB

The proposed amendments include a new section (§95814(a)(3)) applicable to an individual employed by an entity subject to requirements of the Mandatory Reporting Rule, or cap-and-trade regulation, or by an organization providing consulting services related to these regulations that chooses to register as a VAE in CARB's trading system. Such individual would be required to provide a notarized letter from the individual's employer stating that the employer is aware of the employee's plans to apply as a VAE and that the employer has conflict of interest policies to prevent the employee from using information for personal gain in the cap-and-trade program.

The proposed amendments also contain the following new requirement applicable to entities registering with CARB (§95830(c)(1)(I)):

> *Names and contact information for all persons employed by the entity that will either have access to any information regarding compliance instruments, transactions, or holdings; or be involved in decisions regarding transactions or holding of compliance instruments; or both.*

LADWP believes that CARB's concern that individuals with access to potential market-related data would use that information for personal gain is addressed in proposed §95814(a)(3). The proposed requirements of §95830(c)(1)(I), if broadly applied, would burden covered entities with the task of providing names and contact information of all employees that will have access to compliance instrument information. Larger companies make decisions related to compliance with the cap-and-trade regulation on several levels: staff, work group, and executive levels which involves a significant number of employees. Implementation of the requirement would be time consuming as it would be very difficult to develop the information and keep it updated.

Covered entities registered in CARB's compliance instrument tracking system have already submitted the names and addresses of its directors and officers who would be involved in decisions on compliance instrument transactions or holdings. LADWP believes that this already established mechanism, coupled with the new requirement that an individual registering as a voluntary associated entity be required to provide a

notarized letter per §95814(a)(3) would be sufficient deterrent such that a registered individual would not want to use knowledge gained through his/her work as employees of an entity for personal benefit. Thus, LADWP recommends that § 95830(c)(1)(I) be deleted.

7. § 95852(b)(2) Resource Shuffling

LADWP appreciates CARB's efforts in working with electric utility entities to develop CARB's Resource Shuffling guidelines. LADWP further supports the inclusion of the guidelines into the rule which provides more certainty with respect to compliance with the regulation with a couple of minor changes.

CARB is proposing that the definition of "Resource Shuffling" be amended as follows:

> *"Resource Shuffling" means any plan, scheme, artifice ~~to receive credit based on emissions reductions that have not occurred, involving the delivery of electricity to the California grid~~ undertaken by a First Deliverer of Electricity to substitute electricity deliveries from sources with relatively lower emissions for electricity deliveries from sources with relatively higher emissions resources to reduce its emissions compliance obligation. Resource shuffling does not include substitution of electricity deliveries from sources with relatively lower emissions for electricity deliveries from sources with relatively higher emissions resources when the substitution occurs pursuant to the conditions listed in section 95852(b)(2)(A).*

There are situations resulting in GHG emissions reductions that have occurred that are not Resource Shuffling and may not fall into a specific Safe Harbor. Thus, LADWP recommends that CARB add the following phrase to the end of the Resource Shuffling proposed definition:

> *Not all substitutions of electricity between sources with different emission levels are resource shuffling and r~~R~~esource shuffling does not include substitution of electricity deliveries from sources with relatively lower emissions for electricity deliveries from sources with relatively higher emissions resources when the substitution occurs pursuant to the conditions listed in section 95852(b)(2)(A).*

LADWP recommends that Safe Harbor #5 be clarified to include electricity deliveries in the situation where a utility ramps down a higher emissions source and ramps up a lower emissions source. In this case, emissions reductions have occurred and thus should not be considered Resource Shuffling. Thus, LADWP recommends the following minor language change to Safe Harbor #5:

> *(5) Electricity deliveries that substitute for power previously supplied by a specified source that has been retired or has reduced its output.*

LADWP recommends that the term "CAISO" be struck from Safe Harbor #10 to apply to those transaction types that may occur in other balancing authorities, not just the CAISO. As stated previously, balancing authorities such as CAISO and LADWP function the same as the responsible entities that integrate resource plans ahead of time, maintain load-interchange-generation balance within their respective Balancing Authority Areas, and support Interconnection frequency in real time.

8. § 95852(b)(3)(D) and 95852(b)(4) Renewable Energy Certificates (REC) Retirement for Specified Source Imports and Renewable Portfolio Standard (RPS) Adjustment

LADWP appreciates CARB's efforts in working with electric utility entities to clarify the timing with respect to an entity claiming an RPS adjustment such that electric utility entities will not be required to prematurely retire their RECs under the California Energy Commission's Renewable Portfolio Standard (CEC RPS) Program. LADWP also supports CARB's amendments to require REC serial numbers to be reported instead of requiring the RECs to be retired to claim renewable specified imports. LADWP recommends that CARB require that REC serial numbers be reported under the RPS adjustment provision consistent with its approach to renewable specified imports so to not inadvertently interfere with electric utility entities' implementation of the CEC's RPS Program.

9. § 95856(h) Compliance Instrument Retirement Order

Under §95892(d)(5), electrical distribution utilities (EDUs) are prohibited from using the value of their allocated allowances to meet compliance obligations that do not benefit its retail ratepayers consistent with the goals of Assembly Bill 32, including the use of such allowances for electricity sold into the CAISO markets. CARB proposes to surrender compliance instruments from entity compliance accounts in the following manner: offsets (oldest vintage first), allowances purchased from the Allowance Price Containment Reserve (Reserve), allowances (oldest vintage first), then true-up allowances. Although an EDU would be in compliance with §95892(d)(5) with respect to its procurement of allowances, this surrender proposal could have the unintended effect of appearing to conflict with §95856(h). In addition, covered entities such as EDUs would not have serial number information to decipher which allowances in their compliance accounts are allocated versus purchased for sales into the CAISO. Thus, although the EDU's and CARB's compliance account balance would be the same in terms of the number of allowances, the EDUs' accounting of allowances by vintage and date procured may not match CARB's. As long as CARB recognizes this situation and determines that EDUs will not be penalized for differences in accounting for allowances because of the manner in which they were surrendered, LADWP can support CARB's surrender proposal. Please see attached example for additional information.

10. §95912(d)(4)(E) Auction Attestation

CARB proposes to establish a new condition for participating in an auction. Specifically, the proposed amendment would require an entity to attest that the entity "has not been subject to any previous or ongoing investigation with respect to any alleged violation of any rule, regulation, or law associated with any commodity, securities, or financial market, including a change in the status of an ongoing investigation."

This amendment would change the provision from a disclosure requirement to an attestation requirement. The existing regulations only require an entity to identify previous or ongoing investigations. This is a significant change in the rules for participating in an auction and this new requirement could unnecessarily bar many entities from participating in the auction. The fact that there was an investigation would be sufficient to disqualify an entity even if that investigation determined the alleged violations totally lacked merit.

LADWP prefers that CARB eliminate the proposed attestation requirement or limit the scope of the attestation. One way to narrow the scope is to limit the attestations to previous investigations in which a violation was determined. CARB would continue to have broad authority to limit or deny entities from participation in an auction. For example, CARB can deny registration for the cap-and-trade program (which is a condition for participating in the auction) "based on the information provided" to CARB under §95830(c)(8).

11. § 95912 Auction Administration and Participant Application

CARB is proposing the following new provision (§ 95912(d)(5)):

> *An entity with any changes to the auction application information listed in subsection 95912(d)(4) or account application information listed in section 95830 within 30 days prior to an auction, or an entity whose auction application information or account application information listed in section 95830 will change 15 days after an auction, will be denied participation in the auction.*

The ISOR states that the new provision is necessary to ensure correct processing of the auction applications. However, the proposal is broadly written such that *any changes* in an entity's auction or account application will result in denial of the entity's ability to participation in the auction. LADWP believes that this requirement would be too restrictive and recommends that CARB more narrowly define what constitutes a "change" that would lead to denial of an entity to participate in an auction. It would be extremely difficult for an entity to have no changes (e.g. changes in an entity's directors and officers) to its auction application information within the time period stated, especially if the entity plans on participating in all four auctions throughout a compliance year (e.g. could be 180 days out of a compliance year). In addition, 15 days after an

auction, the entity will have already participated in the auction as far as submittal of bids and may not be able to predict if its auction application information will change in that time period.

12. §95921(a)(1). Transfers of Compliance Instruments Between Accounts

The process of transferring compliance instruments between accounts is required to be completed within three days. Therefore, if the initiation of the transfer begins on a Thursday, the transfer process must be complete by Sunday. The primary account representative (PAR) or alternate account representative (AAR) for the same entity must, in addition to submitting the transfer request, confirm the request to CARB's accounts administrator within two days of the initial transfer request. The PAR or AAR for the destination account must confirm the transfer request to CARB's accounts administrator within the time remaining in the three days following the initial transfer request. Therefore, in this case, the PAR/AAR of the source account and/or the PAR/AAR of the destination account must make their confirmations during the weekend. LADWP is requesting that compliance instrument transfers be required to be completed during business days.

13. §95921(a)(3)(D). Transfers of Compliance Instruments Between Accounts

§ 95921(a)(3) describes the time frames for which entities would be required to complete compliance instrument transactions in the Compliance Instrument Tracking System Services. With respect to §95921(a)(3)(D), parties to a transfer will be in violation if the compliance instrument transfer is completed more than three days after the execution of the underlying trade on an exchange or other trading platform. Completion of transfer of funds (e.g. wire transfer) and the CARB's transaction approval process within a three calendar day period for trades done on an exchange would not be possible for LADWP due to its internal financial approval processes. In the case of electricity transactions, the transactions can be completed and financially settled on the twentieth day of the month in which the invoice was received or the tenth day after the receipt of the bill, whichever is later, per Western Systems Power Pool Guidelines. LADWP questions the importance of controlling the timing of the settlement of a compliance instrument transaction done on an exchange. Entities should have the flexibility to develop the terms of their compliance instrument transaction as long as the compliance instrument transfer process is completed in a reasonable manner. Thus, LADWP recommends that proposed §95921(a)(3)(D) be deleted.

14. §95923. Disclosure of Cap-and-Trade Consultants and Advisors

The proposed amendments add a new section requiring registered entities to disclose specific information on "cap-and-trade consultants or advisors." A "cap-and-trade consultant or advisor" is broadly defined as "a person or entity that is not an employee

of an entity registered in cap-and-trade, but is paid for information or advice related to the Cap-and-Trade Program specifically for the entity." It is not clear from CARB's rationale provided in the ISOR why CARB would require a description of services provided by the consultant or advisor as the requirement is not tailored toward addressing a specific concern. Per this proposed definition, this could include attorneys and consultants who provide advice regarding compliance with specific cap-and-trade provisions but do not have access or knowledge of the entity's compliance instrument position or strategy with respect to procurement or sale of compliance instruments.

Attorneys are bound by long recognized obligations and privileges to prevent the ready disclosure of communication reposed in the attorney, such as the duty of confidentiality, the attorney-client privilege, and the attorney-work product doctrine. An attorney's duty of confidentiality is "one of the principal obligations" of the attorney-client relationship. *Flatt v. Sup. Ct.* (Daniel)(1994) 9 Cal.4th 275, 289. The obligation is "a very high and stringent one." Id. In addition, the purpose of the attorney-client privilege is to "encourage full and frank communications between attorneys and their clients and thereby promote broader public interests in the observance of law and administration of justice." *Upjohn Co. v. United States* (1981) 449 US 383, 389; California Evidence Code §950 et seq. Furthermore, "[a] writing that reflects an attorney's impressions, conclusions, opinions, or legal research or theories" is generally protected as well. Vapnek, Tuft, Peck & Weiner, Cal. Prac. Guide: Professional Responsibility (Rutter Group 2012), §7:385.2 citing Cal. Code Civ. P. §2018.030; *Rico v. Mitsubishi Motors Corp.* (2007) 42 Cal.4th 807, 814 (additional citations omitted). The broad language of the ARB's proposed definition appears to require the disclosure of privileged communications, and possibly work product to the ARB in contravention of these long standing attorney obligations and client privileges.

Moreover, government officials and employees, including government attorneys, are subject to additional rules under the "Political Reform Act of 1974", which established the Fair Political Practices Commission (FPPC) and requires the disclosure of financial interests. Government Code §81000 et seq. and, the FPPC has created new rules and forms for consultants disclosing their interests. CARB should look to the efforts of the FPPC to help it achieve its goals in a focused manner.

LADWP recommends that the amendments be clarified to exclude attorneys as follows in §95923(a):

> *A "Cap-and-Trade Consultant or Advisor" is a person or entity that is not an employee of an entity registered in the Cap-and-Trade Program, but is paid for information or advice related to the Cap-and-Trade Program specifically for the entity registered in the Cap-and-Trade Program. Cap-and-Trade Consultants and Advisors do not include attorneys.*

In addition, LADWP recommends that CARB include a simple form in the Compliance Instrument Tracking System Service (CITSS) for entities to complete if they have retained consultants that have access to information contained in the CITSS.

15. Conclusion

LADWP appreciates this opportunity to comment and looks forward to working with CARB staff on these important issues.

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

Sincerely,

Mark J. Sedlacek
Director of Environment and Efficiency

JG/lu
Enclosure
c: Dr. Steve Cliff, CARB
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California Air Resources Board (ARB) Greenhouse Gas (GHG) Cap-and-Trade Regulation
Proposed § 95856(h) Compliance Instrument Retirement Order
Example of Potential Impact to Publicly-Owned Utilities (POUs)

Background

CARB's current proposal does not allow entities to specify a retirement order of compliance instruments such as allowances and offsets. ARB is proposing to retire an entity's compliance instruments in its compliance account in the following order:

1. Offset credits
2. Allowances purchased from an Allowance Price Containment Reserve sale
3. Allowances per section 95820(a) and 95821(a), earlier vintage allowances retired first
4. Current calendar year's vintage allowances and allowances allocated just before the triennial surrender deadline up to the true-up allowance amount (for industrial sector)

This proposed surrender order, if adopted, will conflict with Section 95892(d)(5) which applies to electrical distribution utilities (EDUs). EDUs are prohibited from using the value of their directly-allocated allowances to meet compliance obligations that do not benefit its retail ratepayers consistent with the goals of AB 32, including the use of such allowances for electricity sold into the CAISO markets. Emissions associated with these energy sales must be covered by compliance instruments purchased at auction or the secondary market. This provision especially impacts POUs who may have specified that most, or all, of its allocated allowances be put into its compliance account.

The following is an example that shows the conflict between the two provisions.

POU Entity 2013 allocation = 5 MMT
POU Specified Distribution of allocation = 5 MMT to compliance account (specified to ARB on Sept. 1, 2012)
POU 2014 allocation = 4.8 MMT
POU specified distribution of allocation = 4.5 MMT to compliance account (specified to ARB on Sept. 1, 2013); .3 MMT to auction

2013 Compliance Year Activity

POU emissions = 4.5 MMT (4.0 MMT allocated toward AB 32 goals, .5 MMT allocated to sales to CAISO). POU purchased .5 MMT to cover sales to CAISO.

2014 Compliance Year Activity

POU emissions = 4.5 MMT (4.0 MMT allocated toward AB 32 goals, .5 MMT allocated to sales to CAISO)

ARB implementation of the surrender order proposal:

For 2013 and 2014 "triennial" surrender:
Amounts needed for surrender:

2013: 4.5 MMT
2014: 4.5 MMT

How POUs Should Surrender Allowances Per §95892(d)(5) (Allowance Values in MMT)				
	2013		2014	
	Directly-Allocated Allowances	Purchased Allowances	Directly-Allocated Allowances	Purchased Allowances
Direct Allocation	5.0		5.0	
Allowance Purchases		0.5		0.5
Surrender for Native Load Emissions	-4.0	0.0	-4.0	0.0
Surrender for Wholesale Emissions	0.0	-0.5	0.0	-0.5
Allowances Remaining	1.0	0.0	1.0	0.0

CARB's Triennial Surrender Proposal (Allowance Values in MMT)				
	2013		2014	
	Directly-Allocated Allowances	Purchased Allowances	Directly-Allocated Allowances	Purchased Allowances
Direct Allocation	5.0		5.0	
Allowance Purchases		0.5		0.5
Surrender for Total Emissions (Native Load + Wholesale)	-4.5	0.0	-4.5	0.0
Allowances Remaining	0.5	0.5	0.5	0.5

Although ARB and the POU compliance balances are the same in this instance, ARB surrenders the allocated allowances to cover the emissions associated with the CAISO sales. LADWP desires confirmation that ARB recognizes this difference in accounting of allowances and will not penalize the POU before it finalizes its compliance instrument surrender proposal.