



Qualcomm, Inc.

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October 22, 2018

Clerk of the Board  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95812

Re: Qualcomm Comments on 2018 Cap-and-Trade Amendments.

Dear Clerk of the Board:

Qualcomm Inc. provides the following comments in response to the California Air Resources Board's ("ARB") September 4, 2018 Notice of Proposed Amendments to the Cap-and-Trade Regulation. Qualcomm is a global technology company and is also one of the largest employers in Southern California. Qualcomm supports and shares the State's commitment to a low carbon future. Qualcomm has undertaken numerous corporate sustainability initiatives to reduce its water usage, energy consumption and overall carbon footprint. Qualcomm recently adopted a GHG reduction target of 30% below 2014 levels by 2030 and was also a charter member of the Climate Registry, having joined in 2002. At its San Diego headquarters, Qualcomm is proud of obtaining LEED Gold certifications and has participated in the ARB's beyond code program and other initiatives and programs.<sup>1</sup>

In the early 2000's and through the great recession, the company made considerable investments in its chip and semiconductor development activities in San Diego. Its capital outlays at the San Diego campus were designed and intended to reduce the Qualcomm's carbon footprint. Its participation in the ARB's "Beyond Code" program is one such example. Qualcomm's San Diego operations provide many high paying jobs and create millions of dollars in benefits to the State and local governments and the local economy. Our San Diego campus also supports Qualcomm's participation in a global market place, which is extremely competitive. While Qualcomm is constantly in a mode of minimizing costs to stay competitive, Qualcomm has nevertheless remained committed to reducing the emissions associated with its global operations.

### **Summary**

During the pre-rulemaking stakeholder phase of this rulemaking, Qualcomm expressed concerns with a technical flaw in how its facilities are treated compared to those of its

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<sup>1</sup> Additional Corporate Sustainability information is available at:  
<https://www.qualcomm.com/company/sustainability/value-chain/environment>.



competitors.<sup>2</sup> In addition to public comments, Qualcomm provided documentation to the ARB demonstrating trade exposure that industries within its NAICS code face as a result of California-specific carbon costs. Qualcomm considers some of these submittals to be confidential business information. Qualcomm is hopeful (subject to the ARB’s confirmation) that the Proposed Amendments would correct the technical flaw in Section 95852(j) (i.e., the limited exemption for qualified thermal output).

Qualcomm understands that the Proposed Amendments would extend the deadline for filing for limited exemption for qualified thermal output. This extension could allow the ARB to reassess the applicability of the exemption in scenarios where there is more than one cogeneration unit within a facility (See Section 95852(j)). However, the Regulation may lack clarity on this point. As such, the ARB should confirm that each distinct cogeneration “unit” within a facility (as that term is used in Section 95852(j)) can individually qualify for the limited exemption. Qualcomm understands the amendments in 95852(j) cover a scenario where a cogeneration unit that did not previously qualify the limited exemption (i.e., due to the technical flaw in 95852(j)) will receive retroactive true-up allocations for past compliance periods. Again, the Proposed Regulations lack clarity on this point.

Finally, the ARB should consider (in the context of this rulemaking) additional NAICS codes that may be eligible for free allocation as Emissions Intensive Trade Exposed (“EITE”) industries.

### Discussion

#### **1. The ARB Should Clarify the Intent of the September 4, 2018 Amendments to Section 95852.**

Board Resolution 12-33 and the “but-for-CHP exemption” were intended to incentivize new, efficient distributed electricity generation technologies, such as Combined Heat and Power (“CHP”). Section 95852(j) sets forth an important exemption that applies to any “facility with a cogeneration unit that meets the requirements of this section.” Based on the language in the exemption, Qualcomm believes that the exemption would be calculated for each “cogeneration unit.” To date, the Regulations have lacked clarity as to whether Section 95852(j) applies at the cogeneration unit level or at the facility level. There are instances where there are multiple cogeneration units within a single facility boundary. The facility definition set forth in the Mandatory Reporting Regulation is broad and in certain instances encompasses multiple cogeneration units that are functionally separate, but are nevertheless part of the same facility due to common ownership. In these instances, if the cogeneration units are functionally separate, the

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<sup>2</sup> Qualcomm Cap-and-Trade comments (July 5, 2018), available at: <https://www.arb.ca.gov/lists/com-attach/12-ct-6-21-18-wkshp-ws-VmdWaFdmBGACNFRh.pdf> ; See also Qualcomm Cap-and-Trade comments (October 27, 2017), available at: <https://www.arb.ca.gov/lists/com-attach/12-ctoct122017wkshp-ws-V2YHNIZmUjFXYwM0.pdf>



exemption should be applied separately to each cogeneration unit. If each unit emits less than 25,000 metric tons after applying the exemption, then each unit should individually qualify for the limited exemption. Further, if each unit is individually below 25,000 metric tons (i.e., without applying the but-for CHP methodology), then the facility as a whole should not be subject to a direct cap-and-trade compliance obligation. Qualcomm understands the ARB's amendments to Section 95852(j) would create an avenue for multiple cogeneration units to qualify individually even if they are within a common facility boundary. However, additional clarification on this point is needed to avoid an arbitrary application of Section 95852(j) to similarly situated cogeneration units.

**2. The ARB Should Commit to a Comprehensive EITE Study And Confirm The Availability of True Allocations Because The Proposed Regulations Arbitrarily Designate Companies As Trade Exposed.**

During the pre-rulemaking phase of this proceeding, Qualcomm submitted confidential business information demonstrating that it faces at least a medium leakage risk under the same standard as applied to other industries that have been designated as EITE since the inception of the Cap-and-Trade program. By not including a new EITE designation including Qualcomm's industry as EITE, Qualcomm remains concerned that the Regulations do not fully account for industries that face trade exposure risks under the Program. In other words, the ARB has arbitrarily designated some companies as being eligible for free allocations based on their status as manufacturing facilities, but has arbitrarily not included other industries that may be trade exposed, solely because they are not primarily engaged in manufacturing. Whether a company is primarily engaged in manufacturing is not dispositive of the trade exposure risks that company or sector may face.

As a matter of consistency, the ARB should evaluate new EITE designations for entities it may have overlooked in the initial EITE studies it prepared early in the Cap-and-Trade Rulemaking process. California's industrial sector is dynamic and ever-changing. It is also exposed to competition and trade exposure because other states do not place expensive GHG emissions controls on industrial activities. Many industries with emissions starting after 2012 were not studied for inclusion as EITE industries. In addition, companies that are trade exposed solely due to their electricity usage (and that have no direct emissions), may also face leakage risks due to the indirect GHG costs in electricity rates. The ARB should update its list of EITE entities to ensure that similarly situated companies within the industrial sector are treated comparably and the ARB achieves the statutory direction in AB 32 to minimize leakage risks.



**Conclusion**

Qualcomm appreciates the opportunity to submit these comments and welcomes the opportunity to work collaboratively with the ARB staff to ensure the consistent treatment of large employers in various facets of commercial, industrial, tech sectors, such as Qualcomm.

Respectfully submitted,

A handwritten signature in cursive script that reads "Gail Welch". The signature is positioned above a horizontal line.

Gail Welch  
Director of Corporate Sustainability  
Qualcomm, Inc.