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September 19, 2016 | Submitted Electronically

Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95184

Re: SCPPA Comments on Cap-and-Trade Regulation 2016 Amendments

Thank you for the opportunity to provide comments on the 2016 Cap-and-Trade Regulation amendment package, including the Initial Statement of Reasons staff report, and the six accompanied appendices, A-F.

The Southern California Public Power Authority (SCPPA) is a joint powers agency whose members include the cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles, Pasadena, Riverside, and Vernon, and the Imperial Irrigation District. Our Members collectively serve nearly five million people throughout Southern California. Each Member owns and operates a publicly-owned electric utility governed by a board of local officials who are directly accountable to their constituents.

Each SCPPA Member has a duty to provide reliable power to their customers at affordable rates while also complying with all applicable local, regional, state, and federal environmental and energy regulations. Currently, SCPPA and our Members own, operate, or have binding long-term procurement arrangements with 35 generation and natural gas projects and three transmission projects, generating power in California or importing from Arizona, New Mexico, Utah, Oregon, Washington, Nevada, Texas, and Wyoming. This is in addition to individual, Member-owned or contracted and operated transmission, generation, and natural gas projects throughout the Western United States. All are funded through municipally-backed financing mechanisms. SCPPA, its Members, and their customers will be significantly affected by the proposed regulatory amendments in California and throughout the West given anticipated market impacts across balancing authority areas – some of which are controlled by SCPPA Members.

The impact of this amendment package cannot be understated, as these are significant amendments to an already complex regulation. In addition to momentous changes on how the Regulation will impact California's load serving entities and their ratepayers, this package lays the groundwork for yet-to-be-finalized Federal Clean Power Plan implementation and integration, additional international linkages, and potential regionalization of the western power grid. With this regulation, the Air Resources Board (ARB or Board) has laid out an ambitious planning cycle that extends through 2050.

SCPPA has actively participated throughout the intensive year-long informal development process leading up to this official amendment package, and has provided numerous comments on the variety of issues presented[1]. We appreciate the additional review time provided by ARB, but note that ***there are many important and fundamental questions about the current version of the proposed regulation that will still remain unanswered when the ARB Board hears this item for the first time.*** With so many remaining issues on the table it will be difficult for all stakeholders, including ARB Board

[1] https://www.arb.ca.gov/lists/com-attach/4-caps-allocation-ws-B3RVMFYnWHtXMFMM.pdf
https://www.arb.ca.gov/lists/com-attach/18-mrr-cpp-ct-amend-ws-UiFSNwNyWXoFYgVa.pdf
https://www.arb.ca.gov/lists/com-attach/13-capandtradecpplan-ws-UCMHYlYnUXJRNlIN.pdf
https://www.arb.ca.gov/lists/com-attach/11-ct2016amendments-ws-USIGY1QlU3BSNQlW.pdf

Members, to fully understand all of the implications of this significant and complex rulemaking until after much of the public process has been completed. This bifurcated process could subject the final rulemaking to a process challenge.

Knowing that there is still a great deal of work to be done moving forward, SCPPA stands ready to engage with ARB, the other state energy agencies whose input remains critical in this process, and our fellow impacted stakeholders as the 2016 Cap-and-Trade Regulation and Mandatory Reporting amendments are more thoroughly vetted to ensure that the policies considered, and the programs ultimately adopted, affordably yield the greatest benefits for Californians.

SCPPA wishes to emphasize the following points:

Process Concerns

In recent years, ARB staff has shifted away from the historic practice of presenting a fully developed rule for Board consideration, to a sequential process where many important policy, technical and implementation decisions are made after its initial presentation. When this happens, it chops the process up in a piecemeal fashion, with one or more "15-day amendment packages" squeezed in between Board meetings. These packages not only reduce the review and comment period by two-thirds, but they also limit the scope of comments to only those portions of the regulation that ARB staff have identified as being open for review. This Regulation has many complicated components which are interdependent on each other (e.g., cost containment, allowance allocation and cap setting); therefore, commenting on one moving piece while the others may already be set in stone is not an effective way to finalize an economy-shifting regulation. This change in process does a disservice to ARB's many diverse stakeholders and the people of California. In addition, when the Regulation is finally put together for Board consideration at its second hearing, the timing is such that the Board will normally only act on the CEQA responses, and cannot address any outstanding and potentially significant policy or technical issues.

As proposed, this regulation package has over three dozen placeholder clauses, as well as notations of future policy decisions that are dependent on decisions made today (e.g., Electric Distribution Utilities (EDU) Allocation). Therefore, we know that at least one 15-day amendment package is needed before the Regulation is in complete form, and staff has indicated they are planning at least two separate 15-day packages. SCPPA requests that the scope of the first 15-day amendment package include the entire Regulation that was noticed on August 2 to provide the public sufficient opportunity to comment on the entirety of the regulation. Additionally, any narrowing of the scope of subsequent 15-day amendment packages should be carefully reviewed.

Importance of Retaining the "RPS Adjustment"

SCPPA – along with numerous other stakeholders, including other publicly-owned utilities, investor-owned utilities, community choice aggregators, renewable developers, and renewable trade associations – continues to strongly believe that the ***Renewables Portfolio Standard (RPS) Adjustment must be retained in the Regulation in order to complement implementation of California's expanding and more aggressive RPS Program***. These stakeholders have repeatedly expressed the importance of avoiding regulatory changes that would undermine the RPS Program, which is achieving the bulk of the state's emissions reductions to date. Indeed, for nearly a year, there have been dozens of oral and written comments submitted, meetings and discussions held with ARB staff and managers, and multiple iterations of industry proposals and background information offered to relay the importance of retaining and consistently implementing the RPS Adjustment. This programmatic feature is a critical component to ensuring that successful and cost-effective RPS implementation is continued, as it safeguards against any prejudice between in-state and out-of-state renewable resource procurement. Eliminating the RPS Adjustment will create sector-wide ramifications that would detrimentally impact current and future RPS goals, investment in renewable generating resources, and electricity markets. California surely could not intend such a negative consequence to its climate policies.

The RPS Adjustment is important to offset the Cap-and-Trade compliance cost for imported renewable energy that is not directly delivered to California. Eliminating the RPS Adjustment credit would impose significant annual compliance costs on California electric utilities and consumers. These costs will run in the tens of millions of dollars annually and it seems these costs have not been incorporated into any ARB economic models to date.

Imported renewable electricity is essential for many California utilities to achieve California's increasing RPS target, and will continue to be essential as the RPS requirement increases from 33% in 2020 to 50% by 2030. The RPS *and* the Cap-and-Trade Regulation are key regulations in the State's efforts to dramatically reduce statewide GHG emissions. *These programs should complement one another, and one program must not reduce the effectiveness of the other*. Out-of-state renewables are an important means of achieving the State's renewable energy goals, especially with the anticipated implementation of the federal Clean Power Plan, potential expansion of the California Independent System Operator (CAISO) Energy Imbalance Market (EIM) and grid regionalization efforts, and increasing land-use restrictions that inhibit the ability to build large-scale renewable projects in California. The RPS Adjustment acts to ensure fair treatment of RPS-compliant contracts and investments. As was recognized by ARB Chairman Mary Nichols during the recent June 23, 2016 Board Meeting on the 2030 Scoping Plan where she stated "We are implementing a number of very big, costly, important regulations as part of our existing climate program, of which the Cap-and-Trade Program is certainly one, and an important one, but not the only one….The Renewable Portfolio Standard, we were lapped…we started out with a certain number, and now we're coming up with a more ambitious number, layered on top of a Cap-and-Trade Program, so that they -- our electric generating sector is subject to multiple different requirements, and yet [the RPS] program is also operating in a way that's pushing change…"

SCPPA appreciates the Chairman's recognition that the electric sector is subject to multiple requirements, and further stresses the need for the myriad of state policies to work together. We urge ARB to work alongside stakeholders towards reconciling contradictory policy and program implementation concerns – such as the proposed elimination of the RPS Adjustment – that are collectively hampering efforts to get us to where we, as a state, are headed with climate and energy policies.

Throughout the numerous meetings on this topic, the Joint Utilities Group has presented ARB staff and managers with a counter proposal which SCPPA believes achieves the goals of both ARB and stakeholders. This proposal has not yet been responded to by ARB staff. SCPPA requests an in-depth analysis of the proposal prior to the regulation being finalized.

CAISO EIM Greenhouse Gas Emissions Accounting

In a May 2014 letter to the Federal Energy Regulatory Commission (FERC), Governor Jerry Brown and Nevada Governor Brian Sandoval said, "The Energy Imbalance Market (EIM) will help grid managers in Nevada, California, and five other states optimize renewable energy resources, balance power supplies, enhance grid reliability, and reduce power costs for customers by taking advantage of a larger, multi-state pool of geographically diverse energy resources." The new market was touted as one that would help "green" the electric grid, which has been an important component of California state leaders' efforts to promote policies that combat the effects of global climate change. Indeed, Governor Brown even referenced it in his January 5, 2015 inaugural address as one of many means to achieve his ambitious climate goals.

We understand that ARB staff has since identified a concern (based upon a limited set of preliminary draft data) that GHG emissions accounting for the CAISO EIM does not consider the climate impacts of "secondary dispatch" resources that are being used to indirectly serve California load. ARB staff has proposed amendments in this package that would extend the accounting reach of the California GHG program to non-participating entities. If implemented, this could have a significant and chilling effect on the broader regionalization goals and its accompanying GHG reduction benefits. The potential benefits of the EIM or a broader regional market could substantially dwarf the secondary accounting impacts being proposed in the regulation.

Indeed, California Energy Commission Chair Robert Weisenmiller said at the August 10, 2016, CEC Business Meeting, "…it turns out as you get into the [ARB Cap-and-Trade] accounting stuff it becomes more and more complicated. A classic example is on the Cap and Trade Program, there's a lot of following of imports of dirty stuff into California. There is zero accounting for renewables flowing out of California. Zero. Think about it for a second, which might be more a clean power plan. But having said that certainly most people's forecast now is there's a lot of [excess renewables] today under EIM flowing out of California. And there'll be progressively more over time, so zero is -- or ignoring it is not a particularly good

approach." SCPPA strongly agrees that crediting renewables exports must be accounted for to ensure accurate accounting of the atmospheric effects associated with the electric industry's significant programmatic- and market-based contributions towards addressing climate change. This includes how to optimize the efficient use of clean electricity through the EIM. On August 26, 2016, the CAISO issued preliminary results of an EIM GHG "counter-factual comparison," in response to ARB's June 24, 2016 Cap-and-Trade Program Workshop. This analysis concluded both of the following: 1) EIM dispatch reduced GHG emissions by 291,998 MTons during January-June 2016; and 2) the secondary dispatch GHG emissions associated with EIM transfers into CAISO to serve load are offset by GHG emission reductions associated with EIM transfers out of the CAISO – reflecting renewable resources displacing external emitting resources. According to CAISO's analysis, the EIM construct and framework reduces GHG emission impacts that the atmosphere actually "feels." This analysis should be sufficient to justify withdrawing the proposed EIM GHG emissions accounting amendments, and thereby avoiding all the associated implementation effort and costs.

It would be in the best interest of all stakeholders involved to more fully understand the extent of this perceived problem, since remedying this concern will have significant implications. At this time, it does not appear that there is adequate understanding of either the problem or the solution. We believe that more robust inter-agency evaluation (based upon a more comprehensive set of data) and *meaningful* stakeholder engagement are necessary to fully understand the issue and the magnitude of the impact, as well as the realm of possible solutions and the resulting impacts. Of all the topics discussed prior to the formal rulemaking notice, this EIM issue received the least amount of lead time prior to its inclusion.

SCPPA therefore urges ARB to defer proposed changes to the reporting requirements until such time as the problem (if any exists) is fully understood, CAISO has completed its stakeholder engagement process on the matter, and the state agencies have reached an agreement with stakeholder concurrence. Otherwise, we fear the hurried ARB regulations now may only serve to capture short-term Cap-and-Trade Program gains (which could possibly deter imports into California that are necessary to meet the state's RPS requirements), while undermining long-term emissions reductions initiatives across the West. This is one issue that does not have an immediate looming deadline, so it would be beneficial to take a few steps back to re-evaluate.

We believe it is also critical that each affected state agency have an equal voice in matters that directly impact their primary mission. It is imperative to recognize that California is part of the broader western electricity grid, and that any actions taken in our state may impact the larger regional market. Without a fix, any potential EIM benefits will be eviscerated by ARB carbon cost compliance obligation accounting; the consequence of which may be to *deter* new participant interest in, or even *undermine* existing participation within a flourishing market that has been widely touted by state energy officials, while burdening California ratepayers with the entirety of any accounting system for a broader market that they may not even benefit from. Further magnifying the need for inter-agency coordination is the fact that we (as a state) have yet to thoroughly explore how these GHG emission accounting efforts may translate to a broader, regionally-integrated market as the Governor has sought to advance in the CAISO grid regionalization effort. The GHG accounting issue has proven to be an extremely contentious one amongst neighboring states in regionalization discussions.

EPA Clean Power Plan Implementation

Aligned Compliance Dates

ARB staff's proposed language in section 95840(d) would establish new, shorter compliance periods under the Cap-and-Trade Program to facilitate compliance with the federal Clean Power Plan (CPP). It is our understanding that ARB's intent with regard to this section is to only alter the current three-year compliance period structure of the Cap-and-Trade Program if the CPP is upheld on appeal in the federal courts, and even then only if EPA subsequently approves California's state plan submission. SCPPA supports the conditionality of these provisions and, in the absence of the CPP, would prefer to retain the current 3-year compliance period structure of the existing Cap-and-Trade Regulation. SCPPA requests that ARB confirm our understanding that the change in compliance period timing specified in proposed section 95840(d)[2] would *not* take effect if any of the following events take place:

[2] Proposed section 95840 also provides that if EPA has not approved California's plan for compliance with the CPP by January 1, 2019, (including the new timeframes for compliance periods specified in specified in section 95840(d)), then current timeframes will continue to apply. In this case,

- The CPP is vacated or remanded to EPA by a federal court (either the D.C. Circuit or the U.S. Supreme Court);
- The EPA voluntarily withdraws the CPP or issues subsequent regulations that supersede the CPP;
- Congress passes legislation that effectively stays, rescinds, or significantly amends the CPP; or
- The EPA disapproves California's CPP compliance plan in whole or in relevant part.

As written, section 95840 does not explicitly address what the Cap-and-Trade Program's compliance periods would be under circumstances other than approval or disapproval of California's plan. For example, the proposed regulation does not address the possibility of remand, regulatory revision, or legislative override of the CPP that would block or substantially delay implementation of the CPP program. SCPPA envisions that ARB would need to conduct additional rulemaking in the future to address the repercussions of these events. Although it may not be possible to specify all of the events that would prevent a new compliance schedule from taking effect, ARB should at least clarify in its Final Statement of Reasons that if any of these events occur, the proposed compliance dates in section 95840(d) would not apply.

In addition, SCPPA anticipates that in the event the CPP is upheld and subsequently goes into effect, a court or EPA may nonetheless push back the start date of the CPP due to delays caused by the current Supreme Court stay of the CPP. In the event that the CPP's deadlines are tolled and thus the start of the CPP program is extended beyond 2022, SCPPA urges ARB to maintain the 3-year compliance period structure of the Cap-and-Trade Program for as long as possible before adjusting the compliance period length to comply with the CPP. Such an approach will minimize any potential disruption that could result from changing the current compliance deadline schedule in order to align the federal and state programs.

Clean Power Plan and Imported Electricity

The proposed amendments reflect ARB's proposal that the Cap and Trade program serve as the compliance program for the CPP if the stay of the regulation is lifted. Thus, consideration of the CPP's impact on out-of-state generation that is ultimately imported to California is of vital importance when vetting the proposed amendments as noted in the Proposed Compliance Plan for the Federal Clean Power Plan[3]. ARB staff are proposing and recognizing that under the proposed CPP Plan, imported electricity will realize *both* the Cap and Trade compliance obligations under the proposed regulation *and* the compliance obligations from other states. This essentially doubles the compliance obligations for these facilities. SCPPA is concerned that ARB has not recognized or discussed the economic impacts on electric utility customers for those affected utilities, including many SCPPA members, which have must-take contracts with out-of-state fossil-fueled generating facilities. This may result in heavy cost burdens on California electric utilities, many of which serve disadvantaged communities. Because of this, SCPPA requests that ARB evaluate and address the cost burdens that may be faced by these utilities.

Clean Power Plan Backstop

SCPPA generally supports ARB's approach to designing a backstop measure for compliance with the CPP, which is required for a "state measures" approach. In particular, SCPPA supports the creation of a separate Cap-and-Trade program only for CPP-affected electric generating units (EGUs), as well as ARB's proposal to allocate allowances at no cost (i.e., free allocation) to affected EGUs under the backstop based on historic emissions. SCPPA also supports ARB's proposal to allow affected EGUs to trade backstop emission allowances.[4] SCPPA seeks clarity on whether a triggered backstop would remain in effect for the remainder of the program, or could potentially include a mechanism to revert back. However, SCPPA recommends that ARB make the following changes to the allocation and trading components of the backstop approach.

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the fourth compliance period would start on January 21, 2021 and end on December 31, 2023, with each subsequent compliance period having a duration of three calendar years.

[3] See California's Proposed Compliance Plan for the Federal Clean Power Plan, released August 5, 2016.

[4] *See* proposed § 95859(e)(6) (providing that backstop emission allowances "may … be traded among entities that own or operate affected EGUs located in California and that are registered in the Program").

Changes to Allocation Component of Backstop. SCPPA recommends that ARB *not* use the most recent calendar year (described as "triggering compliance period" in the proposal) as the basis for allocating allowances to EGUs.[5] Using the period in which emissions first exceeded California's mass-based CPP limits would have the counterproductive effect of rewarding the very EGUs whose excess emissions caused the sector to exceed the CPP goal, while under-allocating allowances to those EGUs that have lowered their emissions to levels that may be well below a level that would be sufficient to meet the CPP goal without triggering the backstop.

Rather than using this proposed approach, ARB should instead use a known, pre-CPP baseline of emissions as the basis for allocating allowances. For example, ARB could use the average of affected EGU emissions from 2013-2015 as the basis for allocating allowances to affected EGUs.[6] Using a historic baseline appropriately reflects the relative size and emission-intensity of different EGUs while avoiding the possibility of rewarding those EGUs that are most responsible for triggering of the backstop. In particular, it would prevent those EGUs – whose high emissions may have contributed most significantly to the triggering of the backstop – from being rewarded for their high levels of emissions by receiving a greater share of allowances than the EGUs that have taken measures to achieve significant reductions in their emissions.

In the alternative, if ARB decides to retain its current approach of using most recent emission years to calculate the backstop allowance allocation, ARB should consider using a longer averaging period (e.g., using the previous *two* compliance periods, or a minimum of three full years of emission data) in order to lessen the extent to which ARB rewards the biggest emitters under the backstop approach. In addition, the use of a multi-year period will provide a more representative benchmark of normal operations than a one-year period. Specifically, a multi-year period should minimize the distortions that would result from forced outages of EGUs, low energy demand, abnormally low hydroelectric supply, or other unusual circumstances during any given one-year period.

Changes to Trading Component of Backstop. While SCPPA strongly supports ARB's proposal to allow EGUs to trade "CPP allowances" within the backstop Cap-and-Trade program, SCPPA also urges ARB to allow the *interstate* trading of allowances between California and other states' CPP plans with emissions trading programs. First and foremost, the statutory prerequisites of SB 1018 for interstate trading only apply to the California Cap-and-Trade Program and other market-based programs to implement the goals of the AB 32 legislation.[7] *This means that the requirements of SB 1018 do not apply to the CPP backstop program* given that ARB would establish the backstop program to assure compliance with the federal Clean Air Act (CAA) requirements under the final CPP rule, and not to implement the reduction requirements under the California Cap-and-Trade program and achieve the emission targets under AB 32. So long as the federal backstop program is kept separate and independent from the Cap-and-Trade program, ARB does not need to demonstrate compliance with SB 1018 requirements in order to authorize interstate emission trading under CPP backstop program. To avoid any confusion on the relationship between the federal and state programs on this point, SCPPA recommends that ARB not codify the proposed backstop provisions in final Cap-and-Trade regulations specified in Sections 95201 to 96022 of Title 17 of the California Code of Regulations, as has been proposed. Rather, we suggest that ARB adopt the backstop program pursuant to regulations that are entirely separate from the Cap-and-Trade regulations and codify that program in a separate regulatory section of the California Code.

Second, allowing interstate trading under the backstop program makes good policy and economic sense. Most California utilities—including many SCPPA members—supply electricity to their customers from a mix of in-state and out-of-state generation sources. Although SCPPA supports ARB's selection of a state measures plan, we note that this selection—combined with other states' likely selection of other compliance approaches—will somewhat complicate these utilities' abilities to flexibly and cost-effectively balance in-state load and in- and out-of-state supply as demand and power availability fluctuates on a daily and seasonal basis. We recognize that authorizing interstate allowance trading between the

[5] *See* proposed § 95859(e)(5).

[6] If any affected EGUs were constructed or modified after January 1, 2013 but before the January 8, 2014 applicability cutoff date for the CPP, those EGUs' emissions during the historic baseline period could be estimated—for example, by assuming that these EGUs operated at an average capacity factor and emission rate the comports with the technology in use at the EGU.

[7] *See* Senate Bill 1018, codified at Chapter 39, Statutes 2012 (providing that the prerequisites for interstate trading only apply to a market-based compliance mechanism established pursuant to AB 32 and specified in Sections 95801 to 96022).

AB 32 Cap-and-Trade Program and other states' EGU-only CPP programs may be complicated (although we urge ARB to continue working with utilities to enable such trading to take place). However, in the case of the backstop approach ARB has selected, such linkages between the California backstop Cap-and-Trade and other states' CPP Cap-and-Trade programs are likely to be both straightforward and beneficial for all entities.

Allowing interstate trading of CPP allowances between California's backstop program and other states' CPP programs will be straightforward because the instruments being traded between the California backstop program and other states' CPP programs will be EGU-only allowances created specifically for the CPP. The CPP explicitly authorizes trading of such allowances between affected EGUs that are subject to linked mass-based plans, and provides for one-for-one adjustments of states' CPP mass-based goals to account for net flows of allowances between participating states.

Finally, allowing EGUs in California to use CPP allowances issued by other EPA-approved programs, and vice versa, will also enhance the flexibility of California's backstop program while promoting more economically efficient decisions about generation throughout the West because it will allow California utilities to use CPP allowances obtained in California to satisfy obligations in other Western states, or to use allowances obtained in other state programs to satisfy the California backstop requirements. Such flexibility and economic efficiency will be needed most acutely in a backstop situation because the factors that could lead to excess emissions—e.g., greater-than-expected load growth or an extended outage of low-emitting generation (e.g., due to extended drought conditions in the Northwest or an extended nuclear outage)—are also likely to complicate utilities' abilities to reduce in-state EGU emissions while meeting these utilities' obligations to serve California ratepayers reliably and cost-effectively. For these reasons, ARB should ensure its backstop program is "ready for interstate trading," including explicitly authorizing EGUs to trade CPP allowances with other mass-based CPP state programs if the backstop is triggered, and to use allowances from these other programs to comply with California's backstop cap-and-trade requirements (and vice versa).

SCPPA requests that the CPP provisions in their entirety be available for comment and possible modification under any 15-day amendment package.

Linkage Provisions

SCPPA is leery of allowing outside entities to remove allowances from the California Cap-and-Trade program, especially when the entities are not contributing to the overall allowance pool. These regulatory amendments propose two possible situations where this may occur. The first is the Retirement-Only Linkage, and the second is a full linkage with a jurisdiction that is projected to be a net buyer of allowances from day one (Ontario). The proposed amendments immediately provide for linkage with Ontario, and sets up a process for a future Retirement-Only linkage with Washington State, and others that may wish to join.

These provisions lead to unanswered questions about cost containment, upward allowance price pressures, impacts on the cap and future unknown consequences on the California program. SCPPA has not seen any robust staff analysis on these proposals, or other potential long-term implications. See additional comments under Cost Containment.

EDU Allocations

Allowance allocation is a key component to ensuring the costs of the Cap-and-Trade program are contained. It is fundamental to the structure and cost of the regulation, and establishes the market rules by which all parties must participate. It is of critical importance for Electrical Distribution Utilities (EDUs) that the proposed package contains the following language:

> "*Staff may propose post-2020 allocation as part of this rulemaking process. Any change proposed will be circulated for a 15-day public comment period.*"

California EDUS have not been provided the opportunity to review and comment on an actual EDU allowance allocation for post-2020 prior to the Board's initial public hearing, but the language implies that such a proposal may *not* be made during this regulatory process. SCPPA recognizes that this issue is complicated given the diversity and number of EDUs in the

state, the number of other entities seeking allowance value, and that SCPPA is actively participating with ARB and other EDUs in a process moving forward. However, SCPPA is extremely uncomfortable with such a central piece of the policy puzzle not being sorted out before the Board provides input and direction to staff. The ripple effects of EDU allocation will be felt by consumers throughout the state and, depending on the final proposal, could impact how other aspects of the proposed regulation operate.

ARB staff has consistently noted in the informal rule development process that the post-2020 EDU allocations will be utility specific, and there will not be a sector-wide sub cap as was the case from 2013-2020. SCPPA recognizes that the details really matter in a bottom-up calculation approach. To be fair, the data used to determine each utility's individual allocation needs to be reviewed for accuracy and normalized to a consistent set of assumptions. In addition, the GHG emission factors used in the post-2020 allowance allocation calculation need to accurately reflect the specific generating resources, and reflect the updated (SAR4) Global Warming Potential factors that will take effect starting in 2021.

Another basic tenet of the potential staff methodology is to base post-2020 allocations on a utility's potential 'cost burden'. SCPPA is supportive that this is the right guiding principle, but, as noted previously, this is a very data specific endeavor where the details really matter. SCPPA believes a wider application of that principle is needed to cover additional costs not currently included within ARB's definition of cost burden (e.g.., the costs of utility GHG reduction measures adopted independent of the Cap and Trade Program).

ARB staff has discussed the concept of reducing total load by less than the full 33% RPS target as a way to compensate utilities for the removal of the RPS Adjustment. SCPPA does not believe this is an equal trade and would prefer to see the retention of the RPS Adjustment over an allocation adjustment (see RPS Adjustment comments). Some utilities would potentially optimize their portfolio by maximizing their option for contracts that currently are able to utilize the RPS Adjustment - which is greater than the 15% adjustment ARB staff is proposing, resulting in greater cost burdens than the allocation accommodates; however, other utilities may not utilize this option at all and will be provided more allocation than accurately reflects their cost burdens.

Though the regulation does not propose a post-2020 methodology, it does contain a partial allocation table that runs through 2026. SCPPA would recommend that, for whichever methodology is used, allocations for the full time frame up to 2030 be assigned. This would provide additional utility certainty and reduce the workload associated with revisiting this issue midway through the program's next phase.

Shifting of Electrical Allocation Value to the Industrial Sector. This proposal is a 'solution' that creates five-fold concerns for publicly-owned utilities without practically solving the perceived problem. There are numerous issues associated with trying to separate out Cap-and-Trade regulated entities from not only other industrial ratepayers, but also from other customer classes. Ratemaking can be a multi-year process in POU territories. The time and effort needed to complete such ratemaking would surely be in continual arrears to what the price of carbon actual is in the market. Therefore, it would be very difficult to provide the signals ARB staff believes can be sent. In addition, this issue could result in disproportionate impacts among publicly-owned utility and investor-owned utility customers. As public entities, it would be especially burdensome or nearly impossible for POUs to comply with the requirements of Proposition 26. SCPPA is opposed to this concept and recommends ARB staff not pursue this issue.

Planned retirements: Between now and 2030 there will be retirements of large coal-fired generating facilities. Any early retirement prior to contract expiration is a benefit to the environment at a cost to participating utility ratepayers. ARB should not penalize (by way of a lower allowance allocation) any utility that voluntarily exits these types of contracts early. Allocations should be based on contractual dates, not on potential early exits. Specifically, some SCPPA Members are under contract to procure power from the Intermountain Power Project through June 15, 2027; however, there have been aspirational discussions of repowering to use natural gas in 2025. As noted above, SCPPA strongly suggests that ARB base allowance allocations on the current contractual obligations in place and not on aspirational planning targets.

Distributed Generation and Energy Efficiency: ARB Staff have recommended that allocations "recognize investments in zero-emitting energy sources" for industrial compliance entities. SCPPA recommends similar treatment for smaller energy users. Continued investment in energy efficiency is among the most beneficial and cost-effective means of combating climate change and should be encouraged through every available means, as increased energy efficiency is the primary means of decoupling economic growth from GHG emissions growth. In 2010, ARB included investments in energy efficiency programs in its cost basis methodology; SCPPA supports a continuation of that precedent.

Crediting Utilities for Increased Electrification

SCPPA agrees with ARB staff's recognition that load growth from transportation and other sector electrification efforts will require additional allowance allocations post-2020. As a primary climate change strategy of the State, electrification of multiple other sectors will only serve to increase EDU loads and will need to be addressed accordingly with additional allocation value. But SCPPA is concerned that the issue of Allocation for Increased Electrification merited only one paragraph in the ISOR. This is especially disconcerting since the discussion only mentioned that this is an outstanding issue that needs more evaluation. As noted numerous times, this is a complicated and interdependent regulation, and allocations for known electrification are a key issue. California has clearly stated that one of its overarching climate goals is the electrification of the transportation and goods movement sectors, as is seen in the considerable work on zero emission vehicles (ZEVs) and other forms of electrification. As ARB develops a workable methodology for electrification allocations, SCPPA recommends that it not be overly burdensome or require data that is not readily collected by the utilities. Further, the issue of additional allocations should be clearly understood before the Regulation is finalized.

Staff has repeatedly dismissed the use of the Low Carbon Fuel Standard model for determining the amount of electricity used for ZEVs, but the discussions surrounding the level of rigor desired is more than enough to warrant concern. SCPPA recommends that ARB staff develop a straightforward, data driven methodology for stakeholder review on electrification allocations. SCPPA has already sought the assistance of the CEC to collaborate in development of an estimation methodology.

Cost Containment

ARB has previously acknowledged that Cap-and-Trade cost containment mechanisms are critical towards ensuring the Program's long-term stability. In Resolution 13-44, the ARB Board directed staff to develop a plan for a post-2020 Cap-and-Trade Program (including cost containment) before the start of 2018 to provide market certainty and address a potential 2030 emissions reduction target. We have previously urged ARB to engage stakeholders as soon as possible in designing, testing, and implementing possible cost containment mechanisms before the 2018 deadline. We further urged ARB to incorporate a meaningful "safety valve" in the event new technologies do not develop; this would allow entities to meet policy goals in a cost-effective manner.

Further consideration is still needed to determine how new 2030 and beyond emissions reduction targets are technologically feasible, adequately demonstrated at a commercial level, and can be implemented in a cost-effective manner for California utility ratepayers. In addition, the emission reduction targets and policies must be implemented in a way that does not cause conflict with other local, state, and national environmental regulations (including federal energy reliability standards). SCPPA urges ARB to assess the full economic impact across options available for achieving the 2030 emissions reduction target on the California economy, California businesses, and individual ratepayers. As the suite of California's environmental and energy policies are intended to work together to reduce emissions, ARB should consider broader categories of cost impacts experienced by market participants as they are interlinked to the cost of compliance with the Cap-and-Trade program. ARB should also work with state agency partners to include a quantitative analysis of progress to date in terms of meeting emissions reduction targets.

Allowance Price Containment Reserve. We appreciate ARB staff's proposed revisions to the Allowance Prince Containment Reserve (APCR), and its proposed 2021-2031 extension, in order to support cost containment efforts. We believe that this is consistent with current policies. This includes efforts to simplify and streamline the APCR by "collapsing" the existing three fixed-price, equal-sized tiers (which now includes a transitional 5% annual escalator plus a measure of the rate of consumer inflation) for reserve sales of any allowances. SCPPA notes that there is now a widening gap

between existing allowance sales prices (generally at or near the "price floor" of just under $13) and the proposed APCR allowances even under the 2016 offer prices ($47.54 to $59.43 between the three tiers) – which will only increase with escalators over time. Given this significant market differential – and the cost containment intent of the APCR itself – SCPPA urges ARB to reconsider setting a fixed arbitrary price of +$60, which may actually undermine the intent of the reserve going forward by making allowance prices held in reserve inordinately expensive to address market fluctuations over the next 15 years. We recommend that staff consider a lesser amount that would endeavor to keep APCR prices more accessible for regulated entities as a means to ensure rate affordability for their customers. SCPPA also encourages the long-term ability to borrow allowances from future years.

Cap Setting. SCPPA supports a well-designed, economy-wide market based system that includes necessary cost containment protections. SCPPA also appreciates ARB staff's proposal to apply an approximately 3% annual linear reduction path for emissions caps between 2020 and 2030, rather than a "step down" or programmatic "shave" that could more significantly impact the electricity sector versus other sectors. We also support a straightforward 2050 formula methodology to calculate annual allowance budgets. SCPPA agrees with ARB staff's proposal to allow any allowances of vintage 2020 or earlier to be used for compliance in a post-2020 program as a signal that this program will be available for the long-term; however, we do have concerns with staff's proposal to lock-in annual allowance budgets for 2031 through 2050. SCPPA believes it is extremely important that such intent also be associated with rigorous long-term market monitoring mechanisms; ongoing expert evaluation of economic feasibility and technological/commercial viability; and, meaningful cost containment features that offer certainty and protect California ratepayers for the long-term. SCPPA is concerned that not taking steps now to ensure these long-term market protections may negatively impact the program over coming decades – particularly given commensurate efforts underway to "link" other international parties to the program that do not have a federal Clean Power Plan obligation, discussions to regionalize California's electric grid (with other states that do not have Cap-and-Trade and/or Renewables Portfolio Standard mandate(s) either as aggressive as California's or at all), and future EPA Clean Power Plan compliance efforts on a California-only or linked basis.

Linkages. SCPPA generally supports programmatic "linkages" as a means to potentially reduce costs to California ratepayers. We are concerned, however, with any proposal that could seemingly establish a simplified procedural manner to establish linkages – particularly one-way linkages (e.g., with the State of Washington, or if Ontario becomes a net buyer only) – with unequal and less stringent qualifications for operational integration (e.g., California/Quebec two-way linkage) and without vigorous vetting by agency leaders. SCPPA is concerned there may be undue burdens that California ratepayers may experience due to leakage risks and added in-state economic development constraints and/or competitive disadvantages. We believe it is important that linkage protocols be inclusive of pre-established criteria – with input included through a meaningful public stakeholder process – to ensure inclusion of meaningful cost containment features. This is particularly problematic given the current implementation of California policies directly affecting California's electric utility sector associated with Senate Bill 350, the recently enacted Senate Bill 32 and Assembly 197, and numerous other measures that already place significant climate change-related policy requirements on our Members . Collectively, these existing policies raise the Renewables Portfolio Standard to 50% by 2030, double energy efficiency savings in existing buildings, and set aggressive 2030 emissions reduction targets. SCPPA therefore urges a preference for, and greater support of, rigorous and mutually beneficial two-way linkages with proper safeguards for California ratepayers that are thoroughly vetted through both the ARB staff level, with pre-established Board approval processes.

Treatment of Unsold Allowances. SCPPA appreciates staff's proposal that unsold state-owned allowances could be transferred to the Allowance Price Containment Reserve, as a potential means to address cost containment concerns and to address oversupply concerns beginning in 2018. We generally support the proposed methodology specifying that allowances that remain unsold for over 24 months would be transferred to the APCR, but seek further clarification on how to structure access to unsold allowances in a reasonable manner and timeframe. SCPPA would support ARB's use of unsold allowances to fund the continuation of the Voluntary Renewable Energy Program.

Potentially requiring the completion of eight auctions before the APCR transfer could be effectuated, without simultaneously clarifying that those allowances will remain there until sold, could reduce the effectiveness of the APCR's intent. SCPPA seeks clarification that these allowances will remain available until they are sold. Given the legal uncertainty

currently associated with California's Cap-and-Trade Program – which may not be resolved through the judicial system for quite some time – SCPPA is concerned that limiting administrative flexibility will place undue and premature pressure on the market. SCPPA urges staff to further explore alternative programmatic options that could better firm and shape the market in the short-term. This includes an option to increase restrictive "holding limits" for regulated entities.

Reporting Requirements

Some changes may seem small, but can have a significant impact on implementation. Assigning a default reporting response time of only 10 days is problematic. Many times it is not possible for organizations, either large or small, to respond to an information request in 10 days. This is a very short turnaround time, particularly if the request is complex, requires multiple inputs, or even requires customer authorization to release the data. Defaulting to 10 days is problematic since the nature of future requests is unknown. SCPPA understands that ARB would like a default timeframe, when otherwise not specified; therefore, SCPPA recommends that the default response time be extended to 30 days to ensure sufficient processing times.

Thank you for your time and consideration. SCPPA and our Members continue to seek forward progress on a variety of issues that have been raised over the past year. We remain ready to meet with ARB staff to work towards mutually agreeable solutions that best advance the State's climate change goals in an affordable manner for California ratepayers.

Respectfully submitted,

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