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October 19, 2015

Mr. Chris Gallenstein
California Air Resources Board
P.O. Box 2815
Sacramento, CA 95814

Dear Mr. Gallenstein:

Subject: Los Angeles Department of Water and Power (LADWP)
Comments on California Air Resources Board (CARB)
Clean Power Plan Compliance Discussion Paper (Discussion Paper)

LADWP appreciates the opportunity to provide the following comments on the September 2015 Discussion Paper that the CARB has issued on the Clean Power Plan (CPP).

LADWP supports CARB's collaborative approach in working together with all stakeholders that have an interest in developing an efficient and flexible program for reducing greenhouse gas emissions in California and other states. In addition to electric utilities, key stakeholders include other government agencies, jurisdictions linked with CARB's carbon market, and entities charged with ensuring reliability of the electricity grid. LADWP also encourages CARB to continue its efforts to work with other states that are interested in interstate emission credit trading programs. With the recent announcement by New York Governor Cuomo to link the Northeast's carbon market with California and other states, there is a unique opportunity to establish a new framework for emissions trading across broad geographic regions of the country.

Given that the final CPP guidelines provide extra time (until September 2018) for a state to submit a final plan and given that the CPP regulatory program does not begin until 2022, we believe it is important for CARB not to rush through the process to establish a final plan over the next year or so. Rather, CARB should use its allotted time to address the many complicated technical and policy issues that need to be properly addressed in order to ensure the establishment of an efficient and effective program that can be linked to the carbon markets in New York and other states (*e.g.*, New York's recent announcement). Extending the timeframe for developing a final State plan also makes sense given that United States Environmental Protection Agency (EPA) is expected to finalize its model trading rules next summer and, in so doing, will likely be providing additional federal guidance on important implementation issues such as federal enforceability and development of a backstop program. It is important that CARB carefully work through the complex technical and policy issues associated with CPP implementation such that it can continue to show its leadership by its development of an effective state plan that can serve as a model for other states.

Enforcement and Permitting

If California adopts a state measures plan with a requirement for covered electric generating units (EGUs) to participate in and comply with the Cap-and-Trade and Mandatory Reporting Regulations, the CARB states that two separate sets of requirements would have to "be federally enforceable in some form." The first set of requirements relates to the relevant Cap-and-Trade regulations applicable to the affected EGUs; the second set of requirements are "the relevant backstop measure(s)."

LADWP is generally supportive of CARB using the state measures approach to implement California's CO_2 reduction requirements under the CPP program. Such an approach avoids duplication of having to establish a redundant parallel federal program by allowing California to use its current Cap-and-Trade program to demonstrate compliance with the federal CPP program. Most importantly, it provides California with flexibility in how it achieves the CPP goals and need not impose enforceable obligations directly on affected EGUs provided that the measures (*e.g.*, renewable portfolio standard, state energy efficiency building codes) still can generate reductions at the affected EGUs.

In exchange for this flexibility, LADWP agrees with CARB that a state measures plan must specify federal enforceable backstop measures that would apply to the state's affected EGUs if the state measures fail to achieve certain emission performance milestones for those EGUs. Since the final rule appears unclear as to the extent backstop measures are required to be addressed in EGU permits, LADWP recommends that CARB work with EPA as well as California air districts and energy agency staff in developing federal policy guidance on this issue.

In addition, we have major concerns about CARB making the relevant Cap-and-Trade regulations "federally enforceable in some form." Making these requirements federally enforceable appears to be unnecessary given the establishment of federally enforceable backstop measures. Moreover, such an approach could impair the flexible and efficient administration of the Cap-and-Trade program by requiring the adoption of a separate layer of federal regulation on the State program. For these reasons, LADWP urges that CARB closely work with EPA to avoid, or at least minimize to the maximum extent feasible, the requirement for the Cap-and-Trade regulations to be "federally enforceable in some form."

Backstop and Glide Path Design

Although CARB staff believes that it is unlikely that a backstop will be triggered in California due to its more stringent climate and energy policies, the adoption of a backstop would still be required if California pursues a state measures plan approach. The design of the backstop in a state measures plan is a complex issue that would require much thought and analysis as it could take the form of a rate-based or mass-based backup program and could involve emission trading on an intrastate or interstate basis. Thus, it is difficult to determine what backstop designs might integrate best with the design of the Cap-and-Trade Regulation. LADWP recommends that CARB design a backstop measure that ensures that load serving entities and vertically integrated utilities are treated equitably, and that is not administratively complex to implement.

LADWP acknowledges that states have the discretion to design their glide paths for emission reductions through 2030. CARB, in its discussion paper, requests comment on the question, "Are there particular glide paths that might best integrate the backstop into the larger California carbon market and the economy-wide emissions reductions trajectory?" We question why CARB would want to deviate from gradual glide paths set for the EPA mass-based or rate-based goals with respect to implementation of the backstop. The purpose of the backstop is to ensure that a state stays on track to meet its compliance with EPA's CPP's goals so we believe that the backstop's glide path should be designed to meet those federal goals in the most continuous and predictable manner possible.

Analysis and Demonstration

In its discussion paper, CARB acknowledges that the CPP includes demonstration requirements to address "leakage" between existing and new EGUs, as some plan designs covering only existing EGUs may produce perverse incentives for expanded operations or construction of new EGUs that are not covered by existing source plans. We agree with CARB that leakage incentives are likely not present in California. As CARB points out, its Cap-and-Trade Regulation includes both existing and new EGUs and if it pursues a state measures plan, California's stringent renewable portfolio standards and energy efficiency measures would likely prevent the shifting of existing generation to new generation. For these reasons, LADWP urges CARB to include in the

State plan an analysis demonstrating that the Cap-and-Trade program, as combined with this comprehensive suite of complementary state measures, fully addresses any risks of leakage for California.

Integration Methods

LADWP appreciates CARB's interest in integrating reporting requirements between the state and federal programs. The CPP's new monitoring provisions will require reporting of hourly *net* generation, which is different from CARB's requirement to report annual net generation. EPA's new hourly net generation reporting requirements will require LADWP to reprogram algorithms in its continuous emissions monitoring system, and at some of LADWP's power plants, it will be necessary to procure and install new monitors that meet EPA's 0.2% accuracy requirement. Also as CARB points out, EPA's reporting deadlines raise challenges with the compliance dates within CARB's existing program. LADWP urges CARB to work with EPA to align monitoring requirements and deadlines to avoid regulated entities having to deal with two sets of monitoring requirements.

Clean Energy Incentive Program (CEIP)

As stated in CARB's discussion paper, EPA establishes a CEIP to incentivize states to invest in renewable energy and energy efficiency projects that operate prior to the start of the CPP program in 2020 and 2021. Under the CEIP, a state can set aside allowances or emission rate credits and award them to renewable and energy efficiency projects, and EPA will provide matching credits from its pool of credits. CARB requests comment on the advantages and disadvantages of participating in the CEIP and whether California should submit a nonbinding statement of interest in participating in the CEIP.

LADWP believes there are no adverse consequences in California submitting a nonbinding statement of interest with respect to the CEIP. LADWP also believes that determination of the advantages and disadvantages of participating in the CEIP warrants further analysis as EPA has stated that it will release additional implementation details after stakeholder outreach. As a general matter, one major disadvantage of not participating in a CEIP would be that California would not receive allowances/credits, and its pool of credits would consequently be distributed to other participating states. However, the size of California's account would be relatively small since state's CEIP account of EPA matching allowances would be based on the amount of reductions from 2012 levels that affected EGUs are required to achieve relative to EGUs in other states.

Another issue requiring further clarification relates to how the CEIP would be integrated into California's plan. One example relates to the tracking of the allowances or emission rate credits (ERCs) issued under the CEIP. In particular, the CEIP would need to develop another compliance tracking mechanism as the allowances or ERCs would be a different currency than a California Carbon Allowance. Other issues of concern relate to how these CEIP allowances or ERCs could be used for compliance by affected electric utilities. For example, it remains unclear as to whether they could be used for compliance under the Cap-and-Trade program or whether they could only be used for meeting backstop requirements should they be triggered. Further clarification on these and other basic issues is critical in order to determine whether the CARB should establish a CEIP to encourage early CO_2 reductions.

Regional Interactions

As stated previously, LADWP encourages CARB to continue to explore collaborations with other states during its development of California's plan. LADWP recommends that CARB analyze such issues as how it can trade with other states without undermining its state greenhouse gas reduction goals, the merits of interstate trading in a backstop program, and how exports and imports of emission credits could be addressed under the California program. LADWP also recommends that CARB analyze the financial impacts of its existing Cap-and-Trade structure, including the continued need for the existing allowance requirement for the imported electricity given that all states will have a carbon emission compliance obligation under the CPP.

LADWP appreciates this opportunity to comment. If you have any questions or would like additional information, please contact Ms. Jodean Giese of my staff at (213) 367-0409.

Sincerely,

Mark J. Sedlacek

Mark J. Sedlacek
Director of Environmental Affairs

CP:mg
c: Mr. Craig Segall, CARB
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