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California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Comments of Shell Energy on Potential Amendments to the Cap and Trade Regulation

To: Air Resources Board:

In accordance with the process established in connection with the October 21, 2016 workshop addressing potential amendments to the cap and trade regulations, Shell Energy North America (US), L.P. ("Shell Energy") provides its written comments on the ARB Staff's October 14, 2016 proposals. As a general matter, Shell Energy supports continuation of the market-based cap-and-trade program to meet the State's GHG emission reduction goals, including the goals articulated in AB 197.

Shell Energy's specific comments address three issues: First, the ARB should at least maintain the existing maximum limit of eight percent for "offset credits" to be used to meet a covered entity's compliance obligation. Second, the Mandatory Reporting Regulation ("MRR") should be updated to include specific NERC e-Tag requirements for LSEs claiming the RPS adjustment for Portfolio Content Category 2 claims. Third, the criteria pollutant issues identified in AB 197 should be addressed by local air quality management districts, and provided to ARB to avoid duplication. Local air quality districts should report their information to the ARB for aggregation and submission to the joint legislative committee.

I.

THE CAP AND TRADE PROGRAM PROVIDES AN EFFICIENT, COST-EFFECTIVE, MARKET-BASED STRUCTURE TO MAXIMIZE GHG EMISSION REDUCTIONS AND MEET STATUTORY OBJECTIVES

Shell Energy supports continuation of the cap and trade program beyond 2020. The ARB concluded, in 2011, that a market-based mechanism provides proper incentives and opportunities for obligated entities to meet their GHG compliance obligations. The ARB established compliance instruments, an auction mechanism, and trading protocols that, in combination, provide a market-based platform for achieving the State's GHG emission reduction goals. The cap and trade program provides a structured market through which a value is attached to GHG compliance, and obligated entities, as well as opt-in covered entities and voluntarily associated entities, may use verifiable compliance instruments to achieve GHG emission targets.

A market-based structure is cost-effective and efficient in achieving reduced GHG emissions on a statewide basis. A market-based structure is preferable to a top-down structure or a "tax" that imposes costs without regard to creating workable incentives for GHG reductions and compliance. Imposition of a "tax" increases the potential for "leakage" versus a cap and trade program with an accompanying loss of employment and significant societal costs. The cap and trade program should be extended beyond 2020 to meet the requirements of AB 32 and AB 197.

II.

THE EIGHT PERCENT "CAP" ON THE USE OF OFFSET CREDITS FOR GHG COMPLIANCE SHOULD BE AT LEAST MAINTAINED

The current maximum limit of eight percent for use of offset credits for compliance should be at least maintained. The ARB has developed detailed regulations addressing the eligibility of offset projects for compliance, approval of offset protocols, and independent verification of GHG emission reductions from offset projects. The ARB has linked California with other jurisdictions to encourage the development of offset projects to meet covered entities' increasing compliance obligations over time.

As each obligated entity's compliance obligation increases in 2020 and beyond, covered entities must be able to rely upon offsets, in addition to other compliance instruments, to meet the State's GHG compliance obligation. Covered entities must be permitted to manage the increasing cost of compliance with a portfolio of market-based compliance instruments. Reducing the level of permissible use of offsets to meet a covered entity's compliance obligation will result in an increased cost burden that will reduce the competitiveness of a covered entity in its applicable market. Any reduction in the applicability of offsets may have unintended consequences that could ultimately increase emissions if entities are not able to economically meet their obligations. In addition, offset projects have ancillary benefits (e.g. reforestation) that further increase their value in an effective cap and trade program.

III.

RPS ADJUSTMENT CLAIMS ASSOCIATED WITH PCC2 PRODUCTS SHOULD BE SUPPORTED BY APPLICABLE NERC E-TAG REQUIREMENTS

The Staff's October 14 proposal seeks to continue the RPS adjustment after 2020 with the "existing reporting and verification requirements pursuant to the [MRR] and as outlined in the 2011 [Final Statement of Reasons]." Staff Proposal at p. 4. The RPS adjustment applies to the importation of out-of-state RPS-eligible generation that qualifies as grandfathered renewable energy contracts ("PCC0") and qualifies under P.U. Code Section 399.16(b)(2), also known as Portfolio Content Category 2 resources ("PCC2"). PCC2 is one of three categories of compliant RPS products under California's RPS procurement requirement and it is necessary and possible to differentiate required data for verification depending upon the type of product to which the LSE is applying for the RPS Adjustment.

Under current rules, the RPS adjustment is available to all first deliverers of electricity. The RPS adjustment reduces a first deliverer's GHG compliance costs, which costs in turn are passed through to the first deliverer's wholesale and retail sales customers. The RPS adjustment is effective in compensating all first deliverers of electricity (and their ultimate customers) for the GHG compliance obligation incurred by electricity importers for PCC2 energy or other renewable energy that cannot be delivered to California in real-time. Shell Energy supports retention of the RPS adjustment for a first deliverer's importation of renewable energy generation; customers have already paid a premium for these products.

In order to ensure accurate accounting, the MRR should be updated to include specified NERC e-Tag requirements when claiming the RPS Adjustment for PCC2 products. An entity claiming the RPS adjustment for PCC2 must be able to provide evidence that the "unspecified" import tag has been matched in WREGIS to an out-of-state REC. This requirement currently exists in the RPS program in order to be deemed PCC2 eligible.[1]

Currently, the MRR requires that in order to claim the RPS Adjustment, an obligated entity provide evidence that renewable power purchased out-of-state is not directly delivered in-state. In most cases, power under PCC2 contracts that is scheduled from the source, sinks in an out of state balancing authority without generating NERC e-Tags, so providing evidence under

[1] California Energy Commission Renewable Portfolio Standard Eligibility Eighth Edition CEC-300-2015-001-ED8-CMF June 2015 (p. 65): "In all cases, the REC(s) and the accompanying e-Tag(s) shall be from the same calendar year, and the e-Tag(s) shall identify the facility that produced the RECs by either including the RPS ID for the facility in the miscellaneous field, listing the facility name as the source on the e-Tag, or both."

this direction is problematic. Obligated entities can provide contracts to support this request, however; with respect to PCC2, the NERC e-Tag protocol provides the information ARB needs in the reporting template itself. It is preferable for ARB to require a first deliverer provide the same evidence that it provides to the Energy Commission or California Public Utilities Commission to demonstrate PCC2 eligibility in compliance with the State's RPS. The Commissions verify the eligibility of all PCC 2 quantities claimed by LSEs in California. The RPS adjustment can and should be matched against the same NERC e-Tag protocol required to verify the PCC 2 quantities rather than requesting obligated entities provide undefined and unsupported evidence that out of state resources were not directly delivered.

VI.

"CRITERIA POLLUTANTS" AND "TOXIC AIR CONTAMINANTS" SHOULD NOT BE ADDRESSED THROUGH THE CAP AND TRADE PROGRAM

AB 197 directs the ARB to report annually to a joint legislative committee, and to post on its website, statewide information on GHG emissions, criteria pollutants, and toxic air contaminants, broken down on a local and subcounty level. The statute provides that an inventory of sources of "air pollution" "shall use, to the fullest extent, the data of local agencies and other state and federal agencies in fulfilling this purpose."

AB 197 also requires the ARB, when adopting rules to achieve emission reductions beyond the statewide GHG emissions limits, to "protect the state's most impacted and disadvantaged communities," and to "consider the social costs" of GHG emissions. The statute calls upon the ARB to update each "scoping plan" by identifying, for each emission reduction "measure," the range of projected GHG emissions reductions, the range of projected air pollution reductions, and the cost-effectiveness, "including avoided societal costs."

As noted above, AB 197 does not alter the validity of the cap and trade program as a means to incentivize GHG emission reductions. The benefit of the cap and trade program is statewide, minimizing societal costs and maximizing GHG emission reductions in all communities including low income communities.

With respect to criteria pollutants and toxic air contaminants, ARB should avoid developing potentially duplicative and contradictory regulation. Criteria pollutants and toxic air contaminants should be addressed by local air quality management districts and reported to ARB to inform the existing regulations as they focus on accounting for and reducing GHG emissions.

V.

CONCLUSION

Please do not hesitate to contact the undersigned with any questions you may have regarding the foregoing comments.

Sincerely,

John W. Leslie
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Attorneys for Shell Energy North America (US), L.P.

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