ALCANTAR & KAHL, LLP

September 15, 2016

Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re PUBLIC HEARING TO CONSIDER THE PROPOSED AMENDMENTS TO THE CALIFORNIA CAP ON GREENHOUSE GAS EMISSIONS AND MARKET-BASED COMPLIANCE MECHANISMS

Dear Members of the Air Resources Board:

The Energy Producers and Users Coalition[1] (EPUC) appreciates this opportunity to comment on the proposed amendments to the California Cap and Trade program, to be considered at the Board's meeting on September 22, 2016. EPUC supports the amendment to include the emissions associated with purchased electricity in the benchmarks for EITE industrial facilities as improving the tracking of all costs associated with an industrial process. EPUC opposes the amendment to modify the tracking of emissions for energy imported into the CAISO's Energy Imbalance Market. The proposal would significantly complicate the tracking of emissions in the electricity sector without any analysis of whether the magnitude of the alleged problem justifies this complication of the tracking system.

1. Amendment to Include Purchased Electricity in EITE Benchmarks

Emissions-intensive, trade-exposed covered facilities receive allowance value to mitigate leakage risk based on an ARB-determined direct emissions benchmark for each industry that does not include indirect emissions of electricity purchased from a utility. Instead, those indirect emissions are used by the CPUC to allocate the value of the utilities' monetized free allowances to covered facilities. The amendments propose to include indirect electricity purchase emissions in the emissions benchmarks used by CARB to allocate allowances to cover direct emissions. To avoid duplicating the allocation, CARB will reduce the allocations of allowances to the utilities to remove allowances attributable to covered facility load.

EPUC supports the inclusion of emissions from indirect electricity purchases in the calculation of benchmarks used for the EITE allocations. Combining industry assistance into one allocation by ARB ensures the same methodology is used to

[1] EPUC is an *ad hoc* group representing the electric end use and customer generation interests of the following companies: Aera Energy LLC, Chevron U.S.A. Inc., Phillips 66 Company, Shell Oil Products US, Tesoro Refining & Marketing Company LLC and California Resources Corp.

allocate allowances for direct and indirect emissions. This approach also ensures timely allocation to address leakage; to date, under CPUC administration, covered entities have not received allocations for any year of the cap and trade program due to delay. Finally, combining direct and indirect emissions allocations reduces administrative complexity by including both allocations in a single process before a single agency.

2. Amendment to Track Emissions from Dispatched Energy in the CAISO EIM

The amendments propose to augment the calculation of emissions attributable to electricity imported to serve California load through the CAISO's Energy Imbalance Market (EIM). The proposal would reflect in California's power prices the cost of indirect emissions created by CAISO redispatch of resources in other markets to serve California load.

The proposal is premature. While the proposal targets a conceptual problem, there is no evidence that there is actual material leakage resulting from the operation of the EIM. ARB should begin by studying the extent of the leakage occurring today through the EIM to determine whether the value of mitigation outweighs the challenges the proposal would create. In addition, the proposal fails to specify how the secondary EIM emissions effects could reasonably be traced and accurately quantified, given the large number of transactions in the EIM. While the CAISO has roughly outlined possibilities, greater clarity is required before amending the regulation. The proposal should be pursued only when both the underlying need for and the mechanics of the proposal have been demonstrated. Staff can add certainty to the mechanics of the proposal and demonstrate that the emissions not being traced are sufficient to make any material effect on the total emissions of the electricity sector.

Conclusion

The Board should approve the amendment that includes emissions from purchased energy in the calculation of the EITE benchmarks. The Board should reject the proposal to modify tracking of emissions for the CAISO's EIM program, and direct Staff to consider the magnitude of the emissions potentially being missed and whether they represent a material part of the emissions in the electric sector warranting this significant complication of the tracking process.

Very truly yours,

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