



**Pacific Gas and
Electric Company™**

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VIA ARB WEBSITE

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

Re: Pacific Gas and Electric Company's Comments on the California Air Resources Board's 15-Day Modifications to the Originally Proposed Assembly Bill 32 (AB 32) Cost of Implementation Fee Regulation

Dear Clerk of the Board:

Pacific Gas and Electric Company ("PG&E") welcomes the opportunity to submit these comments on the California Air Resources Board's ("ARB") 15-Day Modifications to the Originally Proposed "AB 32 Cost of Implementation Fee Regulation".

Modification to Section 95207. Severability

Section 95207 (b) of the proposed regulation states that if any fee payer is determined to be ineligible, then remaining entities shall be assessed the entire fee. AB 32, however, requires that the greenhouse gas regulations be designed "in a manner that is equitable" and will "consider the significance of the contribution of each source or category of sources to statewide emissions of greenhouse gases" (Health and Safety Code § 38562(b)(1), (9)). Since the reasons that any entity may be determined to be ineligible cannot be predicted, it is premature to specify how the fees to the other entities would be reassessed. Instead, PG&E suggests a rulemaking process to determine the fees, if ineligibility is granted to some entities. Accordingly, we recommend the following revisions to section 95207 (b):

(b) If any fee payer or group of fee payers subject to this subarticle is determined to be ineligible, by a court of law or statute, to pay the fees pursuant to this subarticle, the formula contained in section 95203 shall be revised by rule-making. ~~the remaining entities shall be assessed the entire fee based on the formula contained in section 95203, without including the emissions associated with the ineligible fee payer or group of fee payers in the calculation. If a refund is ordered by any court or other authority the remaining fee payers shall be responsible to pay the subsequent deficit.~~

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Modifications to Section 95201. Applicability

PG&E recognizes that the regulation was modified to calculate the fee for in-state and imported electricity in the same manner using the “first deliverer” approach. PG&E has requested that ARB limit the possibility for “double charging” these particular entities by developing a list of those electricity generating facilities who will be required to pay the fee directly to ARB as a “first deliverer” (see Section 95201(a)(4)(A)). This list is needed to clearly identifying those entities that need to be excluded from the natural gas utility fee payment responsibility as described in Sections 95201(a)(1)(A) and 95204 (a)(d)(1). It is also important that the list is generated in a timely manner and updated on an annual basis so that it provides sufficient time to reconcile our data for reporting. We appreciate ARB staff’s willingness to help with this matter.

Very truly yours,

/s/

John W. Busterud

JWB/kp