April 16, 2012

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

Re: Amendments to the AB 32 Cost of Implementation Fee Regulation

Clerk of the Board:

These comments are offered on behalf of the Energy Producers and Users Coalition[1] and the Cogeneration Association of California[2] (EPUC/CAC). Members of these coalitions own and operate roughly 2,400MW of existing combined heat and power (CHP) generation in California, located primarily at refineries and enhanced oil recovery operations. These CHP facilities generate roughly 18 million MWh of power each year in California.

The April 2, 2012 revisions to CARB's AB 32 Cost of Implementation Fee Regulation include a modification to the definition of "*cogeneration*." In particular, CARB proposed adding the following line to its definition of cogeneration: "*For purposes of this subarticle, a combined-cycle power generation unit, where all of the generated steam is used for electricity generation, is not considered a cogeneration unit*." The goal appears to be to define cogeneration in a manner that excludes combined-cycle generators that are not cogenerators. Depending on how the new language is applied, however, it could also be interpreted to exclude existing combined-cycle cogeneration facilities.

Cogeneration systems can assume at least two "topping cycle" configurations.   In one configuration, water is heated by the waste heat from a combustion turbine in a heat recovery steam generator (HRSG) to produce steam for industrial process use. In another configuration, the waste heat from the combustion turbine also produces steam in a HRSG, but the steam is first used in a steam turbine generator to produce

---

[1]   EPUC is an ad hoc group representing the electric end use and customer generation interests of the following companies: Aera Energy LLC, BP West Coast Products LL, ConocoPhillips Company, ExxonMobil Power and Gas Services Inc., Shell Oil Products US, THUMS Long Beach Company, and Occidental Elk Hills, Inc., ConocoPhillips Company, Shell Oil Products US, THUMS Long Beach Company, and Occidental Elk Hills, Inc.

[2]   CAC represents the combined heat and power and cogeneration operation interests of the following entities: Coalinga Cogeneration Company, Mid-Set Cogeneration Company, Kern River Cogeneration Company, Sycamore Cogeneration Company, Sargent Canyon Cogeneration Company, Salinas River Cogeneration Company, Midway Sunset Cogeneration Company and Watson Cogeneration Company

SAN FRANCISCO OFFICE
33 New Montgomery Street, Suite 1850 | San Francisco, CA 94105
415-421-4143 | Fax 415-989-1263 | www.a-klaw.com

PORTLAND OFFICE
1300 SW Fifth Avenue, Suite 1750 | Portland, OR 97201
503-402-9900 | Fax 503-402-8882 | www.a-klaw.com

electricity. The steam turbine generator then exhausts steam at a reduced pressure. This steam is useful thermal energy that is applied to an industrial, commercial, or heating and cooling process. This use of electric and thermal output is not uncommon for refinery or chemical plant cogeneration applications.

CARB's proposed change to the cogeneration definition could be interpreted to exclude the second of these two configurations. The ambiguity lies in the requirement that cogeneration hosts use "all of the generated steam" for process use. If "generated steam" means steam produced by a HRSG, the second configuration would not qualify as cogeneration because the steam is first used to generate electricity. If "generated steam" means any useful thermal output from the overall system, however, both configurations could qualify as cogeneration. To eliminate any potential ambiguity, EPUC/CAC propose a slight modification to the last line of the definition:

> For purposes of this subarticle, a combined-cycle power generation unit, where none of the generated steam is useful thermal energy for industrial, commercial, or heating and cooling purposes ~~all of the generated steam is used for electricity generation~~, is not considered a cogeneration unit.

This change will better ensure that the definition of cogeneration excludes facilities that should not qualify as cogeneration and at the same time include existing cogeneration facilities.

We are available to discuss these and other issues at your request.

Very truly yours,

Seema Srinivasan