

**BEFORE THE
AIR RESOURCES BOARD
OF THE
STATE OF CALIFORNIA**

**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
COMMENT ON THE APRIL 2, 2012, PROPOSED AMENDMENTS TO
THE AB 32 COST OF IMPLEMENTATION FEE REGULATION**

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Dated: April 17, 2012

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I. INTRODUCTION AND SUMMARY.

The Southern California Public Power Authority (“SCPPA”)¹ respectfully submits this comment on the proposed amendments to the AB 32 Cost of Implementation Fee Regulation (“Fee Regulation”)² released by the California Air Resources Board (“ARB”) for public comment on April 2, 2012.

SCPPA appreciates the steps that the ARB has taken to gather informal stakeholder input on the proposed changes to the Fee Regulation, and to respond to such input, prior to issuing the changes for 15-day comment on April 2, 2012. Many of SCPPA’s earlier concerns have been addressed in these proposed changes. However, certain amendments could be made to increase the consistency and clarity of the Fee Regulation. In summary:

- Section 95201(a) should be amended to reflect the concept of the RPS Adjustment, which is used elsewhere in the Fee Regulation.
- Sections 95201(a) and 95203(h) should be amended to reflect the fact that electricity imported from jurisdictions with cap and trade programs linked to California’s should not be subject to the fee.

These issues are discussed in more detail below.

¹ SCPPA is a joint powers authority. The members are Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles Department of Water and Power, Imperial Irrigation District, Pasadena, Riverside, and Vernon. This comment is sponsored by Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, the Imperial Irrigation District, Pasadena, Riverside, and Vernon.

² California Code of Regulations, Title 17, Division 3, Subchapter 10, Article 3.

II. THE RPS ADJUSTMENT SHOULD BE RECOGNIZED IN SECTION 95201 ON APPLICABILITY.

Section 95201 provides general statements about fee liability under the Fee Regulation. Section 95201(a)(4)(B)(2), which provided that no fee will be charged in relation to out-of-state renewable energy, has been deleted in its entirety in the proposed changes to the Fee Regulation. SCPPA appreciates that the reference to “variable renewable resources that meet the requirements for a zero emission factor pursuant to MRR section 95111” has been deleted. The Regulation for the Mandatory Reporting of Greenhouse Gas Emissions (“MRR”) no longer defines or uses the term “variable renewable resources” and does not provide a zero emissions factor for such resources.

Instead, the MRR uses the concept of the RPS Adjustment for out-of-state renewable energy (see MRR section 95111(b)(5) and Cap and Trade (“C&T”) Regulation section 95852(b)(4)). This has been recognized in other sections of the revised Fee Regulation, specifically section 95203(b) on the Common Carbon Cost and section 95203(m) on the fee liability for electricity delivered in California. However, it is not recognized in section 95201 on applicability.

Rather than deleting the whole of section 95201(a)(4)(B)(2), this section should be amended to reflect the RPS Adjustment, in place of the concept of variable renewable resources with a zero emission factor. SCPPA suggests the following amendments to section 95201(a)(4)(B)(2):

2. No fee shall be paid for any megawatt-hour of renewable energy, nor for imported electricity in respect of which an RPS Adjustment is claimed under section 95852(b)(4) of the Cap and Trade Regulation ~~replacement electricity for variable renewable resources that meets the requirements for a zero emission factor pursuant to MRR section 95111 except that, for replacement electricity that has an emission factor greater than the default emission factor, the fee shall be paid based on the difference between the greater emission factor and the default emission factor.~~

III. ELECTRICITY FROM LINKED JURISDICTIONS SHOULD BE ADDRESSED IN SECTIONS 95201(a) AND 95203(h).

The ARB is currently conducting a rulemaking process to link California's cap and trade program to Quebec's, and is likely to link to cap and trade programs in other Canadian provinces in coming years. Electricity imported from jurisdictions linked to California should not be subject to the fee. The Fee Regulation appears to accept this position in part, by providing a zero emissions factor for electricity from unspecified sources in linked jurisdictions in section 95203(f). This section sets the electricity fee rate for electricity delivered in California on or after January 1, 2011. However, this position is not reflected in other sections of the Fee Regulation.

A. Section 95201 should exclude electricity from linked jurisdictions from fee liability.

Section 95201(a)(4)(B) does not exempt electricity from linked jurisdictions from the fee. For consistency and completeness, this section should be amended to clearly state this position. SCPPA recommends adding the following sentence at the end of section 95201(a)(4)(B)(2):

2. ... No fee shall be paid for any megawatt-hour of imported electricity from specified or unspecified sources with a first point of receipt located in a linked jurisdiction.

B. Section 95203(h) should specify that electricity from linked jurisdictions has an emissions factor of zero.

Section 95203(h), *Emission Factors for Specified Sources that are Electricity Generating Facilities or Units, Calculation Methods for Report Years 2011 and Subsequent Years*, should provide that specified sources in linked jurisdictions will have an emissions factor of zero.

As mentioned above, section 95203(f) provides an emission factor of zero for *unspecified* sources in linked jurisdictions. For consistency, *specified* sources in linked jurisdictions should also have a zero emission factor. Currently section 95203(h) (which the ARB is not amending in the current 15-day proposed changes) refers to the emission factors determined under the MRR.

However, the MRR does not require emission factors of zero for facilities in linked jurisdictions, because the MRR provides a deduction for emissions from facilities in linked jurisdictions instead (MRR section 95111(b)(5) and C&T Regulation section 95852(b)(1)(B)), similar to the RPS Adjustment.

Therefore additional wording is needed in section 95203(h) of the Fee Regulation to ensure that a zero emission factor is applied to imported electricity from specified sources in linked jurisdictions. SCPPA suggests the following amendments to section 95203(h):

(h) Emission Factors for Specified Sources that are Electricity Generating Facilities or Units, Calculation Methods for Report Years 2011 and Subsequent Years.

Emission factors for Specified Sources that are Electricity Generating Facilities or units shall be facility specific or unit specific emission factors for the specified source published on the ARB Mandatory Reporting website calculated by ARB according to the methods in section 95111(b) of the Mandatory Reporting Regulation. However, the emission factor for imported electricity from Specified Sources located in linked jurisdictions will be zero.

IV. CONCLUSION

SCPPA urges the ARB to consider these comments in finalizing the 15-day changes to the Fee Regulation. SCPPA appreciates the opportunity to submit these comments to the ARB.

Respectfully submitted,

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