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ARB's Cap-and-Trade Website***

Clerk of the Board
California Air Resources Board
1001 I Street
P.O. Box 2815
Sacramento, CA 95812

**Re: Pacific Gas and Electric Company's Comments on the Air Resources Board's
September 12, 2011 Proposed Modifications to the Mandatory Reporting Regulation
("MRR")**

Clerk of the Board:

Pacific Gas and Electric Company ("PG&E") is pleased to submit these comments on the Air Resources Board's ("ARB") proposed amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, released September 12, 2011, under Assembly Bill 32 ("AB 32"). PG&E will be submitting comments on the proposed modifications to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms under separate cover.

PG&E appreciates a number of the modifications reflected in the latest version of the proposed regulation. We believe these amendments will enhance efficiency of GHG reporting and better harmonize ARB's regulation with federal GHG reporting requirements. PG&E's comments address several remaining issues in the proposed modifications to the MRR.

I. SUMMARY OF RECOMMENDATIONS.

Following is a summary of PG&E's comments:

- As EPA continues to revise its reporting requirements, ARB should develop an ongoing process to modify comparable provisions of the MRR to ensure consistency with Federal regulations;
- The definition of CO₂₁ should be modified to clarify that "emissions from storage" are based on the difference between storage injections and withdrawals in a reporting year;
- ARB should simplify verification of biomethane and biogas;
- Emission categories used to calculate compliance obligations should be clarified; and
- ARB should moderate potential enforcement exposure for unverified emissions reporting.

II. DISCUSSION.

Section 95102. Definitions.

Section 95102(a)(288). The term “pipeline quality natural gas” is used to define the characteristics of natural gas where the default conversion factor applies. When natural gas does not meet these characteristics, the reporting entity (with certain exceptions) must perform a monthly analysis of the gas constituents and use that information to perform a carbon content calculation. The requirement that pipeline quality natural gas be at least ninety percent methane by volume would narrow the number of sources that can apply a default value to emissions calculations but would serve no other relevant purpose in either the MRR or the Cap and Trade regulation.^{1/} PG&E requests ARB change to use the term “pipeline natural gas,” and eliminate the 90 percent methane requirement..

“Pipeline ~~quality~~ natural gas” means, for the purpose of calculating emissions under this article, natural gas having a high heat value greater than 970 Btu/scf and equal to or less than 1,100 Btu/scf, ~~and which is at least ninety percent methane by volume,~~ and which is less than five percent carbon dioxide by volume.

Section 95102(a)(399). PG&E appreciates ARB’s efforts to clarify that the compliance obligation is based on the source of electricity that is specified at the time the transaction is executed. PG&E suggests the following revisions to the definition of “Unspecified Source of Electricity” to further clarify the intent of the regulation:

“Unspecified source of electricity” or “unspecified source” means electricity procured and delivered without ~~limitation at the time of transaction~~ reference to a specific facility’s or unit’s generation at the time of transaction, regardless of the specification in the corresponding NERC E-Tag, settlements data, or any other applicable information. Unspecified sources contribute to the bulk system power pool and typically are dispatchable, marginal resources that do not serve baseload.

Section 95103(e). ARB Should Develop A Process To Ensure Consistency With Evolving EPA GHG Reporting Regulations.

The proposed amendment to extend the April 1 reporting date to April 10 is a beneficial change to the MRR regulation. This change was made to avoid the ARB reporting deadline conflict with the federal greenhouse gas reporting deadline. This amendment is similar to other modifications ARB has made to harmonize the MRR with the EPA regulation. In particular, ARB has harmonized the majority of the Subarticle 5 regulation with the EPA regulation in 40 CFR Part 98, Subpart W, which PG&E supports.

^{1/} PG&E performed carbon content calculations of two samples of gas that had less than 90% methane and Btu values that were less than the proposed requirements: Sample 1, Durham 733 Btu and 72.3% methane; Sample 2, Panoche, 884 Btu and 86% methane. The calculated Kg CO₂ / MMBtu for the Panoche gas was 52.08 and for the Durham gas 51.90. This compares favorably to the EPA’s “Natural Gas (weighted US average) default value of 53.02 kg CO₂/mmBTU” found in 40 CFR 98, Table C-1.

In addition to the changes that ARB has incorporated to the MRR to make the regulation consistent with EPA requirements, ARB should recognize that the EPA regulation is still being revised. For example, EPA has published proposed technical revisions to the regulation and has proposed to extend the date of when the first reports are due to September 30, 2012 from March 31, 2012.

As EPA continues to modify its regulation, ARB should develop a process where the comparable sections of the MRR can also be updated in a timely manner. For example, if EPA modifies the date on which 2012 reports are due, ARB should allow for a similar change to 2012 reports under the MRR.

Although there are good reasons for not adopting changes to the EPA regulations that have yet to be approved, data reported under both regulations should be consistent. If the phrase “as amended” is added to the end of section 95100.5(c), the data reported to EPA and ARB could be consistent because it would allow reporting entities to use future approved updates to the EPA regulation. Potential language for this section is provided below:

“.....November 30, 2010, December 17, 2010, and April 25, 2011, as amended.”

Section 95122(b)(6). The Definition Of CO₂₁ Should Be Modified To Clarify That “Emissions From Storage” Are Based On The Difference Between Storage Injections And Withdrawals In A Reporting Year.

The definition of term CO₂₁ needs to be better described to clarify what is included in the calculation. In order to make this term consistent with the usage in the EPA regulation in 40 CFR Part 98.404, the following revisions should be made to section 95122(b)(6):

CO₂₁ = Emissions from ~~storage~~ natural gas received and liquefied or stored, but not used for deliveries within the reported year and direct deliveries from producers.

This addition will clarify that “emissions from storage” are based on the difference between storage injections and withdrawals in a reporting year.

Section 95131(i)(2)(d)(1). ARB Should Simplify Verification Of Biomethane And Biogas.

The verification process remains more complex than it needs to be. The first part of the verification process requires the verifier to examine all nomination, invoice, scheduling, allocation, transportation, storage, in-kind fuel purchase and balancing reports to determine that the reporting entity is receiving the identified fuel. For biomethane produced outside California, this is an overly cumbersome process.

A simpler approach would be to focus on the biomethane supply contract and confirm that the gas was delivered into a pipeline system. The verifier could use the contract or invoice for the biomethane supply and verify with the producer that the supply was delivered into a pipeline system. The following revisions to section 95131(i)(2)(d)(1) would require the verifier to verify

that the supplier of the gas produced the gas and that it was delivered into a gas transportation system.

Examine ~~all~~ contract information that the reporting entity has with the biomethane fuel supplier and review supplier's records in order to have ~~nomination, invoice, scheduling, allocation, transportation, storage, in-kind fuel purchase and balancing reports~~ a reasonable assurance that the supply was delivered into a gas transmission system. ~~contracts in the chain of title in order to track the reported fuel volumes from the producer to the reporting entity and have reasonable assurance that the reporting entity is the only customer receiving the identified fuel.~~

Section 95107. ARB Should Moderate Potential Enforcement Exposure For Unverified Emissions Reporting.

PG&E appreciates the various improvements that have been made to the enforcement provisions in both the Mandatory Reporting and Cap and Trade Regulations, such as elimination of “per ton per day” potential penalties and specification that the potential penalties for reporting shortfalls in prior compliance years apply only if the shortfall exceeds five percent of the originally reported emissions. However, PG&E requests that further changes be made to improve these provisions.

Under section 95107(c), any ton of CO₂e that is emitted but not reported in any report is a separate violation. In discussing this language, ARB staff have suggested that if an entity’s reported emissions are higher in the verified emissions data report than were reported in the initial, unverified emissions data report for the same reporting period, each ton of increased reported emissions could be considered a violation. As amended in the September 12 package, section 95107(c) states that ARB “will not initiate enforcement action under this subparagraph” until after the pertinent verification deadline, but this delay of enforcement doesn’t address the fundamental unfairness of imposing civil liability for changes in reported emissions that are likely to result from the verification process working as intended, with no showing of willful conduct and where there is no effect on cap and trade compliance. ARB should further amend this section so that changes in reported emissions occurring between the initial emissions data report and submission of the final verified emissions data report are violations only if initial under-reporting was due to intentional misrepresentation.

PG&E appreciates the opportunity to comment on the revised mandatory reporting regulation, and we look forward to continue working with the ARB and all concerned stakeholders to ensure the successful implementation of the cap-and-trade program.

Very truly yours,

/s/

Judi K. Mosley

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