COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY TO THE CALIFORNIA AIR RESOURCES BOARD ON ITS PROPOSED AMENDMENTS TO THE REGULATION FOR THE MANDATORY REPORTING OF GREENHOUSE GAS EMISSIONS

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I.

INTRODUCTION AND EXECUTIVE SUMMARY

Southern California Edison Company ("SCE") appreciates this opportunity to comment on the California Air Resources Board's ("CARB's") Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions ("Proposed Amendments").[1] SCE has been working with CARB throughout the rulemaking process and recognizes the efforts from CARB staff, stakeholders, and other agencies in developing the Proposed Amendments to implement the Global Warming Solutions Act of 2006 (Assembly Bill 32; Stats. 2006, Chapter 488), more commonly known as Assembly Bill ("AB") 32.[2] The Proposed Amendments include many helpful changes to CARB's reporting regulation. However, certain changes must be made before the Proposed Amendments are adopted.

Most importantly, CARB should revise the Proposed Amendments to ensure that certain renewable energy contracts with renewable generating facilities located outside California (i.e., those that require firming and shaping for delivery to California), which count as renewable under California's Renewables Portfolio Standard ("RPS"), are also counted as renewable under CARB's greenhouse gas ("GHG") emissions reporting regulation. This change is needed to ensure that California's electricity customers receive appropriate credit for contracts that support the achievement of the State's renewable energy goals, and are not required to pay again for GHG allowances when they are already purchasing renewable energy.

Additionally, SCE believes the following six issues should be addressed:

1. The Proposed Amendments require the reporting of information to which the reporting entity may not have easy and/or reliable access.
2. The Proposed Amendments require the reporting of information that is duplicative or unnecessary.

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[1] Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, issued October 28, 2010, *available at* http://www.arb.ca.gov/regact/2010/ghg2010/ghg2010.htm.

[2] Cal. Health and Safety Code § 38500 et seq.

3. The reporting timelines allow insufficient room for the reporting entity to validate the data prior to submittal.
4. The default emission factor should be attributed appropriately, and time limits should be removed for contract renegotiation related to existing hydroelectric or nuclear facilities.
5. Several clarifications, as discussed below, are necessary to ensure accurate reporting.
6. CARB should remove the requirement for retail providers to report electricity imported from specified and unspecified sources by other entities.

Below, SCE describes these issues more completely and provides the sections of the regulations that SCE believes should be revised.

II.

THE REGULATION SHOULD BE MODIFIED TO PROVIDE THAT IMPORTED ELECTRICITY THAT COUNTS AS RENEWABLE UNDER THE STATE'S RPS PROGRAM IS ALSO COUNTED AS RENEWABLE UNDER THE REPORTING REGULATION

The Proposed Amendments do not fully account for the interaction of the current RPS program with the GHG emissions reporting requirements. Specifically, California's RPS, under which retail sellers have operated for many years, allows for the procurement of renewable electricity from jurisdictions outside of California, so long as that electricity is delivered to California in a manner authorized by the California Energy Commission ("CEC"). The CEC's delivery requirements allow such out-of-state renewable energy to be firmed and shaped within the calendar year.[3] Among other methods of firming and shaping, a retail seller may purchase

[3] *See* CEC Renewables Portfolio Standard Eligibility Guidebook, Third Edition, CEC-300-2007-006-ED3-CMF, issued January 2008, at 23-26, *available at* http://www.energy.ca.gov/2007publications/CEC-300-2007-006/CEC-300-2007-006-ED3-CMF.PDF.

energy and renewable energy credits ("RECs")[4] from a renewable generating facility located outside California, resell the energy (but not the RECs), and "match" the RECs with other electricity imported to California.[5] The CEC recognizes that intermittent renewable power cannot be scheduled for transmission into California and as a result, utilities that fund out-of-state renewable energy must use firming and shaping to deliver renewable power into California.

So long as the retail seller complies with the CEC's delivery requirements and other rules surrounding RPS eligibility, such electricity imported to California counts as renewable under California's RPS. However, CARB's GHG emissions reporting regulation does not appear to recognize this imported electricity as renewable. This inconsistency between the RPS program and CARB's reporting regulation could result in customers paying for renewable energy and then paying again for GHG allowances if the imported electricity is not counted as renewable. Accordingly, the Proposed Amendments should be modified to ensure that imported electricity that counts as renewable under the State's RPS program is also counted as renewable under the State's GHG emissions reporting regulation.

For SCE, these long-term renewable energy contracts, which are approved by the California Public Utilities Commission ("CPUC") and verified by the CEC, mean that actual renewable energy is being produced in the place of other types of electricity. Moreover, in many cases, these contracts result in the development of new renewable energy-generating facilities in the Western Electricity Coordinating Council region. The emissions-reducing effect of this displacement of higher emitting resources must be accounted for to safeguard the value to California customers of procuring these renewable resources. Overall, 85 to 90 percent of SCE's renewable portfolio is comprised of deliveries from resources within California; however, SCE ultimately expects to deliver nearly 25,000 MWhs of renewable energy annually from jurisdictions outside of California. Under the current version of the reporting regulation, SCE

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[4] As verified through the issuance of a renewable energy certificate from the Western Renewable Energy Generation Information System.

[5] *See* CEC Renewables Portfolio Standard Eligibility Guidebook, *supra* note 3.

customers may be forced to surrender allowances for some or all of this power, even though they have already paid for contracts encouraging renewable generation.

If California's customers are to receive appropriate credit for the GHG emissions reductions attributable to CPUC-approved renewable energy contracts, CARB's reporting regulation must be revised to provide that imported electricity that counts as renewable under the State's RPS program is also counted as renewable under the State's GHG emissions reporting regulation. Such a change is needed to ensure that customers get appropriate credit for contracts that encourage California's movement toward its renewable energy goals, and should be included in the Proposed Amendments.

III.

REPORTING ENTITIES MAY NOT HAVE EASY AND/OR RELIABLE ACCESS TO THE INFORMATION THEY WILL BE REQUIRED TO REPORT RELATED TO SPECIFIED IMPORTS

Section 95111(a)(4)(B)(1) requires purchasers of specified import sources to report the "total facility or unit gross and net generation." SCE is concerned that this information may not be readily available to the purchaser of imported electricity from resources that the purchaser does not fully or partially own. These purchasers would have to add such a requirement to their power purchase agreements ("PPAs"). However, making this a contractual obligation will require significant work and tracking on the part of the purchasing entity, and might be possible only for new PPAs, as opposed to existing PPAs. Reliance on public sources for this information is also problematic because they may not be accurate, given that those public reports may rely on different assumptions, such as the time period for which such data is recorded. Furthermore, SCE does not believe that this information is necessary to implement the cap-and-trade program.

Similarly, Section 95111(g)(1)(G) requires the purchaser of specified imports to report whether the source emitted more than 25,000 tons in the prior year. This too is information which the reporting entity is not likely to have readily available. In addition, the collection of such data would be burdensome for purchasers who import electricity from a large number of

specified import sources. SCE does not believe that this information is necessary to implement the cap-and-trade program. Therefore, SCE recommends the removal of the requirements in Sections 95111(a)(4)(B)(1) and 95111(g)(1)(G).

IV.

THE REGULATION SHOULD NOT REQUIRE THE REPORTING OF UNNECESSARY OR DUPLICATIVE INFORMATION

Section 95111(a)(4)(B)(2) requires the purchasers of specified import resources to indicate whether the emissions of the specified imported resource exceeds 1,100 lbs CO_2e/MWh. However, a later section, 95111(b)(2), states that the emission factor (i.e. lbs CO_2e/MWh) for unit-specified facilities is what is published on the CARB Mandatory Reporting website. Thus, the information required in 95111(a)(4)(B)(2) is already known by CARB, and therefore should not be included in the reporting requirement. Although reporting entities will have access to this data, requiring them to report it is unnecessary because CARB will already have the information necessary to determine which resources in excess of 1,100 lbs CO_2e/MWh have been procured as a unit-specified import. Accordingly, SCE believes that this reporting requirement introduces inefficiencies.

Section 95111(c)(4)(B) requires the retail provider to report sales made outside California from fully or partially owned resources which have an emission factor higher than the default emissions factor. In addition, Section 95111(g)(5) requires that the reporting of GHG emissions by retail providers account for their full ownership share of these same resources. It is not clear why the reporting of sales from fully or partially owned resources outside California is necessary. Since the total amount of emissions will ultimately be accounted for on an ownership-share basis, the reporting of sales is unnecessary. Although the Initial Statement of Reasons for Rulemaking ("ISOR") appears to indicate that these sections are necessary to avoid "contract shuffling," it is not clear to SCE what "contract shuffling" would be prevented by Section 95111(c)(4)(B) that is not already prevented by Section 95111(g)(5). Given this, SCE asks that Sections 95111(c)(4)(B) and 95111(g)(5) be considered in tandem, such that if an entity

is required to meet the requirements of Section 95111(c)(4)(B), it is then relieved of the obligation to report under Section 95111(g)(5). Such treatment would reduce the potential for duplicative reporting.

V.

THE REPORTING TIMELINES ARE INSUFFICIENT

Section 95111(g)(1) requires that electricity importers register their specified sources and suppliers by January 1 of each reporting year. SCE understands this to mean that, for example, a transaction executed in 2012 would require the importer to register the source and supplier by January 1, 2013. SCE is concerned that in a dynamic market, it is possible for new specified transactions with sources and suppliers to occur at any time of the year. This could prove problematic if such a transaction were to occur late in the year. For example, a transaction executed on December 31, 2012 would require SCE to report its source and supplier on January 1, 2013. This is clearly unrealistic, in part because this limited window provides inadequate time for the accumulation and validation of the data prior to submittal. SCE recommends that the reporting deadline be extended beyond January 1 of each reporting year to allow sufficient time to gather and submit complete and accurate data. Instead of January 1, SCE recommends that CARB adopt March 31 of each reporting year as the deadline for electricity importers to register their specified sources and suppliers during the previous calendar year.

VI.

THE DEFAULT EMISSIONS FACTOR IS ATTRIBUTED INAPPROPRIATELY

Section 95111(g)(6) specifies:

> (6) Low GHG-Emitting Existing, Fully Committed Resources: Nuclear and Large Hydroelectric Resources. An emission factor of zero MT of CO_2e/MWh may only be used when electricity imported into California from a specified hydroelectric generating facility with nameplate capacity greater than 30 MW or a nuclear facility that was operational prior to January 1, 2010 meets one of the following conditions:
>
> > (A) Electricity purchased with a written contract in effect prior to January 1, 2010 that remains in effect or has been renegotiated for the same facility

> for the same share or quantity of net generation within one year of contract expiration *(emphasis added);*
>
> (B) Electricity purchased that does not meet the first requirement that is associated with an increase in the facility's generating capacity due to increased efficiencies or other capacity increasing actions;
>
> (C) Electricity purchased from hydroelectric generating facilities during a "spill or sell" situation where power not purchased is lost;
>
> (D) Electricity purchased that does not meet the first requirement due to federal power redistribution policies for federally owned resources and not related to price bidding.
>
> If none of the conditions in (A) through (D) above are met, apply the default emission factor for unspecified electricity pursuant to section 95111(b).

SCE understands these requirements are intended to avoid "contract shuffling." However, this provision requires an entity to re-contract for exactly the same quantity or share that it previously had. SCE understands that larger shares or quantities could be an indication of "contract shuffling," but does not believe that smaller shares or quantities would present the same concern. SCE therefore recommends that this language be modified to allow for "…the same facility for up to the same share or quantity…."

In addition, SCE is concerned about the time limits placed around the renegotiation. Under this requirement, no entity other than the original purchaser can claim these resources as non-emitting. SCE does not believe that a renegotiation that takes 366 days or even several years would represent "contract shuffling." SCE therefore recommends the removal of a time limit for completion of the renegotiation process.

VII.

GENERAL CLARIFICATIONS TO THE REGULATIONS ARE NECESSARY TO ENSURE ACCURATE REPORTING

Section 95111(c)(1) requires retail providers serving California load to report California retail sales. SCE would prefer the following formulation, which would clarify the requirement: "Retail providers that serve California load must report the MWhs delivered to their California

retail customers." Given that the current CARB reporting regulation has an extensive section on retail sales reporting with a large number of requirements, SCE would like this section to specify that, with this requirement, CARB is simply asking for the total MWhs used to serve end-use customers.

Section 95111(b) references the inclusion of an adder for transmission losses. Two clarifications to this section are needed. First, the ISOR at page 167 states: "Marginal facility capacity factors are less than 60 percent and 2 percent transmission line losses are included. The resulting default emission factor is 0.435 MT of CO_2e/MWh." It would therefore appear that the emissions profile for an unspecified resource already accounts for losses. However, Section 95111(b)(1) would attribute a further 2 percent loss factor for deliveries in which the losses are not made up in other electricity deliveries reported or from California sources. This seems to result in the potential for overstating the emissions associated with unspecified imports by double-counting the transmission loss attribute.

Second, the language used to describe which loss factor to use is not sufficiently clear. Section 95111(b) states that the Transmission Loss ("TL") is as follows:

> TL = 1.02 when transmission losses are not made up in other electricity deliveries reported or from California sources.
>
> TL = 1.0 when transmission losses are made up in other electricity deliveries reported or from California sources.

It is not clear what the language considers to be "made up from California sources." SCE transacts within the California Independent System Operator's ("CAISO") Balancing Authority. As such, any import at the border will have losses between the border and the load which is served. These losses are accounted for by the CAISO, which dispatches additional resources to balance supply and demand. Accordingly, SCE believes that the losses associated with such imports have been "made up from California sources." SCE seeks clarification that this is the case.

VIII.

CARB SHOULD REMOVE THE REQUIREMENT FOR RETAIL PROVIDERS TO REPORT ELECTRICITY IMPORTED FROM SPECIFIED AND UNSPECIFIED SOURCES BY OTHER ENTITIES

Section 95111(c)(5) states:

> Retail providers that report as electricity importers also must separately report electricity imported from specified and unspecified sources by other electric power entities to serve their load, designating the electricity importer.

It is not clear to SCE what the intent of this section is, but in any event, its implementation will likely be impossible. As a retail provider, SCE frequently purchases power from counterparties (such as marketers) with the specification that SCE will take delivery within its service territory in California. In such cases, SCE does not know from where the counterparty has sourced this power, and whether any of the delivered electricity was imported into California. In fact, since the counterparty is likely selling from a portfolio of resources, the counterparty may not be able to pinpoint the source, or whether the electricity it is selling to SCE was imported. Given the complex nature of wholesale electricity markets, it is very possible that the counterparty will be reseller of power that was sold by a third party (or many third parties), without a clear knowledge of who was the electricity importer (i.e., the first jurisdictional deliverer) if the electricity was indeed imported into California. Therefore, it will be extremely difficult, if not impossible, to require the counterparties to disclose whether they are selling imported electricity, and if so, whether the electricity was imported from specified or unspecified sources, and who imported it. SCE recommends that CARB remove this reporting requirement because retail providers, in most cases, will not have access to such information, even if such information exists, for example, in form of NERC E-tags.

IX.

CONCLUSION

SCE appreciates the hard work by CARB staff in crafting the Proposed Amendments. SCE urges CARB to modify the Proposed Amendments in accordance with the principles outlined above.

Respectfully submitted,

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