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August 11, 2011

VIA ELECTRONIC MAIL

Robert Fletcher
Deputy Executive Officer
California Air Resources Board
1001 I Street
Sacramento, California 95814

Re: Comments of PacifiCorp Regarding the California Air Resources Board July 25, 2011 Proposed 15 Day Modifications to the Regulation for Mandatory Reporting of Greenhouse Gas Emissions

Dear Mr. Fletcher:

PacifiCorp is a regulated multi-jurisdictional retail provider (MJRP) serving 1.7 million retail electricity customers, in Utah, Oregon, Wyoming, Washington, Idaho and California. PacifiCorp owns, or has interests in, 78 thermal, hydroelectric, wind-powered and geothermal generating facilities, with a net owned capacity of 10,623 megawatts. PacifiCorp also owns, or has interests in, electric transmission and distribution assets, and transmits electricity through approximately 16,200 miles of transmission lines and 62,800 miles of distribution lines. PacifiCorp also buys and sells electricity on the wholesale market with public and private utilities, energy marketing companies and incorporated municipalities as a result of excess electricity generation or other system balancing activities. In California, PacifiCorp serves approximately 46,500 customers in Del Norte, Modoc, Shasta and Siskiyou counties. Approximately 35 percent of its California customers are eligible for PacifiCorp's California Alternate Rates for Energy ("CARE") low-income assistance program.

PacifiCorp has participated extensively in the California Air Resources Board (ARB) rulemaking process for both the Mandatory Reporting Rule (MRR) and the Cap and Trade Rule (CT), and are submitting these comments to supplement previously filed comments. PacifiCorp will also provide comments on the July 25, 2011 CT and requests that its comments on the MRR be read in conjunction with its comments on the CT. PacifiCorp has worked closely with ARB staff and would like to commend them for their professionalism. Further, PacifiCorp will make available its technical staff to assist ARB if needed.

General Comments

ARB should adopt a single default emission factor for all unspecified purchases for calculating associated emissions

PacifiCorp supports ARB's adoption of a Western Interconnection default emission factor for unspecified purchases including purchases from MJRPs. However, PacifiCorp does not support

ARB's proposal for a special unspecified emission factor for energy purchases from the Bonneville Power Administration (BPA). Under proposed §95111(b)(3), ARB would assign BPA a default system emission factor equal to 20 percent of the default emission factor for unspecified sources, i.e., an emission factor significantly lower than that applied to unspecified power in the rest of the Western Interconnection, regardless of whether it is accurate. Adopting a different emission factor for BPA fails to recognize the inherently interconnected nature of the Western Interconnection. In order to avoid significant unintended consequences, some of which are described below, the reporting rules must recognize that simply because a wholesale transaction originates from a particular balancing authority area it does not mean that the power was generated from resources within that balancing authority area.

Establishing a special emission factor for unspecified sources' from one entity that is significantly discounted is likely to distort the western wholesale energy market. By setting unspecified emissions factors, ARB would be setting wholesale market prices-- outside the state of California -- by assigning different emission factors to the same product (unspecified power) that is capable of delivery into California. By definition, unspecified power means the source generation is not specified by the parties in bilateral contracts. The assignment of different emission rates to the same product – energy from a balancing authority area that is not from a resource that the parties have specifically identified in their contract for an import into California - leads to different wholesale market prices for the same product which in turn leads to market inefficiency and distortion.

In addition, the differentiation of unspecified power could lead to resource shuffling. Notwithstanding PacifiCorp's concerns about the resource shuffling provisions in the CT (See August 11, 2011 PacifiCorp Comments on the CT), entities that are not subject to the attestation requirement under the resource shuffling provision in the Cap and Trade rule could transfer unspecified power through BPA before it is delivered to California and receive an 80% discount on the carbon costs of the transaction. The preferential treatment of BPA – or any other entity's unspecified power if they obtain a different emission factor – potentially discriminates against other wholesale energy providers irrespective of where it is generated, by giving BPA a lower emission factor for the same product. This runs afoul of the jurisdiction of the Federal Energy Regulatory Commission (FERC), which regulates interstate transmission and wholesale energy markets, under which electric rates must be just and reasonable under the Federal Power Act. Further, it puts the Assembly Bill 32 scheme at far greater risk of legal challenge for commerce clause, federal pre-emption, filed rate, and bill of attainder infirmities. PacifiCorp urges CARB to avoid these risks in order to provide greater certainty to regulated entities and instill confidence in the cap-and-trade markets. To avoid these risks, ARB should assign a single default emission factor for all unspecified power. Using mechanisms, including e-Tags, to "specify" energy that the parties have not specified under bilateral contracts would amount to an assertion by California of jurisdiction over wholesale energy markets and electric transmission, which are under FERC jurisdiction.

Detailed Comments

The definition for Replacement Electricity needs to be clarified

The definition of "Replacement Electricity" should be clarified to indicate the type of service or volume (megawatt-hours) covered, and should be expanded to include how it may be acquired, and when it may be used. In addition, regardless of how it is ultimately defined, it is unnecessary for replacement electricity to be limited to the same sourced balancing authority area.

The currently proposed definition of Replacement Electricity could potentially be interpreted to encompass operating reserves and other ancillary services provided by a transmission provider including load and generation balancing services. However, these services are typically provided for all resources and are not necessarily equivalent to a "firming and shaping" concept that is needed for variable energy resources. The definition of replacement electricity should be modified to only include "firming and shaping". Based on comments made at the July 15, 2011 public meeting, PacifiCorp believes it is ARB's intent to include firming and shaping. If the ARB does intend to include emissions associated with ancillary services, this should be made explicit in the definition.

Nonetheless, PacifiCorp recommends for consistency purposes that ARB coordinate with the California Energy Commission and provide an explanation of how Replacement Electricity differs from, or is the same as, the "firming and shaping" concept as it is applied under the California Renewable Portfolio Standard. Reporting entities need clarification of this definition in order to understand its reporting obligations. Regardless of whether the Replacement Electricity is meant to encompass ancillary services and energy used to firm and shape a variable resource, the definition should not be limited to energy physically located in the same balancing authority area. Ancillary services such as operating reserves, load following, energy and load imbalance, and firming and shaping services may be provided by an adjacent or remote balancing authority area. The effect of the services provided – regardless of where the replacement electricity is generated – is the same. Therefore, there should be no distinction made in this regard.

§95107 Enforcement (b) should be modified to make reference to verified emission report rather than report

The enforcement provisions of §95107 **(**b) state that "Each metric ton of CO2e emitted but not reported as required by this article is a separate violation." PacifiCorp requests that this provision be modified such that the emitted tons are based on the verified emissions report due September 1 rather than the initial June 1 report. The MRR allows for the reporter to modify and make changes to the originally submitted data reports as part of the verification process. PacifiCorp

does not believe that penalties should be incurred for minor or administrative errors that are identified and corrected during the verification process.

ARB Should Include Provisions in the Amended Regulation to Provide Entities with an Opportunity to Comment on ARB's Calculation of the System Emissions Factor

The Amended Regulation should require ARB to provide an opportunity for entities to comment on or provide corrections to the calculation of its system emissions factor in advance of the compliance deadline. The calculation of the system emissions factor is the single most important factor in calculating the annual compliance obligation. This calculation is complicated and potentially subject to error or ambiguity. As such, entities subject to this calculation by the ARB should have an opportunity to comment on or dispute this calculation or the basis for it. If there is an outstanding dispute between the ARB and the compliance entity regarding the calculation of the system emission factor, any compliance obligation that becomes due during the dispute should be tolled until the resolution of the dispute.

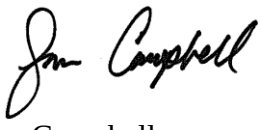
Conclusion

PacifiCorp appreciates the opportunity to provide comments on the Amended MRR. Overall, we would like to remind the Board that multi-jurisdictional utilities have unique reporting and compliance challenges, and the Amended Regulation should strive to both acknowledge these particular circumstances and provide staff with the flexibility to adjust the rule requirements as warranted.

Thank you for your consideration of these comments.

Dated: August 11, 2011

Respectfully submitted,
By



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