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September 19, 2012

Mr. Richard Bode, Chief
Emissions Inventory Branch
California Air Resource Board
1001 I Street
Sacramento, CA 95812

Dear Mr. Bode:

Subject: Comments on the Proposed Amendments to the Mandatory Reporting Regulation posted August 1, 2012

The Los Angeles Department of Water and Power (LADWP) respectfully submits this comment on the proposed amendments to the California Air Resources Board (ARB) *Regulation for the Mandatory Reporting of Greenhouse Gas Emissions* (MRR) that were posted for public review and comment on August 1, 2012.

LADWP appreciates ARB staff's efforts to clarify the reporting requirements and address questions and issues that arose during the first year of reporting under the revised MRR. Included in the proposed amendments are a number of positive changes relating to the electric sector, including the revised definition of Electricity Importer, clarification of the First Point of Receipt and Final Point of Delivery, and elimination of the unnecessary QA/QC compliance burden under 95103(k) for electricity generating units that use the methodology in 40 CFR Part 75 Appendix G Section 2.3 to calculate and report CO2 emissions to EPA under the Acid Rain Program.

LADWP recommends additional changes in the following areas, and encourages ARB to prepare and circulate additional amendments for "15-day" comments:

- 95102(a)(303) Definition of Net Generation – The proposed change to this definition would significantly increase the level of effort needed to calculate unit net generation, especially for facilities with more than one generating unit, and data needed to calculate net generation in accordance with the proposed amendment may not be readily available. In addition, the resulting difference in reported net generation would likely be de minimis (very small). LADWP recommends that this amendment be rejected because of the significant additional reporting burden and feasibility issues.

- 95102(a)(351) Definition of Power Contract – This definition is key in determining whether to report imported electricity as specified or unspecified, so it needs to be crystal clear. LADWP supports the additional clarifications recommended in SCPPA's written comments dated September 14, 2012.

- 95111(a)(8) Electricity Wheeled through California – As currently written, it is unclear who (the purchasing/selling entity or the transmission provider) is responsible for reporting electricity wheeled through California. This section should specify the entity responsible for reporting these transactions.

- 95111(f)(5) Asset Controlling Suppliers (ACS) – LADWP is concerned about the downstream impacts of the proposed amendment that would revoke an ACS's status in the event the ACS receives an adverse verification opinion on their annual report. Rather that revoking the ACS status, it would be more reasonable to assign emissions in accordance with 95103(g), same as would be done for other reporting entities.

- 95111(g)(1)(M) Registration Information for Specified Sources and Eligible Renewable Energy Resources in the RPS Adjustment – Based on discussions with ARB staff, the purpose of this amendment is to provide a mechanism to satisfy the REC retirement requirement in the cap-and-trade regulation and to ensure that RECs are not double counted. However, the proposed amendment does not show the link between this new reporting requirement and satisfying the REC retirement requirement in the cap-and-trade regulation. LADWP recommends that this section be clarified to state that reporting of REC serial numbers pursuant to 95111(g)(1)(M) satisfies the REC retirement requirement in 95852(b)(3) and 95852(b)(4) of the cap-and-trade regulation, thereby enabling the reporting entity to claim a source-specific emission factor for renewable energy imports and/or the RPS Adjustment in their annual report.

These recommended changes are discussed in more detail below.

95102(a)(303): The proposed amendment to the definition of Net Generation should be rejected, as it may not be feasible for all electricity generating facilities to comply, it could require an inordinate amount of effort to calculate unit net generation in the manner proposed, and the additional reporting burden would outweigh the small potential refinement in reported net generation data.

ARB is proposing to amend the definition of net generation as follows:

> *(~~257~~303) "Net generation" or "net power generated" means the gross generation minus station service or unit service power requirements (during time periods when the generating unit is generating electricity), expressed in megawatt hours (MWh) per year. In the case of cogeneration, this value is intended to include internal consumption of electricity for the purposes of a production process, as well as power put on the grid.*

This proposed amendment could significantly increase the complexity and effort needed to calculate and report unit net generation, and may not be feasible for all electricity generating facilities. Net generation is typically a calculated value. In order to satisfy the proposed amendment, net generation would need to be calculated on a minute-by-minute basis to properly account for changes in unit operation status, including start-ups and shut downs. For facilities containing multiple electricity generating units, the calculation would be complicated further by having to allocate station service among multiple generating units depending on which units were operating at any given point in time. The meters that measure station service and unit auxiliary energy consumption do not differentiate whether or not the unit is on line (generating electricity). If the data needed to calculate net generation in the manner proposed is not available, it would be infeasible to comply with the proposed amendment.

Given the significant additional calculation burden and feasibility issues, and the very small potential refinement in net generation data that would be achieved by this amendment, LADWP recommends that this amendment be rejected.

(~~257~~303) "Net generation" or "net power generated" means the gross generation minus station service or unit service power requirements ~~(during time periods when the generating unit is generating electricity)~~, expressed in megawatt hours (MWh) per year. In the case of cogeneration, this value is intended to include internal consumption of electricity for the purposes of a production process, as well as power put on the grid.

95102(a)(351): The definition of power contract needs to be further clarified.

While LADWP supports ARB's proposed amendment to the definition of power contract, LADWP believes the proposed amendment does not go far enough to clarify this important definition which is a key element in the determination of whether imported electricity can be reported as specified or unspecified. LADWP encourages ARB to adopt the amendments proposed by SCPPA in their comments dated September 14, 2012.

In particular, LADWP agrees with SCPPA's amendment to use a single term "power contract" rather than two different terms "power contract" and "written power contract", and that references to "written power contract" in the MRR should be changed to "power contract". In addition, since verbal and electronic records qualify as a power contract, LADWP agrees that use of the term "written power contract" should be eliminated.

The amendments proposed by SCPPA are copied below for reference:

> (~~301~~351) "Power contract," ~~or "written power contract,"~~ as used for the purposes of documenting specified versus unspecified sources of imported and exported electricity, means an agreement ~~written document~~, including written, ~~associated~~ verbal or electronic records ~~if included as part of the written power contract~~, arranging for ~~the procurement of~~ an electricity transaction. Power contracts may be, but are not limited to, power purchase agreements, enabling agreements, and tariff provisions, without regard to duration, or ~~written~~ agreements to import or export electricity on behalf of another entity, as long as that other entity also reports to ARB the same imported or exported electricity under section 95111(c)(4) or section 95111(a)(6).

95111(a)(8): The regulation is unclear as to who is responsible for reporting electricity wheeled through California.

During verification of the 2011 electric power entity reports, the following question arose: Which entity is responsible for reporting electricity wheeled through California, the entity that owns the electricity (purchasing/selling entity) or the transmission provider?

ARB staff provided guidance that the purchasing/selling entity is responsible for reporting electricity wheeled through California. LADWP recommends that section 95111(a)(8) be amended to specify the entity responsible for reporting these transactions:

> (8) *Electricity Wheeled Through California.* The electric power entity who is the PSE on the physical path of the NERC e-tag must separately report electricity wheeled through California, aggregated by first point of receipt outside California, and must exclude wheeled power transactions from reported imports and exports. When reporting electricity wheeled through California, the power entity must include the quantities of electricity wheeled through California as measured at the first point of delivery inside the state of California.

95111(f)(5): In the event an Asset Controlling Supplier receives an adverse verification opinion, ARB should assign emissions rather than revoking the Asset Controlling Supplier's status to avoid adverse impacts on the downstream purchasers of the electricity.

ARB is proposing to include the following amendment in section 95111(f)(5):

> *"Asset-controlling suppliers must annually adhere to all reporting and verification requirements of this article, or be removed from asset-controlling supplier designation. Asset-controlling suppliers will also lose their designation if they receive an adverse verification statement, but may reapply in the following year for re-designation."*

In the event an ACS receives an adverse verification opinion on their annual report, revoking the ACS status would adversely affect the downstream purchasers of the electricity and the GHG emission allowance market as a whole. Rather, it would be preferable to treat ACS the same as other reporting entities and assign emissions in accordance with 95103(g).

> *95103(g) Non-submitted/Non-verified Emissions Data Reports. When a reporting entity that holds a compliance obligation under the cap-and-trade regulation fails to submit an emissions data report or fails to obtain a positive emissions data verification statement or qualified positive emissions data verification statement by the applicable deadline, the Executive Officer shall develop an assigned emissions level for the reporting entity as set forth in section 95131(c)(5)(A)-(C).*

According to 95131(c)(5)(A) – (C), in preparing the assigned emissions level for the reporting entity, the Executive Officer shall use best available information and consider the information specified in 95131(c)(5)(A), which includes the sources operated by the ACS, previous emissions data reports, and reports submitted to other state, federal or local agencies. The result should be an emission factor fairly representative of the ACS's generating resources.

However, if the ACS status is revoked, the emission factor used by the downstream purchasers of the electricity could increase dramatically in the subsequent reporting year, from the ACS emission factor to the default emission factor. For example, if Bonneville Power Administration lost their ACS status, the emission factor used by the downstream purchasers would increase from 0.086 to 0.428, a difference of 0.342 metric tons CO2e per MWh which is nearly a 400% increase. Depending on the quantity of electricity purchased, this could amount to a significant increase in the downstream purchaser's cap-and-trade compliance obligation, which could require the purchase of additional emission allowances from the market. This additional demand for allowances will tighten the supply of allowances, thereby causing the price of the emissions allowances to increase and affect all the market participants.

To avoid creating ripple effects for the downstream purchasers of the electricity and the cap-and-trade market as a whole, emissions should be assigned in accordance with 95103(g) in the event an ACS receives an adverse verification statement. Therefore, the last paragraph in 95111(f)(5) should be revised as follows:

> Asset-controlling suppliers must annually adhere to all reporting and verification requirements of this article, or be removed from asset-controlling supplier designation. ~~Asset-controlling suppliers will also lose their designation if they receive an adverse verification statement, but may reapply in the following year for re-designation.~~

95111(g)(1)(M): This section should state that reporting of REC serial numbers satisfies the REC retirement requirement in the cap-and-trade regulation, and the REC reporting requirements should be flexible to accommodate adjustments made to the RPS report.

Based on discussions with ARB staff, it is our understanding that the REC reporting requirements added to section 95111(g)(1)(M) are intended to satisfy the REC retirement requirements in sections 95852(b)(3) and 95852(b)(4) of the cap-and-trade regulation, and to ensure that RECs are not double counted. However, the proposed amendment does not indicate the link between this new reporting requirement and satisfying the REC retirement requirement in the cap-and-trade regulation. This is an important connection that needs to be stated explicitly in the rule, so that reporting entities will know that reporting of REC serial numbers pursuant to 95111(g)(1)(M) satisfies the REC retirement requirement in 95852(b)(3) and 95852(b)(4) of the cap-and-trade regulation, thereby enabling the reporting entity to claim a source-specific emission factor for imports of renewable energy that is directly delivered, and the RPS Adjustment for renewable energy that is not directly delivered.

In addition, the REC reporting requirements in the MRR need to be flexible to allow for adjustments made to the RECs used for the RPS report. The RPS and Power Disclosure Report is submitted to CEC on June 1 but is not final until October 1. During that period, adjustments may be made to the RECs used for the RPS report as a result of the CEC audit. Therefore, the REC reporting requirements in section 95111(g)(1)(M) of the MRR need to be flexible to allow for adjustments made to the RECs used for RPS compliance.

Therefore, LADWP recommends the following revisions to section 95111(g)(1)(M):

(1) *Registration Information for Specified Sources and Eligible Renewable Energy Resources in the RPS Adjustment.* The following information is required:

(A) The facility names and, for specification to the unit level, the facility and unit names.

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(M) To satisfy the REC retirement requirements in sections 95852(b)(3) and 95852(b)(4) of the cap-and-trade regulation, ~~P~~provide the primary facility name, total number~~, serial numbers~~ of Renewable Energy Credits (RECs), the vintage year and month, and serial numbers of the RECs as specified below:

1. RECs associated with electricity procured from an eligible renewable energy resource and reported as an RPS adjustment as well as whether the RECs:

a) H~~h~~ave been placed in a retirement subaccount and designated as retired for the purpose of compliance with the California RPS program.

b) Will eventually be placed in a retirement subaccount and be designated as retired for the purpose of compliance with the California RPS program.

2. RECs associated with electricity procured from an eligible renewable energy resource and reported as an RPS adjustment in a previous emissions data report year that ~~later~~ were later withdrawn from the retirement subaccount or modified, the associated emissions data report year the RPS adjustment was claimed, and the date of REC withdrawal or modification.

3. RECs associated with electricity generated, directly delivered, and reported as specified imported electricity and whether or not the RECs have been or would later be placed in a retirement subaccount.

Thank you for your consideration of these comments. If you have any questions, please contact Ms. Cindy Parsons of my staff at (213) 367-0636.

Sincerely,

Mark J. Sedlacek
Director of Environmental Affairs

CSP:lr
c: Mr. David Edwards, Manager, ARB Climate Change Reporting Section
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