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Via Electronic Submission

Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: Comments of Powerex Corp. on the Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions

Dear Chairman Nichols and Members of the Board:

On behalf of Powerex Corp. ("Powerex"), I submit the following comments on the California Air Resources Board's ("ARB's") 2012 Proposed Amendments to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions rule (the "Mandatory Reporting Rule" or "MRR").

Powerex is a corporation organized under the Business Corporations Act of British Columbia, with its principal place of business in Vancouver, British Columbia, Canada. Powerex is the wholly-owned energy marketing subsidiary of the British Columbia Hydro and Power Authority ("BC Hydro"), a provincial Crown Corporation owned by the Government of British Columbia. Powerex sells power wholesale in the United States, pursuant to market-based rate authority granted by the Federal Energy Regulatory Commission in October 1997, renewed most recently effective January 1, 2009.

Powerex sells power from a portfolio of resources in the United States and Canada, including Canadian Entitlement resources made available under the Columbia River Treaty, BC Hydro system capability, and various other power resources acquired from other sellers within the United States and Canada. Powerex also buys and sells power in Canadian provinces other than British Columbia and in Mexico. Powerex has been delivering power to California since shortly after receiving its market-based rate authority.

Powerex appreciates ARB's efforts to create and implement a comprehensive GHG emission reporting program and a cap-and-trade program. In Powerex's view, both programs serve to fulfill the mandate in the California Global Warming Solutions Act ("AB 32") to reduce greenhouse gas emissions in California and to combat global climate change. With the proposed

amendments to the MRR, ARB has made significant progress toward making the two programs consistent and thereby achieving the goals of AB 32.

Powerex offers the following comments on the proposed modifications to the MRR with the goal of improving and refining the program. Powerex has limited its comments to a handful of areas, as we understand CARB will be addressing other, larger issues in a new rulemaking process focused on resource shuffling. A number of parties have submitted comments on these proposed changes to the MRR, and important issues remain to be resolved if the GHG and electricity markets are to function efficiently, incorporating economic signals one from the other. Powerex believes CARB's future efforts regarding clarification of resource shuffling and the impacts on reporting on imported power must involve coordinated amendments to both the Cap-and-Trade Regulation and the MRR. However, Powerex's comments here are more limited. We focus on the proposed definition for the term "NERC e-Tag" and inconsistency with regards to the Asset Controlling Supplier ("ACS") emission factor.

I. NERC e-Tag Definition.

Several definitions in Section 95102(a) of the MRR that relate to e-tagging (and, in particular, the source and point of receipt for e-tagged electricity) are inconsistent with standards established by the North American Energy Standards Board ("NAESB") and the North American Energy Reliability Corporation ("NERC"). Those standards are used industry-wide. For ease of implementation, the MRR should be consistent with those standards. In addition, the proposed MRR definitions are internally inconsistent, and potentially conflict with other provisions of the MRR.

The proposed definition for "Continuous Physical Transmission Path" correctly indicates that "generation source" and "first point of receipt" (or "POR") are two distinct elements on an e-Tag. *See* Section 95102(a)(106) ("'Continuous physical transmission path'" means the full transmission path shown in the physical path table of a single NERC e-tag from *the first point of receipt closest to the generation source* to the final point of delivery closest to the final sink.") (emphasis added). The generation source is indeed different from the POR, so that distinction in the definitions is correct. The source point listed on an e-Tag is a separate and distinct field from the first point of receipt. The former refers to the facility or unit where generation physically takes place. The latter is where a facility or unit delivers its output to the bulk transmission system and could be the same point for numerous facilities or units.

The distinction is confirmed by both NAESB and NERC definitions. For example, the NERC Reliability Standards define POR as "a location that the Transmission Service Provider specifies on its transmission system where an Interchange Transaction enters or a Generator delivers its output." *See* http://www.nerc.com/files/Glossary_of_Terms.pdf.

However, despite the fact that source and POR are distinct concepts, the proposed definitions for "Source" and "First Point of Receipt" cross-reference each other in a way that misleadingly indicates that the two concepts are the same. Under Section 95102(a)(430), "Source of Generation" states that "imported electricity and wheels are disaggregated by the source on the NERC e-Tag, *also referred to as the first point of receipt*" (emphasis added). And "First Point of Receipt" is defined as "the *generation source* specified on the NERC e-Tag . . . ." (emphasis added). *See* MRR Section 95102(a)(176). To avoid conflating the two distinct definitions, Powerex recommends that these cross-references be modified to read as follows:

> (176) "First point of receipt" means the location from which a Generator delivers its output to the transmission system (the closest POR to the generation source)~~the generation source specified on the NERC e-Tag~~, where defined points have been established through the NERC Registry. When NERC e-Tags are not used to document electricity deliveries, as may be the case within a balancing authority, the first point of receipt is the location of the individual generating facility or unit, or group of generating facilities or units. Imported electricity and wheeled electricity are disaggregated by the first point of receipt on the NERC e-Tag.
>
> (430) "Source of generation" or "generation source" means the generation source identified on the physical path of NERC e-Tags, where defined points have been established through the NERC Registry. Imported electricity and wheels are disaggregated by the source on the NERC e- Tag~~, also referred to as the first point of receipt~~.

II. Asset-Controlling Suppliers.

Powerex is appreciative of ARB's effort to clarify that entities other than the Bonneville Power Administration ("BPA") are eligible to apply for Asset-Controlling Supplier ("ACS") status under the MRR. However, Powerex is concerned that the proposed provision of the MRR entitled "Imported Electricity Supplied by Asset-Controlling Suppliers" is problematic because it requires that the intensity assigned to the ACS be used by the importer "*regardless of whether the reporting entity and asset-controlling supplier are adjacent in the market path*." MRR Section 95111(a)(5) (emphasis added). This last requirement relieves any condition that requires title for energy (including the GHG intensity of that energy) be passed along the contractual chain.

ARB should clarify whether or not a contractual chain is required for the importer to be able to claim the intensity of an ACS. As written, an importer is obligated to report the ACS's intensity regardless of whether or not it has contracted with the supplier. In fact, an importer would be able to claim the intensity of an ACS if it had purchased unspecified power on an electronic exchange and had simply scheduled (and e-tagged) the volume during the scheduling process. By effectively decoupling ACS electricity from the contractual chain, MRR Section

95111(a)(5) has the potential to promote (not impede) resource shuffling via the scheduling process, as schedulers may be selective about which "upstream" schedules they want or don't want. The receipt of a lower than contracted rate via scheduling optimization rather than via contracting is problematic. It also could very well open participants to claims of resource shuffling even though they were optimizing entirely separate parts of their portfolios as a part of the normal activity they conducted before the onset of this program. Powerex therefore calls upon ARB to clarify the relationship between ACS electricity and the contractual chain to ensure that it does not inadvertently promote actual resource shuffling or mistaken claims of resource shuffling.

Thank you for your review and consideration of these comments. Again, Powerex applauds ARB for its continued work to implement the mandate of AB 32 and, in particular, its work on market-based compliance mechanisms. If you have any questions on the enclosed comments, please contact me, at 415-262-4008 or nvanaelstyn@bdlaw.com.

Sincerely,

Nicholas W. van Aelstyn

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