BEFORE THE
AIR RESOURCES BOARD
OF THE
STATE OF CALIFORNIA

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY COMMENT ON 15-DAY PROPOSED CHANGES TO THE MANDATORY REPORTING REGULATION

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I. INTRODUCTION AND SUMMARY.

The Southern California Public Power Authority ("SCPPA") [1] respectfully submits this comment on the proposed amendments to the *Regulation for the Mandatory Reporting of Greenhouse Gas Emissio*ns ("MRR")[2] issued by the California Air Resources Board ("ARB") staff for 15-day public comment on October 12, 2012.

SCPPA appreciates the continuing efforts of the ARB staff to clarify the requirements of the MRR. SCPPA particularly appreciates the adoption of certain revisions that were proposed by SCPPA and its members in previous comments.

However, some provisions remain unclear. If further changes to the MRR are not able to be made at this stage, clarification should be included in the Final Statement of Reasons ("FSOR") or in guidance materials that SCPPA understands will be developed to accompany the MRR. The following areas should be clarified:

- The renewable energy credit ("REC") reporting provisions in section 95111(g)(1)(M) and (N).
- Revocation of an Asset Controlling Supplier's status under section 95111(f)(5).
- The definitions of "Electricity importer," "Generation providing entity," and "Power contract" in section 95102(a).

These issues are discussed in more detail below.

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[1] SCPPA is a joint powers authority. The members are Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles Department of Water and Power, Imperial Irrigation District, Pasadena, Riverside, and Vernon. This comment is sponsored by Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, the Imperial Irrigation District, Pasadena, Riverside, and Vernon.

[2] Title 17 California Code of Regulations, Subchapter 10, Article 2.

II. CLARIFY THE REC REPORTING PROVISIONS IN SECTION 95111(g).

A. Clarify that reporting whether RECs are retired does not prevent an importer from using unretired RECs to claim electricity for the RPS adjustment.

Section 95111(g)(1)(M) requires a reporting entity to provide detailed information on RECs used for the RPS adjustment as follows (incorporating the proposed 15-day amendments):

> 1. RECs associated with electricity procured from an eligible renewable energy resource and reported as an RPS adjustment as well as whether the RECs have been placed in a retirement subaccount and 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 were subsequently withdrawn from the retirement subaccount or modified, the associated emissions data report year the RPS adjustment was claimed, and 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 placed in a retirement subaccount.

A reporting entity is therefore required to report whether the RECs associated with an RPS adjustment are retired or not.

SCPPA understands that the ARB staff does not intend that the requirement to report the retirement status of RECs should prevent an importer from claiming an RPS adjustment before retiring the associated RECs. Accordingly, SCPPA urges that section 95111(g)(1)(M) be amended to clarify that reporting whether RECs are retired or not does not prevent an importer from using unretired RECs to claim electricity for the RPS adjustment. If this section cannot be amended in the current proceeding, this clarification should be provided in the FSOR and/or in guidance materials.

B. Provide guidance on information required to be retained to satisfy section 95111(g)(1)(N).

New section 95111(g)(1)(N) provides that:

> For verification purposes, retain meter generation data to document that the power claimed by the reporting entity was generated by the facility or unit at the time the power was directly delivered.

ARB staff stated on a teleconference on October 22, 2012 that hourly data would be ideal for this purpose. However, requiring hourly data would result in considerable volumes of data that would take time to compile, review and verify. Some utilities may not have access to this hourly data. ARB should carefully consider what data is needed for the RPS adjustment. Monthly data may be adequate. Specific guidance on the data requirements should be included in the MRR guidance materials.

III. CLARIFY THAT REVOCATION OF ASSET CONTROLLING SUPPLIER STATUS UNDER SECTION 95111(f)(5) WILL NOT HAVE A RETROACTIVE EFFECT ON EMISSION CALCULATIONS.

Sections 95111(a)(5) and (b)(3) will permit entities in addition to the Bonneville Power Administration to be recognized as Asset Controlling Suppliers. SCPPA supports this.

However, section 95111(f)(5) provides for Asset Controlling Suppliers to lose their designation as being Asset Controlling Suppliers if they receive an adverse verification statement. Section 95111(f)(5) provides 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.

This provision does not make it clear that the revocation of an Asset Controlling Supplier's status as being an Asset Controlling Supplier would have only a prospective effect on the

calculation of emissions associated with imports from the Asset Controlling Supplier. The possibility of a retroactive effect would cause uncertainty in the market.

ARB staff informed SCPPA in a teleconference on October 22, 2012 that any revocation of Asset Controlling Supplier status would have only a prospective effect, due to the operation of section 95111(b)(3). This section provides in part that:

> The supplier-specific system emission factor is calculated annually by ARB. ... The emission factor is based on data from two years prior to the reporting year.

As the provision on revocation does not reference this part of section 95111(b)(3), it would be helpful to include additional guidance on this issue in the FSOR or guidance materials, to reassure entities that purchase power from Asset Controlling Suppliers. The guidance should clearly state that the loss of Asset Controlling Supplier status will not have a retroactive effect on the emission factor associated with purchases of electricity from the affected Asset Controlling Supplier.

IV. REVISE CERTAIN ELECTRICITY SECTOR DEFINITIONS.

For greater clarity, the definitions of "Electricity importers," "Generation providing entity," and "Power contract" should be revised, or guidance should be provided on these definitions, as discussed below.

A. The definition of "Electricity importer" should be revised.

The definition of "Electricity importer" in section 95102(a)(140) of the MRR should be further revised to clarify which entity is considered to be the electricity importer if there is no NERC e-Tag. Currently, the definition refers to "the facility operator or scheduling coordinator" without specifying the order of priority of those two types of entities. This could lead to confusion in cases where there is no NERC e-Tag, but there is both a scheduling coordinator and a separate facility operator. ARB staff stated in a teleconference on October 22, 2012 that an

order of priority was not specified in order to allow entities the flexibility to determine among themselves which entity would be the electricity importer. Although flexibility is useful in some circumstances, clarity rather than flexibility should be the goal in important areas such as which entity is liable for emissions associated with imported electricity.

If the two potentially-liable entities do not reach agreement between themselves as to which one is the electricity importer, which entity will the ARB pursue in cases of default under the MRR? This issue was discussed at the ARB cap-and-trade workshop on May 4, 2012. ARB staff stated that if there were a scheduling coordinator, that entity would be the importer. If there were no scheduling coordinator, the facility operator would be considered to be the importer. This order of priority is logical and should be included in the definition. If the definition cannot be amended at this stage, the FSOR or guidance materials should clearly state this order of priority. If the MRR is revised in future, this issue should be addressed in the regulation itself.

Second, the term "scheduling coordinator" is specific to the California Independent System Operator ("CAISO"). This term is not necessarily used in non-CAISO balancing authority areas. Other terms may be used to describe the same function, such as "scheduling agent". To avoid unnecessarily limiting this term, the words "or the functional equivalent" should be added after "scheduling coordinator." Again, this can be addressed in guidance if it is not possible to amend the definition in the MRR at this point.

Third, the reference to a California balancing authority's "transmission and distribution system" should be changed to "transmission *or* distribution system." These are two distinct systems and a connection would be to one system or the other, not both.

In summary, the definition of "Electricity importer" in section 95102(a)(140) of the MRR should be revised as follows, or guidance should be provided to the same effect:

(140) "Electricity importers" deliver imported electricity. For electricity that is scheduled with a NERC e-tag to a final point of delivery inside the state of California, the electricity importer is identified on the NERC e-Tag as the purchasing-selling entity (PSE) on the last segment of the tag's physical path with the point of receipt located outside the state of California and the point of delivery located inside the state of California. For facilities physically located outside the state of California with the first point of interconnection to a California balancing authority's transmission or~~and~~ distribution system when the electricity is not scheduled on a NERC e-Tag, the importer is the ~~facility operator or~~ scheduling coordinator or the functional equivalent, or if there is no entity performing this function, the facility operator. Federal and state agencies are subject to the regulatory authority of ARB under this article and include Western Area Power Administration (WAPA), Bonneville Power Administration (BPA), and California Department of Water Resources (DWR).

B. The definition of "Generation providing entity" should be revised.

The definition of "Generation providing entity" or "GPE" in section 95102(a)(216) of the MRR refers to the GPE as being "recognized by the ARB." At the staff's June 19, 2012 webinar, ARB staff stated in response to a SCPPA query that they do not propose to have any formal recognition process. The ARB will not establish a list of "recognized" GPEs. Rather, the ARB expects GPEs to identify themselves as such in their reports under the MRR. Therefore, the reference to recognition by the ARB should be deleted. It has no practical application, and it gives rise to an expectation of ARB action that will not be taken. The definition of "Generation providing entity" in section 95102(a)(216) of the MRR should be revised as follows, or guidance should be provided to the same effect:

(216) "Generation providing entity" or "GPE" means a facility or generating unit operator, full or partial owner, party to a contract for a fixed percentage of net generation, sole party to a tolling agreement with the owner, or exclusive marketer ~~recognized by ARB~~ that is either the electricity importer or exporter with prevailing rights to claim electricity from the specified source.

C. The definition of "Power contract" should be revised.

SCPPA supports the proposed changes to the definition of "Power contract" in section 95102(a)(351) of the MRR, but considers that these changes do not go far enough to provide clarity in all circumstances. Certain additional changes to this definition would increase its clarity.

First, two terms are used for the same concept: "power contract" and "written power contract." Only one term should be used for each defined concept. The term "power contract" is preferable. The term "written" is confusing, given that verbal and electronic records also qualify. References to "written power contract" in the MRR should be changed to "power contract." If the MRR cannot be revised at this stage to remove references to "written power contract", the guidance materials should state that a reference in the MRR to a "written power contract" does not require that a particular arrangement be in writing as long as it otherwise satisfies the definition of "power contract or written power contract" in section 95102(a)(351). This would also help entities looking for a definition of "written power contract" in the MRR, as it is not listed in alphabetical order with the other defined terms in section 95102(a).

Second, the reference to "procurement of electricity" in the opening sentence of the definition is somewhat limiting. The examples of power contracts given in the second sentence go beyond procurement. The broader term "electricity transaction" (which is included in the list of examples) should be used instead of "procurement of electricity".

Third, for clarity, the relevant subsections of section 95111 that require reporting of imports and exports should be referred to at the end of the definition.

Accordingly, the definition of "Power contract" in section 95102(a)(351) of the MRR should be revised as follows, or guidance should be provided to the same effect:

(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, electricity transactions, and tariff provisions, without regard to duration, or ~~written~~ agreements to import or export 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). A power contract for a specified source is a contract that is contingent upon delivery of power from a particular facility, unit, or asset-controlling supplier's system that is designated at the time the transaction is executed.

V. CONCLUSION

SCPPA urges the ARB to consider these comments in revising the proposed amendments to the MRR, or in developing the FSOR and guidance materials. SCPPA appreciates the opportunity to submit these comments to the ARB, and looks forward to the opportunity to provide input as the MRR guidance material are developed.

Respectfully submitted,

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