



ANTONIO R. VILLARAIGOSA
Mayor

Commission
THOMAS S. SAYLES, *President*
ERIC HOLOMAN, *Vice President*
RICHARD F. MOSS
CHRISTINA E. NOONAN
JONATHAN PARFREY
BARBARA E. MOSCHOS, *Secretary*

RONALD O. NICHOLS
General Manager

October 29, 2012

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

Dear Mr. Bode:

Subject: Comments on the Proposed Revisions to the Mandatory Reporting
Regulation (released October 12, 2012 for 15-day comment)

The Los Angeles Department of Water and Power (LADWP) respectfully submits these comments on the proposed revisions 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 October 12, 2012.

LADWP appreciates the changes made in response to comments from stakeholders, such as the change to the definition of Net Generation and clarification of section 95111(a)(8) to specify who is responsible for reporting electricity wheeled through California.

LADWP encourages ARB to consider the following and make additional revisions as needed before finalizing the amendments to the MRR:

- 95102(a)(351) Definition of Power Contract
 - Agreements to purchase or sell electricity can be arranged and documented in either written or electronic format. However, the definition of power contract as currently written appears to recognize only written contracts or agreements. This definition should be broadened to recognize electronic as well as written agreements.
 - It is unclear whether the new language describing a "power contract for a specified source" that was added as part of the 15-day changes will apply only to new contracts beginning January 1, 2013 onward, or whether it will apply to existing contracts and agreements. Clarification is requested that the new language does not apply to pre-existing contracts and arrangements to import or export electricity on behalf of another entity that have already been recognized as specified in previous GHG emission reports submitted to ARB.

Water and Power Conservation ... a way of life

111 North Hope Street, Los Angeles, California 90012-2607 Mailing address: Box 51111, Los Angeles 90051-5700
Telephone: (213) 367-4211 Cable address: DEWAPOLA



- 95111(f)(5) Asset Controlling Suppliers (ACS)
 - In the event an ACS receives an adverse verification opinion on its annual report, LADWP encourages ARB to consider assigning emissions to the ACS in accordance with 95103(g) in lieu of revoking the ACS status, in order to avoid emission factor shock to the downstream purchasers of electricity supplied by the ACS.
- 95111(g)(1) Registration Information for Specified Sources and Eligible Renewable Energy Resources in the RPS Adjustment
 - The link between reporting of REC information under the MRR and satisfying the REC retirement requirement in 95852(b)(3) and 95852(b)(4) of the cap-and-trade regulation is missing. It should be made clear that if an entity satisfies the REC reporting requirement in 95111(g)(1)(M), then the entity may claim a source-specific emission factor for imported renewable energy that is directly delivered, and/or can claim the RPS Adjustment for imported renewable energy that is not directly delivered.
 - The new language added to 95111(g)(1)(N) should be modified. It is impractical to verify that power was generated by the facility or unit at the time the power was directly delivered. Therefore, the phrase “at the time the power was directly delivered” should be removed from this requirement.

These comments are discussed in more detail below.

95102(a)(351): The definition of power contract should be broadened to recognize electronic agreements.

The definition of “power contract” needs to be broad enough to include electricity purchases and sales that are arranged and documented in either written **or** electronic format (e.g. recorded oral conversation, e-mail, instant messaging, or electronic bulletin board).

However, the definition of power contract as currently written appears to recognize only written agreements:

*“Power contract...means a **written** document, including associated verbal or electronic records if included as part of the written power contract, arranging for the procurement of electricity. Power contracts may be, but are not limited to...or **written** agreements to import or export on behalf of another entity...”*

The definition of power contract should be broadened to recognize electronic as well as written agreements. For example, a deal may be arranged through the Intercontinental Exchange (ICE), an electronic bulletin board on which one entity posts an offer to sell (or buy) and another entity accepts the offer. A transaction may also be arranged and documented through a recorded phone conversation.

In addition, the definition of power contract should be broad enough to recognize a combination of separate agreements that serve to import or export electricity on behalf of another entity that is not a “written agreement to import or export on behalf of another entity”. For example, in the event of a transmission line curtailment or outage, the electricity may need to be re-routed and imported into California via a different transmission path. If the owner of the electricity (Entity A) cannot obtain transmission rights on the alternate transmission path, Entity A may sell the electricity to Entity B who has transmission rights on the alternate transmission path, then Entity B imports the electricity into California and sells it back to Entity A inside California. This short term buy/sell arrangement would likely be arranged and documented in electronic format for expediency, as allowed under the WSP Master Agreement. If the electricity is being directly delivered from a zero GHG emission generating facility via the alternate transmission path, Entity B should be able to report it as a specified import with a zero emission factor, even though Entity B may not have a “written agreement to import electricity on behalf of Entity A”.

Lastly, LADWP requests clarification that the following new language added to the definition of power contract as part of the 15-day changes:

“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.”

does not apply to existing agreements that were in effect prior to the rule amendment, including transmission services agreements under which electricity has been imported or exported on behalf of another entity and reported as specified in previous GHG emission reports submitted to ARB.

To address these concerns, LADWP encourages ARB to consider the following revisions to the definition of power contract:

(301351) “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.

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.

LADWP continues to encourage ARB to consider the recommendation made in our September 19, 2012 comments to assign emissions in accordance with 95103(g) in the event an Asset Controlling Supplier (ACS) receives an adverse verification opinion on their annual report, to avoid a significant change in the emission factor used by downstream purchasers of the electricity. An assigned emissions level should result in an emission factor fairly representative of the ACS's generating resources. In contrast, revoking the ACS status could result in a 400% increase in the emission factor used by the downstream purchasers of the electricity in the subsequent reporting year, creating ripple effects for all the downstream purchasers as well as the GHG emission allowance market as a whole.

Therefore, LADWP encourages ARB to apply the assigned emissions level in 95103(g) to ACS, the same as would be done for other reporters that fail to meet the verification deadline or that receive an adverse verification opinion, and to revise the last paragraph in section 95111(f)(5) 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): The link between the REC reporting requirements and claiming a source-specific emission factor and/or the RPS Adjustment for renewable energy needs to be clarified. Hourly meter data should not be required for verification purposes.

There is a missing link between reporting of Renewable Energy Credit (REC) information in 95111(g)(1)(M) and the ability 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.

Section 95852(b)(3) of the cap-and-trade regulation requires that, if RECs were created for electricity generated and reported pursuant to MRR, then the RECs must be retired and verified pursuant to MRR in order to claim a specified source emission factor less than the default emission factor.

Section 95852(b)(4) of the cap-and-trade regulation requires that RECs associated with electricity claimed for the RPS adjustment must be used to comply with California Renewable Portfolio Standard (RPS) requirements during the same year in which the RPS Adjustment is claimed.

However, the California Energy Commission allows 36 months to retire RECs, to allow sufficient time for entities to complete the true-up process and make adjustments to the RECs if necessary. Therefore, a January 2012 REC used to comply with the RPS does not have to be placed into the retirement subaccount until January 2015.

It is our understanding based on discussions with ARB staff that the REC reporting requirements were added to section 95111(g)(1)(M) to provide a mechanism to satisfy the REC retirement requirements in sections 95852(b)(3) and 95852(b)(4) of the cap-and-trade regulation, prior to actual retirement of the RECs.

However, the link between this new reporting requirement and satisfying the REC retirement requirement in the cap-and-trade regulation is unclear. This is an important connection that needs to be stated explicitly, so that reporting entities will know that reporting of REC information 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 Electric Power Entity to claim a source-specific emission factor for imports of renewable energy that was directly delivered, and the RPS Adjustment for renewable energy that was not directly delivered.

Without this link, reporting of information about RECs appears to be just one more reporting requirement, leaving entities uncertain about whether they may claim a source-specific emission factor and/or the RPS Adjustment for imported renewable energy as part of their annual report. Entities should not be required to retire RECs prematurely, in order to claim the source-specific emission factor and/or RPS Adjustment under the ARB regulations.

Since the CEC allows 36 months to place RECs into a retirement subaccount, LADWP recommends expanding the REC reporting requirements in 95111(g)(1)(M) to include reporting of RECs that will be, but have not yet been, placed into a retirement subaccount.

Lastly, the new language requiring “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” is unworkable. In a perfect world, the renewable generating facility would produce exactly the amount of energy scheduled to be delivered. However, in actuality, generation imbalances do occur between the hourly schedules and actual electricity produced by variable renewable resources.

Actual renewable electricity generated versus electricity delivered is trued up at end of the month and/or end of the year, and adjustments made to rectify discrepancies. The phrase “at the time the power was directly delivered” should be removed because having to verify hourly data is impractical and time consuming, and would divert limited resources away from the more significant elements of the report. There are better ways to verify that the amount of renewable energy generated corresponds with the amount delivered, including the use of settlement data and/or REC data. Verifying hourly data would add a significant burden to both reporters and verifiers without adding value.

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

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

(M) An electricity importer may claim a source-specific emission factor for renewable energy that is directly delivered, and/or the RPS Adjustment for renewable energy that is not directly delivered, if the electricity importer ~~provides~~ 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) Have been placed in a retirement subaccount and designated as retired for the purpose of compliance with the California RPS program.

b) Will be placed in a retirement subaccount and designated as retired for the purpose of compliance with the California RPS program within 36 months from the date of generation.

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 subsequently 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 will be, placed in a retirement subaccount within 36 months from the date of generation.

(N) 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~~.

Mr. Richard Bode
Page 7
October 29, 2012

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:

- c: Mr. David Edwards, Manager, ARB Climate Change Reporting Section
- Mr. Wade McCartney, ARB Climate Change Reporting Section
- Ms. Renee Lawver, Manager, ARB Quality Assurance and Verification Section
- Ms. Claudia Orlando, ARB Office of Climate Change
- Ms. Cindy S. Parsons