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August 1, 2008

Mr. Chuck Shulock
Assistant Executive Officer
Office of Climate Change
Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Sempra Energy Detailed Comments on Draft Scoping Plan

Dear Mr. Shulock:

Sempra Energy submits these initial comments on the Draft Scoping Plan released by the Air Resources Board (ARB) on June 26, 2008 ("Draft Plan"). Sempra Energy recognizes the major challenge associated with implementing AB32. At the outset, we commend ARB staff for the diligence, energy, and professionalism they have all brought to this effort. Given the complexity of the task and the diversity of communities and interests potentially affected, differences of opinion and policy preferences are to be expected. However, we share the goal of making AB32 work, achieving greenhouse reductions, and establishing California as a national leader in this effort.

Sempra Energy will reserve comment on a number of issues until there is an opportunity to review the Appendices to the Plan, which have just been released, and the Supplemental Evaluation, which we understand will be released shortly. Sempra Energy's primary comments on the Draft Plan are summarized below:

1. The Draft Plan imposes a disproportionate cost burden on the electricity sector.
2. An AB32 program so heavily reliant on direct regulation diminishes the liquidity of the Cap and Trade program, incentives to develop new cost effective GHG-reducing technologies, and price-based implementation of GHG reduction measures.
3. A number of corollary measures need to be adopted and obstacles overcome for a 33% Renewable Portfolio mandate to be achievable and affordable.

4. Regulatory requirements imposed on investor owned utilities, such as energy efficiency standards and RPS must also be imposed proportionately upon publicly owned utilities. Recognition should also be given for prior efficiency investments by investor owned utilities.
5. Revenues derived from utility ratepayers, directly or indirectly, should be returned to utility ratepayers to reduce GHG-related costs they must pay in rates. Utility ratepayers can also receive benefits from the development of new technology and new energy efficiency programs to reduce their GHG emissions, but only if expenditure of such revenues is carefully planned and managed.

These and related topics are addressed in more detail in the attached additional comments. Thank you for the opportunity to comment on the Draft Scoping Plan. We look forward to receipt of the Supplemental Evaluation to allow review of the details of the program. If you have any questions regarding these observations please contact Taylor Miler at 916-492-4248 or John Fooks at 619-818-2398.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael Murray", with a long horizontal flourish extending to the right.

Michael Murray

Cc: Edie Chang
Kevin Kennedy

Attachment: Sempra Energy Detailed Comments Concerning Draft Scoping Plan, August 1, 2008

Sempra Energy Detailed Comments
Air Resources Board Staff Draft Scoping Plan
August 1, 2008

Sempra Energy submits the following additional comments concerning the Draft Scoping Plan. Sempra Energy may provide further comments on the Scoping Plan Appendices and Supplemental Evaluation at a subsequent time.

I. General Program Design Comments

A. Proportionality of Sector Reductions

The Draft Plan imposes a disproportionate cost burden on the electricity sector. While the Draft Plan lists equitable emissions reductions across sectors as a criterion for its preliminary recommendations at page 50, the Draft Plan falls short in this respect. Electric utility ratepayers under the Draft Plan will have to bear both the high cost burden of compliance with significantly increased efficiency and Renewable Portfolio Standard (RPS) mandates and a substantial portion of the cost of greenhouse gas (GHG) reductions under the proposed cap-and-trade program through higher electricity prices unless a majority of the majority of the proceeds are returned to ratepayers. To better achieve the goal of an equitable burden in compliance with AB32 goals, Sempra Energy recommends ARB consider targeted carbon fees on sectors that are not being held responsible for reducing their pro rata share of the state's GHG emissions. Revenues should be used to implement GHG reduction activities that go beyond the electric industry's pro rata responsibility. This would offset the upward impact on electricity rates that would otherwise inappropriately and unfairly result.

The electricity sector is responsible for about 23% of the current GHG emissions inventory.¹ And in the Draft Plan, 26% of the reductions projected on Tables 6, 8 and 16 of the Draft Plan are to come from the electricity sector through increased efficiency, an

¹ Figure 1 of the Draft Plan

expansion of the existing 20% RPS to a 33% RPS, and the solar roofs program. Based on expected GHG reductions and the mandates in Table 2² the early actions already taken in the electric sector result in the sector being 15 percent below its 2020 target. Moreover, the Draft Plan also calls for an additional 35 million tons to come solely from the capped sectors in the cap-and-trade program (another 20% of the target), without a specific cost responsibility allocated among these sectors. California electric ratepayers could become the prime source paying for residual reductions not obtainable otherwise and be assigned additional cost responsibility for those reductions through higher electricity prices.³ In contrast, the Industry sector is projected to have no identified reductions from direct regulation (Table 2) and other sectors are not likely to be part of a cap-and-trade program.

To equalize the cost burden of compliance with AB32, Sempra suggests the ARB consider a carbon fee on sectors that currently have no GHG fees and would not be required to proportionally reduce their GHG emissions under the Scoping Plan. In order to avoid being considered a tax, revenue from fees must be used for purposes that are reasonably related to the purposes of the statute.⁴ In this case, these revenues, adjusted to the costs of mitigation mechanisms, would have to be used to further the goals of AB32. For example, the revenues could be used to fund mandates in the same sector or other sectors (such as funding energy efficiency and renewables in the electricity sector). This proposal is similar to the targeted fees described on pages 41 and 42.

² Per the Draft Scoping Plan, Table 4, 2020 emissions for the electric are 139 MMT for the electric sector and 94 MMT after recommended measures compared to the 2020 target of 110.6 from Appendix F Table 45

³ To the extent allowances are auctioned and auction revenues are not returned to utilities, SDG&E will have to pay both additional costs of mandated measures and also the costs for allowances auctioned to first deliverers (either as a first deliverer itself or embedded increased procurement costs). The Draft Plan's recitation of alternative uses for auction revenues at pages 46-47 suggests that much less than 100% of allowance revenues may be returned to utility ratepayers. In that case, electric ratepayers are paying for others reductions through higher electricity prices

⁴ *Sinclair Paint Co. v. State Bd. of Equalization* (1997) 15 Cal.4th 866, 881 (citing *San Diego Gas & Electric v. San Diego County Air Pollution Control District* (1988) 203 Cal.App.3d 1132, 1146).

Sectors that are being covered for their pro rata share of emissions (or more) through of a cap-and-trade program would be purchasing allowances and should be exempt from the carbon fees. Sectors that are already assessed fees for actions that result in GHG reductions would also be exempt from new fees as long as they were making equivalent progress toward the 2020 targets as required by entities subject to the cap-and-trade program. As an example, small residential and commercial gas customers already pay a Public Goods Charge to pay for energy efficiency programs and solar water heating programs that lead to 4.3 MMT of GHG reductions as cited in Table 7. Combined with past investments in energy efficiency, this sector will be proportionally reducing its GHG emissions.⁵ Similarly, ARB is looking at fees for water efficiency measures. Based on data in the Draft Plan, fees could be established in the agricultural sector, the transportation sector, the forestry sector, non-natural gas fuels used by small residential and commercial customers and products containing high GWP gases. These sectors do not appear to contribute proportionately to the required AB32 GHG reductions and are not contemplated as being part of the cap-and-trade program (at least initially for transportation).⁶ If a sector transitioned into the cap-and-trade program, the carbon fees would be eliminated once the sector is part of a cap and trade program.

As noted in the Draft Plan, British Columbia is using a carbon tax in lieu of mandatory measures prior to the adoption of a cap-and-trade program (page 42). The carbon fee proposed here would differ only to the extent there could be different fees in different sectors (water customers, high GWP-using products, other sectors). The California carbon fee would be dedicated to GHG reduction by funding mandated actions. But like the BC carbon tax, it would go away upon entry of the sector into a cap-

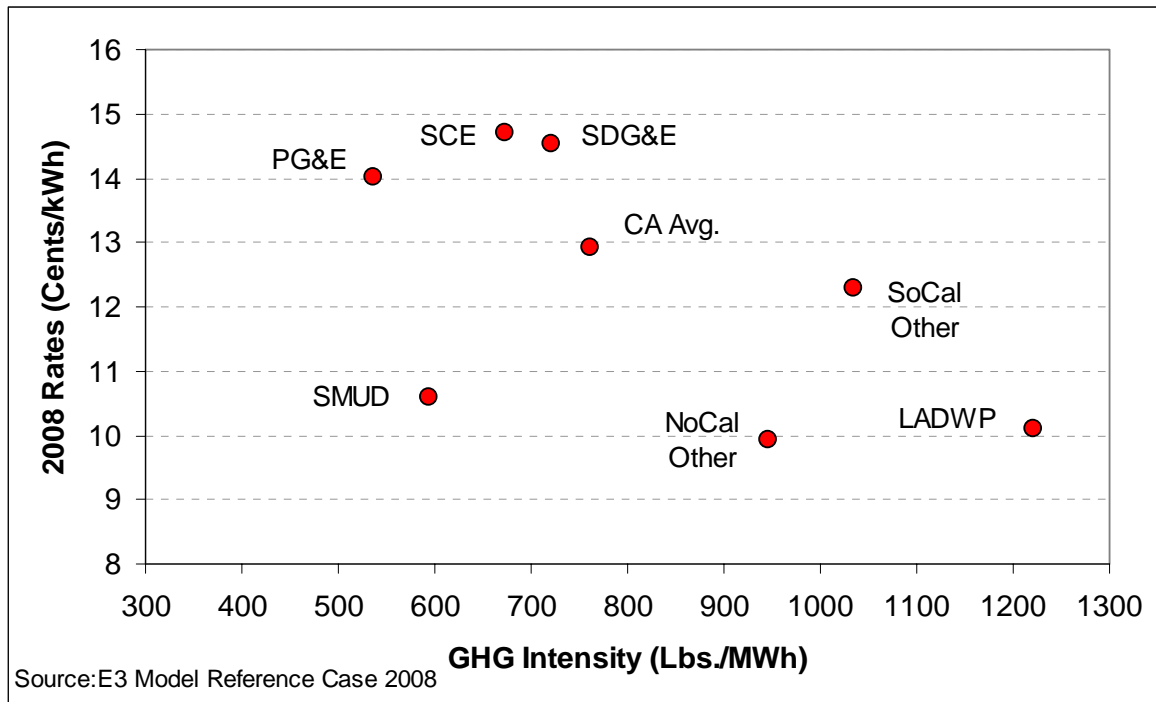
⁵ Table 1 shows projected emissions as 46.7 MMT less the reductions in table 7 of 4.3 MMT equals 42.5 MMT compared to the 2020 goal of 44.1 MMT (Draft Scoping Plan Appendix F, Table 45).

⁶ Comparing the 2020 BAU emissions less those in table 2 compared to the sector's 2020 goal from the Draft Scoping Plan Appendix F, Table 45

and-trade program. This approach would make the cost burden of AB32 carbon reductions more equal across sectors

B. Recognition of Early Action

Investor Owned Utilities (IOUs) and their customers have expended significant sums of money over the past decade on efficiency programs, renewables, and other activities that have had the effect of reducing their emissions to levels far below those of many of the state's Publicly Owned Utilities (POUs). In the graphic below, the GHG intensity of the principal utilities is plotted against their rates.



Prior efforts and expenditures should be recognized, and not punished under AB32. California's greenhouse gas legislation should be implemented in a manner that fully recognizes and accounts for these prior actions, makes the actual cost of emissions clear to emitters, maximizes incentives to enter the market with lower emissions and maximizes the savings that would be realized by high emitters through emission reducing

activities. The manner in which California treats low emitters can also influence how lower emitting states, like California, are treated in any federal cap and trade system.

There are likely many ways that the IOU's and their ratepayer's prior investments can be recognized. Most importantly allowances or auction revenue rights must be allocated on a MW output basis rather on the basis of historical emissions. Emission-based allocation fails to recognize prior expenditures that have reduced emissions and would lead to an inappropriate transfer of wealth from low emitters who have already expended significant funds in reducing their emissions to higher emitters that have not incurred these costs. Other programmatic design decisions, such as what to require regarding additional efficiency gains, should all be judged against a criterion of whether prior investments are recognized and rewarded, as required by AB32, sections 38563(b)(1) and (3), 38563.

C. Role of Cap and Trade with a High Direct Regulation Component

An AB32 program so heavily reliant on direct regulation diminishes the liquidity of the cap and trade program, incentives to develop new cost effective GHG-reducing technologies, and price-based implementation of GHG reduction measures. Wherever possible, the ARB should maximize the opportunity for cap and trade to deliver reduced compliance costs and maximum incentives for development of new technologies that will cost-effectively reduce GHG emissions, rather than command and control regimes. For this reason, the cap and trade program should be expanded to include the transportation sector at the outset.

The ARB scoping plan proposes that the majority of the needed reductions occur through mandates and that only about 20% of reductions are achieved through a market-based cap and trade program (according to Table 2). This percent could drop further as

ARB implements its proposal for energy efficiency audits and mandatory subsequent reductions (Measure 17), develops additional mandates as outlined in Table 22, and reviews potential new measures (or larger reductions from proposed measures) in the areas of land use and agriculture as suggested in public hearings. Sempra Energy has consistently maintained that a properly designed broad market cap and trade program can achieve the state's goals in the most cost effective manner. We are however concerned that the large degree of mandated reductions will unnecessarily limit the size of a cap and trade program, thereby reducing its potential effectiveness in triggering cost reductions and new technology development.

A first problem is created by the abundance of mandates in the Draft Plan. If all the Table 2 measures are adopted, as well as the Table 22 measures, plus added reductions occur in the industrial, agricultural, and land use sectors, we calculate that the AB32 2020 goal would likely be met through mandated measures alone. ARB staff's position that direct regulation will "help" regulated entities meet a declining cap ignores the fundamental purpose of allowing flexibility and choice concerning how entities may best meet the cap at lowest cost. Implementing a cap-and-trade program on top of that would lead to minimal trading as the declining limits of the cap would be surpassed by the mandated reductions. Depending on the excess supply situation, as demonstrated in the Europe Emission Trading System, the allowances could be thin and volatile and not reflective of the cost of reductions. One main function of the market has been to provide price signals as to the cost of reducing GHG. But in this case, the price would not be reflective of the cost of reducing GHG which instead would be better reflected in the cost of the mandated measures. This, in turn, would limit the effectiveness of such a market in creating incentives to develop new GHG emission reduction technologies, and to lead to cost reductions for the purposes of AB32 compliance.

This emphasis on mandates could also effectively prohibit California from participating in trading excess allowances in a regional or national cap-and-trade program. Similar to most environmental law, under AB32, mandated actions cannot create tradable allowances (Sec. 38562(d)(2)). It would be reasonable to expect similar provisions in any Federal GHG legislation that might ultimately be adopted. Thus, excessive command and control requirements not only would serve to diminish the effectiveness of a GHG market, but also result in an unnecessary transfer of wealth from California to other states if a Federal GHG cap and trade market is ultimately adopted unless the Federal program results in recognition of early action from mandates.

A second problem is created by limiting the cap-and-trade market to the electric and industrial markets in California as well as limiting offsets. Sempra is concerned the number of participants could lead to market power concerns.⁷ If ARB decides to pursue a California-only cap-and-trade market with only electricity and large industrials, it should undertake an analysis to show there are no market concentration concerns, and if any such concerns exist, adopt measures that mitigate any such concerns. (CHECK if this a good example of market power) Further, given the experience of the RECLAIM market (composed of electric utilities and industry only), ARB should be required to demonstrate there will not be unacceptable price spikes similar to 2000-2001. If ARB determines that market concentration for a CA-only cap and trade system is unacceptable, an increased use of offsets or other measures could be considered to mitigate these problems

II. Emission Reduction Measures

A. Renewable Portfolio Standard

⁷ This concern would be lessened if unlimited offsets were allowed, but the ARB is proposing a 10 percent limit as well as constraints on trading within California.

Numerous obstacles must be overcome before a 33 % Renewable Portfolio Standard is achievable without excess cost to ratepayers or threats to reliability. As a result, the following measures would have to be adopted in conjunction with a 33% RPS to ensure that such a mandate would be fair, achievable and affordable:

- ✓ The requirement should apply equally to all LSEs, including publicly owned utilities;
- ✓ Program costs should not be subjected to the existing AB1X cost cap;
- ✓ RECs should be permitted from both within and outside the state;
- ✓ A ratepayer protection mechanism should be implemented by the CPUC that considers all relevant costs and benefits and ensures renewable procurement is affordable;
- ✓ The existing flexible compliance provisions and permissible excuse for lack of transmission should be maintained; and,
- ✓ It is done in a manner that protects System Reliability by requiring the CPUC and CAISO to study reliability issues and needs, and to adopt a mitigation plan (including power to suspend yearly requirement) if reliability is jeopardized.

In addition, utilities must have an opportunity to recover the additional costs associated with “command and control” activities that move any given utility below its pro rata share of the electric industry sector’s proportional share of AB32 reductions. In order to accomplish this objective, the command and control measures CARB has proposed for the electric sector should be drafted in a manner that does not preclude recovery of costs through sales of off-sets or allowances on behalf of ratepayers where a utility has exceeded its proportionate share of the electric industry’s AB32 glide path, based on load.

Under AB32, when actions are taken pursuant to a regulatory mandate, they cannot result in the creation of off-sets or allowances that could be sold into a cap and trade market to recoup some of the costs incurred in implementing those measures. (See, Sec. 38562(d)(2)). In order to avoid this outcome, command and control measures should not be imposed as regulatory mandates when a utility is below its proportionate share of the electric industries" proportionate share of emissions permitted under AB32.

In order to ensure that electricity consumers are not subjected to disproportionate AB32 implementation costs merely because they are implementing a command and control regulatory mandate, the ARB Scoping Plan should provide that if and when a utility meets a its pro rata share of the electric industry sector's proportional AB32 glide path (even though utilities are not the ultimate point of regulation under a cap and trade program), ARB shall review whether the command and control mandates that have been imposed on that utility shall continue as mandated command and control activities or an a voluntary basis that is strongly encouraged, but which shall not be considered to have been required by regulation. This will maximize the ability of California to mitigate adverse financial impacts of AB32 implementation for electricity consumers under a California, WCI, or national cap and trade program.

A more aggressive renewable portfolio standard is proposed in the scoping plan to achieve 21MMTonnes additional reductions over those already achieved by the investor owned utilities under SB 107. It is broadly recognized that such investor owned utility programs are easy to levy, track and enforce because of readily available data and tight constraints. Investor owned utilities have moved forward in an effort to meet the SB 107 obligations but there are many barriers to success. Recognizing and offering solutions to the barriers, costs and technology limitations is also an important part of the plan and should be included and agreed before all load serving entities including publically-owned utilities are mandated to meet this stretch goal and increase their RPS obligation.

We call your attention to the ETAAC committee report on expanding California's Successful Renewable Energy Programs which speaks to some issues including integration within CA ISO, technology solutions which must be in place to support reliability, and transmission infrastructure constraints. Sempra agrees with those findings and urges Air Resources Board not to advance this measure without assuring the processes are enabled to achieve the goal.

B. Commercial and Residential Natural Gas Emissions.

There is no reason to include the commercial and residential sector in the cap and trade program. The Scoping Plan has defined multiple measures to further increase efficiency and the installation of renewable resources in the commercial and residential sector. Those measures (solar roofs and water heating, green buildings, appliance standards), future opportunities as technology advances, and existing utility efficiency services will account for more reductions than modeled growth of emissions under the business-as-usual case. Residential and commercial natural gas consumption in California has not increased for nearly 2 decades⁸. The business as usual projections, including the mandated programs listed in table 4 of the Draft Scoping Plan, reveal that no significant consumption increases in this sector will occur through 2020.

The CPUC Interim Opinion on Greenhouse Gas Regulatory Strategies, R.06-04-009, dated March 13, 2008, recommended that the emissions from the natural gas sector not be included in cap and trade at this time. The Commission recommended that all natural gas providers in California, regardless of regulatory structure or status, be required to deliver energy efficiency to consumers. The Commission noted that key differences between the electricity and natural gas sectors persuaded them that it would

⁸ Draft Scoping Plan Appendices, Appendix F, Table 45

be premature to include the natural gas sector in a cap-and-trade system at this time.

Some of the differences identified by the Commission were:

- Significantly fewer options exist to reduce GHG emissions in the natural gas sector compared to the electricity sector.
- There is currently very limited availability of low-carbon alternative sources of natural gas.
- Energy efficiency programs are the best options for reducing GHG emissions in the natural gas sector.
- The incremental benefits from including the natural gas sector in a multi-sector cap-and-trade program are likely to be smaller than those for the electricity sector.
- Inclusion of the natural gas sector in a cap and trade system could expose small end users to greater price risk than small electricity users.

The Interim Opinion states in summary that “We see little advantage of implementing a cap system in the natural gas sector, compared to reliance on ...direct programmatic approaches.” Interim Opinion, section 4.3.2, page 106. The Interim Opinion recommends future inclusion of small commercial and residential emissions in cap and trade, but only on the assumptions that experience is gained with a California cap and trade system, national and regional frameworks are established, reporting protocols are established, and, in particular, that alternative lower-carbon sources of natural gas are developed. Sempra Energy continues to be concerned that the inclusion of small gas users in cap and trade will not deliver significant additional reductions and could easily only result in increased ratepayer costs. Unlike electricity, utilities have few options to alter a “portfolio” of gas fuel purchases based upon carbon content. Utilities also have no direct control over customer gas use. Establishing cap and trade at the user level is clearly impractical. Therefore, inclusion of small natural gas users in cap and trade is

unlikely to contribute significant reductions beyond programmatic and regulatory efficiency measures to reduce natural gas usage that based on ARB analysis will have the sector achieving a proportional reduction in meeting the AB32 2020 goal.

C. Large Industrial Sources

Section II.B of the draft scoping plan includes a novel approach to finding additional opportunities for energy efficiency and the opportunistic co-benefits that might be achieved while reducing greenhouse gasses. ARB is considering developing a regulation requiring each facility to conduct an audit of the energy efficiency of individual sources within the facility to determine the potential to reduce greenhouse gases, criteria air pollutants, and toxic air contaminants.

The proposed auditing mechanism is unclear and lacking in sufficient detail to comment on its feasibility. This proposed mechanism is a command and control approach and incompatible with industrial entities subject to a cap having the flexibility and the incentive to determine what GHG reduction measures or alternate compliance mechanisms to adopt. We note that this is another example of diminishing the potential effectiveness of cap and trade by simultaneously undertaking a program of direct regulation to “help” sources comply with a declining cap.

Sempra is also concerned that including the state’s natural gas fired power plants could have impacts on system reliability if mandated changes are required during peak demand periods. These power plants are already subject to significant air quality regulations as well as the proposed cap and trade program under AB32. We recommend ARB weigh the issues of protecting system reliability and meeting the energy demands of California’s citizens and exclude power plants from this regulation.

D. Electrification

ARB has placed a high priority on reducing emissions from motor vehicles and stationary engines through electrification. ARB must also account for net GHG emission reductions actually achieved through these measures to recognize that reductions in emissions in one sector will increase emissions and associated GHG reduction costs in another. ARB must therefore address the shift of costs from one sector to another as GHG emission reduction efforts are pursued through electrification.

E. Land Use

The Draft Plan addresses local and regional land use issues, pages 31-33, though it only assigns a reduction of 2 MMTCOE to this category. Sempra Energy recognizes the linkage between land use planning and transportation emissions. This important sector should provide its proportional amount of reductions. Effort to reduce vehicle miles traveled through land use planning may also reduce the need for utility infrastructure investment. Sempra Energy, along with numerous commenters from local government planning organizations at Draft Plan workshops, supports greater emphasis on reductions tied to general plan, transportation plan, or regional blueprints that will reduce the growth of vehicle miles traveled (VMT).

III. Carbon Fees

As part of AB32 implementation, carbon fees should only be utilized as outlined in section I.A. above to ensure an equitable allocation of costs and burdens.

IV. Return of Revenues

Sempra Energy is also concerned about the revenues derived from either a cap and trade program or a carbon fee and how they may be used. Such revenues should be used to reduce the cost of the AB32 program. The highest priority should be given to returning revenue derived from utility ratepayers, directly or indirectly, back to utility ratepayers, to reduce the cost they must pay in rates to achieve GHG reductions to meet AB32 targets. Utility ratepayers can also receive benefits from the development of new technology and new energy efficiency programs to reduce their GHG emissions, but only if expenditure of such revenues are carefully planned and managed.

V. Evaluations

A. Economic modeling

ARB staff has done an excellent job involving stakeholders in the process to develop a program design for AB 32. ARB staff recently reported at the meeting of the Economic and Technical Advancement Advisory Committee meeting on July 31, 2008, that planned economic modeling using the ICF Energy 2020 model will not be available in time to be included in the Supplemental Evaluation. Economic analysis is critical to designing a cost-effective program and the same type of inclusive collaborative process that ARB has provided on other aspects of the program is essential to critical evaluation of the economic analysis. Therefore, Sempra Energy suggests that the plan be conditioned upon completion and public review of the detailed modeling and underlying assumptions. We look forward to receipt of this information in order to provide more specific comments and overall evaluation of the extent to which ARB should rely on modeling to make policy decisions required by AB32. Further, we request that the Scoping Plan specifically identify what policy choices are likely to be influenced by such modeling.

B. Cost effectiveness

Sempra Energy previously submitted comments concerning the staff's white paper on cost-effectiveness and discussions held at the AB32 Technical Stakeholder Working Group meeting on this topic on June 3, 2008. In those comments, Sempra Energy opposed the notion that all measures adopted by ARB as necessary to reach the 2020 goal are by definition cost-effective. This approach essentially results in a program which "costs what it costs" with no actual cost restraint. AB32 does not require achievement of the 2020 emission reduction goals irrespective of the cost. Instead, "cost effective" should be used as a cost containment element of AB32 that balances the many objectives of AB32.

Sempra Energy believes that to the extent ARB relies on command and control regulation, it should choose a dollar per ton of CO₂e figure closely aligned to where the market is as a guide to cost-effective actions.. "Cost-effectiveness" is a defined term in AB32 and simply means: "the cost per unit of reduced emissions of greenhouse gases adjusted for its global warming potential." For this reason, "co-benefits" or "co-pollutants" should not be injected into the quantification of cost-effectiveness.

C. Co-Benefits (Co-Pollutants)

During the ARB workshop on policy tools held May 28th many of the invited participants advised the Board to be aware of the significance to AB32 GHG reduction if the 2020 goals were diluted through strongly weighting the reduction of criteria pollutants as an important measure in cost-effectiveness evaluations. Because GHG does not have a local impact, the opportunity for achieving large GHG reductions is a State-wide opportunity whereas the reduction of criteria pollutants in many cases is a localized issue which should be covered with specific regulations to address localized

impacts. There are many options to address criteria and toxic pollutant problems, many of which are being concurrently pursued by ARB, under existing law. ARB should re-examine its regulations on criteria and toxic pollutants considering the GHG co-benefits and make any adjustments necessary. However, once the GHG co-benefit is counted in local regulations, the focus of AB32 implementation should be on GHG reductions alone.

Likewise AB32 concurrently results in opportunities to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions as co-pollutants of GHG. Sempra agrees with the Analysis Group study⁹ which demonstrates that the overlap of measures that reduce both co-pollutants and GHG emissions is both cost-beneficial and cost-effective. Attempting to load undue consideration to co-pollutant reductions, which will likely accompany GHG reductions in most cases anyway, onto implementation of the AB32 program will dilute the effectiveness of AB32, drive up program costs, and may produce unintended consequences. We further note that section 38562 “Ensure that activities undertaken pursuant to the regulations complement, and do not interfere with, efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions.” This section, which specifically addresses co-pollutants”, does not mandate that ARB attempt to use AB32, as opposed to existing ARB and local air district authority, to address other air quality concerns.

VI. Other Issues Not Addressed By Plan

A. Role of Air Districts and Existing Air Pollution Control Programs

⁹ The Implications of Co-pollutants for the Design of California’s Climate Policy, Judson Jaffee, Analysis Group, July 2008

AB32 specifically contemplated state, regional, national and international control of GHG and clearly designates AB32 regulation to ARB. However, the air pollution control districts and have for many years undertaken programs to plan for and control air emissions. Sempra Energy believes that the air districts can contribute to accomplishment of AB32 objectives but that contradictory approaches by the Air Districts can lead to regulatory quagmire. In particular, Air Districts' regulation of criteria and toxic air pollutants by districts often generates simultaneous reductions in GHG. These reductions must be taken into account by ARB in tracking GHG reductions. Further the health benefits of these reductions must only be counted once in cost effectiveness analyses.

Air districts are becoming more active in developing activities directly focused on GHG reduction. The Bay Area AQMD recently established a GHG emissions fee. The SCAQMD is considering the establishment of the SoCal Climate Solutions Exchange and the Air Quality Investment Program. The Scoping Plan should explicitly consider how air district activities fit into the overall AB32 program to better assure consistency, and avoid duplication and unnecessary costs.

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