SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
1160 NICOLE COURT
GLENDORA, CA 91740
(626) 793-9364 – FAX: (626) 793-9461
www.scppa.org

ANAHEIM • AZUSA • BANNING • BURBANK • CERRITOS
COLTON • GLENDALE • LOS ANGELES • PASADENA
RIVERSIDE • VERNON • IMPERIAL IRRIGATION DISTRICT

January 20, 2017 | Submitted Electronically

Clerk of the Board
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: SCPPA Comments on the Proposed 15-Day Amendments to the Cap-and-Trade Program and Mandatory Reporting Regulations

Thank you for the opportunity to once again provide comments to the Air Resources Board (ARB or Board) on changes proposed for the existing Cap-and-Trade Program ("the Program") and Mandatory Reporting Regulation (MRR). These comments focus on the recently released first 15-day amendment packages for each regulation.

The Southern California Public Power Authority (SCPPA) is a joint powers agency whose members include the cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles, Pasadena, Riverside, and Vernon, and the Imperial Irrigation District. Our Members collectively serve nearly five million people throughout Southern California. Each Member owns and operates a publicly-owned electric utility governed by a board of local officials who are directly accountable to their constituents.

Each SCPPA Member has a duty to provide reliable power to their customers - many of whom reside in disadvantaged communities - at affordable rates, while also complying with all applicable local, regional, state, and federal environmental and energy regulations. Currently, SCPPA and our Members own, operate, or have binding long-term procurement arrangements with 38 generation and natural gas projects and three transmission projects, generating power in California or importing from Arizona, New Mexico, Utah, Oregon, Washington, Nevada, Texas, and Wyoming. This is in addition to individual, Member-owned or contracted and operated transmission, generation, and natural gas projects throughout the Western United States. All are funded through municipally-backed financing mechanisms, which often come with terms that complicate our Members' abilities to quickly respond to substantial policy shifts that require near-term implementation. Any such change in policy direction usually results in significant additional costs which must be borne solely by their customers.

The Program and MRR directly impact industry practices and market operations throughout the Western electricity grid. Therefore, it is of the utmost importance that the proposed changes to the regulations reflect well-structured and lasting policies that function in concert to achieve the statutory goals via the most cost-effective means. SCPPA and its Members have actively participated in ARB's public processes and have met continually with staff to discuss the complex and interrelated issues associated with these regulatory packages. As stewards of public funding, we look forward to continuing to work with ARB staff toward a final program design that can be feasibly implemented while achieving our shared interest in maximizing environmental and public health benefits for Californians.

SUPPORT FOR CONTINUATION OF THE CURRENT CAP-AND-TRADE PROGRAM

Though the proposed regulatory changes at hand assume an uninterrupted future existence of the Program, staff has been evaluating alternative options to achieve the 2030 Target Scoping Plan goals. **SCPPA believes altering course now would be an even more costly and diversionary endeavor; we support the continuation of the Cap-and-Trade Program post-2020.** SCPPA believes that this market-based mechanism is the most cost-effective means of achieving

GHG emissions reductions throughout the state. The Program offers the significant benefit of promoting and implementing Greenhouse Gas Reduction Fund projects and programs across the state – particularly in disadvantaged communities – that are designed to simultaneously provide economic and public health co-benefits. The Program as currently constructed also allows our Members to pass the value of allowance allocations directly to their customers. These benefits flow through to all of our Members' customers, including those in disadvantaged communities. The continuation of a well-designed Cap-and-Trade Program supports public utilities' ability to provide Californians with affordable energy while still maintaining a sustainable path towards the 2030 statewide GHG emission reduction goal.

PROCESS CONCERNS

As expressed in prior public comments and letters, SCPPA is concerned with the incomplete nature of these draft regulations. ARB staff has again flagged a number of potential areas for future 15-day changes. Though potentially within the scope of this rulemaking, such material changes are outside the spirit, and potentially letter of the law, as it relates to California's public processes. **15-day amendments should be limited to clarifications and non-substantive changes to the regulations when compared to the initial 45-day language.** The scale and importance of the changes being proposed in this 15-day amendment package are historically out of line. Furthermore, highlighting these possible additional policy changes distracts stakeholders from providing comments on the actual proposed language changes—such time is already limited for full analysis.

Again, we stress the importance of providing a complete draft of the regulations and thoroughly vetting policy shifts with stakeholders to ensure the feasibility and collective interaction of all of the changes. This supports transparency and facilitates a fully-informed decision-making process. **While many of the proposed revisions have been discussed broadly during a number of public workshops, most of the critically important details are just now being provided. These need to be evaluated on their own, as well as in relation to other aspects of the Program, MRR, and the numerous other regulations facing utilities – including the California Environmental Quality Act.** Even now, a number of legislative and regulatory uncertainties lay ahead at both the federal and state government levels, many of which could drastically affect the energy policy landscape.

ARB's schedule for developing the 2030 Target Scoping Plan and updating the Cap-and-Trade Regulation coincide with ARB Board adoption of both actions, slated for April 2017. However, much of the data used in the Scoping Plan process would also be used as the basis for developing the post-2020 allowance allocations for the updated Cap-and-Trade Regulation. Unfortunately, this data has not yet been released. As a result, SCPPA believes that ARB should allow a reasonable amount of time after the proposed Scoping Plan is released (e.g., at least 90 days) to further develop amendments to the Cap-and-Trade Regulation in light of the conclusions made in the Scoping Plan process.

We support staff in its efforts to solicit well-timed stakeholder feedback. With that said, we believe that additional time for stakeholder review and consideration of the weighty proposals would benefit all involved in the refinement of the Program and MRR regulations. As 15-day language is released in the future, it is requested that ARB highlight the changes as compared to previously released versions of the regulation and present the regulation in its entirety (with clearly noted updates) for stakeholder review, including how the California Environmental Quality Act (CEQA) may be implicated as California seeks to meet ambitious climate change and renewable energy goals. This will support stakeholders in providing a more comprehensive analysis of all program components and the interactive effect amongst ARB's own policies as well as those of other agencies (*e.g.*, the California Energy Commission's Renewables Portfolio Standard). In addition, SCPPA fully supports extended review times, as provided with the release of these amendments, and robust public discussions on any future modifications to the proposed provisions.

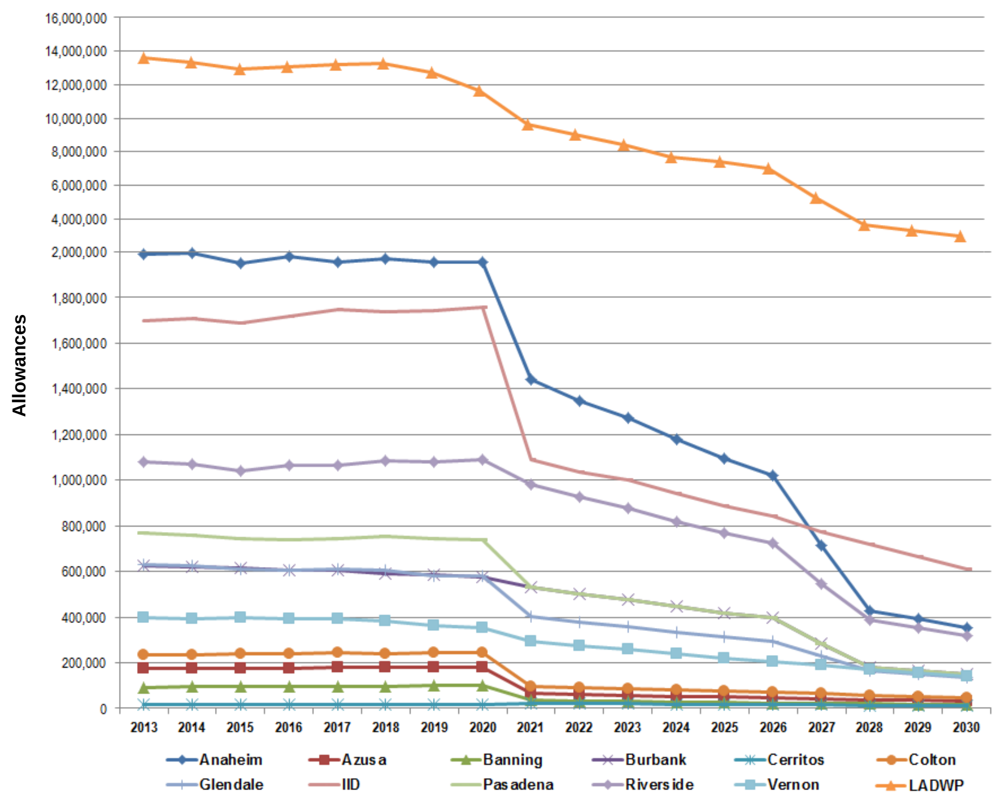
PROPOSED REVISIONS TO THE CAP-AND-TRADE REGULATIONS

EDU Allowance Allocation Methodology. The ARB's proposed methodology for the allocation of allowances to electric distribution utilities (EDUs) is detailed in Attachment C in the Cap-and-Trade regulatory package. SCPPA and its members fully support ARB's proposal to base allocation on **cost burden**. We do, however, believe that the methodology could be further improved and offer comments on specific components of the methodology below.

Cost Containment. As noted above, SCPPA supports the proposed cost burden approach for determining allowance allocations. ARB staff shared its interpretation that cost burden should be based solely on implementation of the Program. **We strongly urge ARB to consider the interactive effect of the Program with other state policies; in particular, the regulations should support efforts to minimize the overall cost impact to utility customers and avoid spikes or unnecessary increases in customer bills.** Only with this holistic approach can the full cost impact of the State's policy goals be evaluated. Such an approach would provide a considerably more realistic view of the actual costs that POUs must pass down to customers as they work toward achieving emissions reduction targets while also addressing complementary policy goals such as electrification and an increasing Renewables Portfolio Standard.

Figure 1 below plots the trajectory for allowance allocations assigned to each SCPPA Member, showing the initial allocations in 2013 and extending out to the proposed 2030 allocations.[1] For some of our Members, the significant decrease between 2020 and 2021 – and even further, the 2020 allocation as compared to 2030 – could potentially have large customer bill impacts when weighed with anticipated cost increases to reflect increasing renewable integration, electrification infrastructure, and a host of other state and federal mandates. **ARB should promptly engage stakeholders in development of a meaningful cost containment mechanism.** As further discussed below, developing a workable modification to allowance allocations that would accommodate increased load due to transportation electrification efforts is a strong example of a programmatic change that could help alleviate the sudden cost impacts felt in 2021.

Figure 1: SCPPA Member Allowances [2013-2030]



Concern with ARB Staff Proposals to Reverse Previous Policy Decisions Recognizing the Differences between Publicly-Owned Utilities and Investor-Owned Utilities. SCPPA and its Members are increasingly concerned with ARB Staff's concerted and multi-pronged efforts to treat POUs and IOUs as a single type of entity. They simply are not. The two utility types are fundamentally different in objectives, resource procurement mix, financial structures, and governance.

[1] This chart is based on allowance allocation data available on ARB's website. 2013-2020 data is drawn from this allowance allocation table, posted in February 2015, while 2021-2030 data is taken from the "2021-2030 EDU Allowance Allocation Spreadsheet" posted on December 21, 2016.

These differences are statutorily directed and were previously acknowledged by ARB when the Program was initially developed. Yet, there has been a consistent theme in this rulemaking process to prescribe uniform policies to these disparate entities.

We recognize the value and importance of having as even a playing field as possible across Program entities. However, treating public utilities the same as investor-owned utilities is not the way to achieve this goal. Just as there are differences in regional generation make-up that define the impact of the regulations on a particular utility and the different objectives amongst the state agencies (e.g., ARB versus CEC), the differences between IOU and POU customers cannot be understated. ARB should acknowledge the differences between POUs and IOUs, and should refrain from pushing POUs to an IOU Cap-and-Trade model. In the past we have noted several important examples of why such a shift is not needed and will cause undo costs and hardships under the Program without achieving any additional environmental benefits. We continue to raise similar points in this letter.

POU Consignment of Allowances. Attachment C in the Cap-and-Trade regulatory package states:

> Staff is also considering ***requiring POUs and co-ops to consign allocated allowances to auction*** and ***requiring that the auction proceeds be used for specific purposes***. Requiring consignment would align the use of allowance value amongst investor-owned EDUs, publicly owned EDU, electrical cooperatives, and natural gas suppliers. Additional proposed amendments would be proposed in a subsequent 15-day regulatory proposal. [emphasis added]

SCPPA and its Members do not agree with the policy approach and reasoning presented in the attachment. We <u>STRONGLY OPPOSE</u> any modifications to the regulations to require POUs to consign allowances to auction. ARB has historically exercised sound reason in its decision to exclude POUs from the requirement to consign allowance allocations to auction, as is required of IOUs; IOUs and POUs are neither structured nor governed the same way. This historic rationale is still valid.

A requirement for POUs to consign all allocated allowances could introduce sizable financial risks and resource needs that cannot reasonably be addressed, would be administratively inefficient, and would disproportionately affect some POUs more than others. Many POUs have limited staff to participate in the resource-intensive auction (carbon market) process, and do not have the infrastructure or financial resources to mitigate against financial exposure in the same way that IOUs can. ARB, in fact, stated in its October 2011 Final Statement of Reasons for the Cap-and-Trade Regulations (FSOR)[2]:

> POUs and IOUs operate differently with respect to electricity generation. POUs generally own and operate generation facilities that they use to provide electricity directly to their end-use customers. **In order to minimize the administrative costs of the program to the POUs, and recognizing that directly allocating the allowances to the POUs does not distort their economic incentive to make cost-effective emissions reductions, we determined that it would be prudent to allow POUs to surrender directly allocated allowances without participating in the auction process.** IOUs, on the other hand, have contracts with electricity generators that do not afford the IOUs the same level of control over the capital investments and operating decisions of the generation facility. We are concerned that the terms of these contracts could be adversely affected by allowing the IOUs to directly surrender allowances on behalf of their counterparties, which could lead to some foregone cost-effective emissions reductions. Instead, by requiring the IOUs to surrender the allowances at auction, the electricity generators will be sure to have a strong incentive to pass their GHG costs back to the IOUs, who will then be able to use their share of the auction revenue to reduce the ratepayer burden in a manner that is consistent with the goals of AB 32. [emphasis added]

[2] See pages 342 and 564 of the October 2011 Final Statement of Reasons for the Cap and Trade Regulations.

As ARB is aware, POUs, including SCPPA's Members, are vertically integrated, meaning that they often own or operate much of their generation and transmission assets that serve customers. In the regulations adopted in 2011, as well as specifically noted in the October 2011 FSOR[3], ARB correctly acknowledged that some POUs would be disproportionately impacted if they were required to participate in the quarterly auction. Because POUs own and operate generation facilities, they have the direct compliance obligation for the assets under the Program. Due to long-term contracts with fossil generation including both coal and natural gas, some POUs, particularly SCPPA Members, would be required to have significant capital available (including transaction costs) to participate in auctions to purchase allowances that would be required for compliance. **If auctions are undersubscribed, as demonstrated in this past year, or oversubscribed, POUs will face substantial financial risks that may impede their ability to meet compliance obligations dues to the financial uncertainties that result.** POUs do not have shareholder funding to fall back on if there are auction challenges. **Any additional cost burdens incurred by POUs to manage the Cap & Trade Program, including mitigating the aforementioned financial risks associated with the consignment requirement (assuming such mitigation measures even reasonably exist), may negatively impact POUs' ratepayers, while achieving no measurable incremental GHG reduction benefits.**

Specified Uses of Allowance Value. In Attachment C and in past meetings, ARB also expressed concern with certain uses of allowance value. SCPPA believes this is an unjustified concern, and that the proposed amendments in Section 95892 provide sufficient direction on how POUs may use allowance proceeds. ARB acknowledged at the beginning of the program that it "does not have authority to appropriate funds. The use of revenue obtained from consignment of allowances is the responsibility of the California Public Utilities Commission (CPUC) for investor-owned utilities and the governing Boards of publicly owned utilities."[4] **SCPPA concurs that such decisions are fully under the authority of a POU's local governing board, and are not decisions to be made by ARB.** The current regulations appropriately acknowledge this authority, and that any attempt to circumvent ARB's limited authority would be unlawful. SCPPA is willing to work with ARB after this current rulemaking is completed to see if there is common ground that can be found on this potential staff concern. However, ARB should consider offering additional clarification in the Final Statement of Reasons on what is meant by "non-volumetric" use of allowance value; though, any such clarification should not identify specific uses.

50% RPS Assumption within the Allocation Methodology. The proposed allowance allocation methodology assumes a straight-line path to a 50% RPS by 2030. While we appreciate the modifications to better align the Cap-and-Trade Program with the RPS Program (*i.e.*, adoption of a retail sales-based approach), this is one assumption that does not adequately acknowledge the CEC's RPS Program construct. **It is imperative ARB recognize that a 50% RPS does not directly translate to a utility having 50% of its portfolio comprised of zero-emitting resources; ARB should adopt modifications that reflect this reality. The current proposed methodology creates unnecessary additional reductions in allowance allocations.** We strongly encourage ARB to consider the nuances of the RPS Program that base utilities' RPS targets on their historical contractual obligations and ability to procure unbundled Renewable Energy Credits (RECs). The CEC's RPS Program permits utilities to account for up to 10% of their RPS obligation using these unbundled RECs, which allow for purchasing the renewable attributes of a renewable source without necessarily delivering that resource to customers. Ultimately, ARB should ensure that any RPS assumptions adopted for calculating allocations do not require utilities to exceed the currently in-effect state mandates.

Transportation Electrification. We welcome staff's continued recognition of the need and commitment to assess potential modifications to EDU allocations to reflect increased emissions from the State's efforts to electrify the vast swaths of the California economy, starting with the transportation sector.[5] Staff notes the importance of "ensur[ing] any method used to calculate any allocation for increased electrification is as accurate and verifiable as the methods used to allocate for industrial sectors for product-based allocation." **While we agree that having "accurate and verifiable" data is important, this must be balanced with practical implementation constraints.** It is critical to consider limitations on the availability of data and recognize the expected and real cost burdens that will be faced by electric utilities in collecting,

[3] See pages 578-579 and 580-581 of the October 2011 Final State of Reasons for the Cap-and-Trade Regulations.
[4] See pages 65-66 of the October 2011 Final Statement of Reasons for the Cap-and-Trade Regulations.
[5] As noted on page 4 of *Attachment C: 2021-2030 Allowance Allocation to Electrical Distribution Utilities*, released with the Cap-and-Trade regulatory package on December 21, 2016.

managing, and submitting reports on such data. The timeframes in which various solutions could be implemented must also be considered. **We encourage ARB staff to engage with stakeholders and other agency staff (in particular, those at the CEC) to identify possible solutions in an expedited manner.**

Industrial Allocation Shift. SCPPA and its Members oppose ARB's proposal to shift industrial electric allocation value away from POUs and to a direct allocation methodology. This policy proposal is another example of ARB staff's attempts to push POUs into an IOU regulatory/policy model. Similar to the suggested future requirement that POUs consign their allowances, this proposal is problematic from both a policy and implementation perspective. SCPPA has repeatedly stated this position since the idea was first presented by staff. We have consistently maintained that position in all subsequent comments. The staff proposal, critiqued below, has been presented without a complete analysis or justification.

> This change will encourage pass through of program costs to industrial entities, thus incentivizing them to reduce emissions, while direct allocation will provide emissions leakage prevention in line with existing industrial allocation policy. This change will also remove the potential inequity between IOU-customer industrial covered entities, which already see a GHG cost and receive distribution of IOU auction proceeds to prevent against emissions leakage, and POU-customer industrial covered entities that may not be protected from emissions leakage.[6]

The inequity cited by staff is not valid for the vast majority of POUs. The generic language neglects to discuss the impacts on EDUs that serve significant industrial loads. SCPPA believes that in fact, the change will pass additional costs through to all industrial entities; and it will also result in costs being passed on to other POU customers. **This shift will have a disproportionately high impact on EDUs who have significant amounts of industrial customers in their service areas, and will complicate local ratemaking (which should not be underestimated).** For POUs with sizable industrial load, the dramatic and additive reduction in POU allowance allocations will result in a distinctly contradictory effect as compared to ARB's intended use of allowance allocations.

Placing "emissions leakage prevention in line with existing industrial allocation policy" at a time when material reductions are occurring in industrial allocations is counter-intuitive to the goals being presented. This policy proposal has not been supported by staff analysis, and will create loses for both the utility and its industrial customers, regardless of size. **EDUs will lose allocation flexibility and revenue which has historically been used to protect the very industries that this policy is stated to help. As a result, the industrial entities in POU service territories will not only see a significant price increase in their particular rates, but will also see dramatically decreased allocations from which to draw a counter benefit.** The critical points about this proposed structure are summarized as:

1. The allowances provided to industry to cover purchased electricity carbon costs will be significantly less than the allocation that is currently provided to EDUs to cover the carbon obligations for that electricity;
2. The staff proposal exchanges one potential inequity (IOU versus POU customers) for two known inequalities:
   a. Regional GHG emissions profile — The benchmarking allocation methodology will create geographic winners and losers, something that has been sought to be avoided in previous benchmarking efforts. Namely, industrial customers served by EDUs with higher-emitting portfolios (typically located in Southern California where water resources are scarce and coal plant retirements are forthcoming) may see a more pronounced impact from this policy;
   b. Differing electrical rate impacts depending on an industrial facility's size — Compliance entities will feel a different price of carbon than those not large enough to be in the program.

Any staff policy concerns that exist regarding unequal treatment of industrial entities in IOU versus POU service areas should be discussed in detail, including estimated differential cost impacts, with all relevant parties. ARB should not take action until such discussion has occurred, and a number of solutions have been publically evaluated. When coupled with

---

[6] *Ibid.*

the consignment proposal, the industrial allocation shift creates a potential double hit to POUs that has not been evaluated by ARB staff. Neither POUs nor industrial entities have sufficient information to fully analyze the extent of the compounded impacts that could realize as a result of this policy change.

RPS Adjustment. SCPPA thanks staff for its acknowledgement of concerns previously raised by utilities with respect to the RPS Adjustment. The decision to maintain the provision is a critical one for SCPPA Members as it safeguards against undue cost exposure and helps align the Program with other state energy policies and goals that are helping California achieve overarching climate change goals.

Nonetheless, SCPPA continues to have concerns with the treatment of directly delivered resources in light of staff's unease over potential double-counting issues related to the misreporting of "null" power. SCPPA believes that a workable solution exists and has collaborated with the Joint Utility Group ("JUG") to develop comments submitted on this matter. We look forward to continuing discussions with ARB Staff and other members of the JUG.

Reporting Requirements. SCPPA agrees that ARB's addition of Section 95803 Submittal of Required Information will help streamline required data submissions via allowing for electronic submission. We concur that this change will facilitate timely interaction amongst reporting entities and ARB staff. It could also potentially reduce administrative costs and burden for both sides of the reporting process, which we fully support.

However, with respect to Section 95803(b), the default reporting response time of 10 calendar days is problematic. **Given the uncertainty of what future requests may entail, and the nature of assuring quality data submissions, we recommend that ARB lengthen the default reporting timeline to <u>at least 30 calendar days</u>.** Many reporting entities are increasingly resource-constrained; extending the default timeline will better support entities' ability to comply with the regulation while still ensuring that "good faith" efforts are made in a prudent fashion.

Reporting can often be an iterative process, requiring communication between the reporting entities and ARB staff to clarify what is needed for compliance. To this end, we also recommend that ARB staff consider adding language into the regulation that acknowledges the need for flexibility in such instances. The language could, alternatively, be added into the Final Statement of Reasons to express staff's intent without a specific regulatory provision.

Furthermore, we recommend that ARB staff evaluate various reports/data points to determine whether further consolidation is feasible; any efforts to reduce the amount of reporting – or align timelines for report submissions, where possible -- would help minimize administrative burden and implementation costs for both ARB staff and reporting entities.

Federal Clean Power Plan Requirements. The draft regulations include a number of provisions related to the implementation of California's plan for complying with the Federal Clean Power Plan. We note that, in some sections, the regulation clarifies that the provisions are only applicable if the U.S. Environmental Protection Agency approves California's compliance plan. In others, ARB staff limits the applicability of the section to having federal approval of the Clean Power Plan *by a date certain*. For example, changes to the Program compliance periods would only apply if the CPP is adopted by January 2019. **For consistency, and to ease future amendments to the regulation, we recommend that ARB align all provisions linked to CPP implementation with a date-certain approach.**

In addition, all compliance deadlines included in the MRR or in CPP-related changes to the Cap-and-Trade Program should be similarly timed. This will help streamline reporting requirements and align evaluation processes. Until the CPP is in full force and California's CPP compliance plan has been approved by U.S. EPA, ARB should ensure that compliance with the Cap-and-Trade Program (as modified after the adoption of this regulatory package) does not require entities with compliance obligations to spend additional funding on meeting provisions that solely address CPP implementation.

PROPOSED REVISIONS TO THE MANDATORY REPORTING REGULATIONS

Changes to Meter Data Requirements and the "Lesser of" Analysis. The proposed revisions to the MRR would remove the exclusion from conducting a "lesser of" analysis for grandfathered RPS contracts, dynamically tagged power deliveries, and untagged power deliveries, including EIM imports. ***This is a considerable shift from existing policy that will have unjustifiably large administrative impacts and, in some cases, prove extremely cost ineffective or infeasible to implement.***

As SCPPA and its Members participated in lengthy discussions with ARB staff to support our position on this issue years ago, we raise the below points that we shared with ARB staff in January of 2014, which still hold true today:

1. The hourly data comparison would be unduly burdensome -- especially for reporting entities with limited staff resources, and provide little value added.
2. Preparing and aligning hourly generation and schedule data for comparison is a manual process and as such would be prone to human error. Preparing the data is complicated and entails selecting only the contract-related e-tags from the database, aggregating hourly data from multiple e-tags, adjusting for time zone differences and adjusting the generating facility meter data to account for hours when one or more participants do not schedule their full share of the generation from jointly owned facilities. Each case is unique; there is no one-size-fits-all methodology and there currently is no commercially available software application that can automate this process.
3. Hourly meter data may not be available, particularly for "grandfathered" resources, day-ahead, or real-time transactions.
4. A "lesser of" the hourly generation or schedule data requirement will tend to incentivize over-scheduling of certain resources, tying up valuable transmission capacity and increasing costs to California ratepayers.
5. A "lesser of" the hourly generation or schedule data requirement can interfere with contractual terms, as the requirement implies that procuring parties may not get the full resource benefits for which they have contracted.
6. A "lesser of" the hourly generation or schedule data requirement will result in erroneous values for a specified resource that is jointly owned or contracted for due to accounting for fractional shares.
7. A "lesser of" the hourly generation or schedule data requirement is inconsistent with the methodology OATI will use to generate entity-level reports for ARB for independent verification purposes.
8. It does not appear that using "substitute" power in the manner in which ARB staff indicates is consistent with the definition of "substitute" power in the regulations, nor allowed by the Cap-and-Trade Regulation.

We appreciate staff's statement that it "needs additional information from stakeholders to understand potential data implications,"[7] and agree that there are several factors that must be considered before making adjustments to the existing provisions. Despite the clarification on the possibility for changes to the proposed language, **SCPPA opposes the modifications presented in Section 95111(b)(2)(E) and strongly recommends that ARB engage all interested stakeholders in a discussion on this issue to improve understanding of the concerns shared by stakeholders and the potential downsides of implementing the regulations as proposed.** As we note above, 15-day language is not intended to be a vehicle for **substantial** policy shifts, such as the modifications presented in this section.

Earlier Verification Deadline. As previously raised in written and oral testimony by a significant number of stakeholders, including SCPPA and its Members, **the proposed one month shift of the verification deadline from September 1 to August 1 will severely hamper reporting entities ability to comply with the regulation**. This does not allow for sufficient time to review data from the (limited pool of) GHG verifiers before submitting it to ARB. While ARB notes that it may revisit the proposed modifications in 2017, SCPPA believes that the change should be considered as early as possible, particularly given the strong opposition from stakeholders across-the-board during the September 19 Air Resources Board Meeting and the subsequent direction from ARB Chairman Mary Nichols, acknowledged by Executive

[7] As provided on page 4 of the notice of availability and summary of changes for the Mandatory Reporting of Greenhouse Gas Emissions.

Director Richard Corey, to adopt a compromise position.[8] **We recommend that staff modify the proposal to a "halfway point" date of an August 15 deadline, if not maintain the currently effective September 1 date.** If this issue is deferred to a subsequent workshop, SCPPA will continue to engage in discussions on this issue as they occur via ARB's public processes, but strongly opposes a switch to August 1st. We are interested in identifying solutions that address ARB staff constraints as well; one such approach that has been shared in the past could be a modification of the deadlines to incorporate phases for submission of verification reports from different entities.

Definitions for "Imported Electricity" and "First Point of Receipt." As staff surely will be making edits to the regulation for clarity and to correct typographical errors, we note that some clean-up is needed on the definitions for "imported electricity" and "first point of receipt". SCPPA may offer specific comments on the content once updated language is provided in future iterations of the draft regulation. To avoid regulatory overlap, the language selected to address "imported electricity" and the practical application of this term throughout the regulations and Program implementation should allow for interstate commerce and utility flexibility.

PROPOSED GREENHOUSE GAS ACCOUNTING AND REPORTING METHODOLOGY FOR THE CAISO ENERGY IMBALANCE MARKET

As part of the Cap-and-Trade Program and MRR draft regulations, ARB proposes an interim methodology to account for GHG emissions from the California Independent System Operator's (CAISO) Energy Imbalance Market (EIM). ARB's proposal is intended to address its concern with inaccurate accounting of emissions attributable to "secondary dispatches" that happen as a result of "primary dispatches" to serve California load. Notably, CAISO is working on a longer-term solution to address this. CAISO efforts have garnered a significant amount of stakeholder support and would adequately address ARB's concerns. While the CAISO solution cannot be implemented immediately, CAISO staff has recently estimated that it will be available as early as the end of 2018. CAISO is expected to release its draft final straw proposal this month to address its long-term solution and discuss the merits of an interim bridge solution as a result of stakeholder comments submitted last December. **We urge ARB to participate directly in CAISO's public stakeholder process and in the determination of a solution that reduces uncertainties impacting future EIM participation.**

It seems premature to enact regulations that establish an interim methodology to address this issue, given the timing of CAISO's work and the fact that the EIM is still in its infancy. As the EIM is still a relatively new construct in energy markets, the true extent of the possible GHG emissions underreporting is unknown. In fact, ARBs preliminary analysis points to an extremely small underreporting – less than 0.1% of the overall program emissions.

The methodology being used seems to be inherently inaccurate and has the potential to significantly overestimate the GHG emissions associated with EIM transfers. The proposed reporting mechanism assumes that emissions from EIM transfers must equal the emissions that would have resulted if all transfers were considered as unspecified emissions. However, CAISO's analysis actually shows that EIM helps reduce grid-wide carbon emissions by facilitating efficient dispatch of renewable resources in support of clean energy policies while enhancing grid resiliency.

Before assigning a compliance obligation under the Cap-and-Trade Program, ARB should at least consider whether the applied unspecified emissions factor appropriately reflects the resource mix for units participating in the EIM, both for those opting to be deemed delivered to California and those in the overall EIM program. These are the only resources that would be available for imports into California or as secondary dispatch due to the EIM algorithm, and it is unlikely that the emission rate of generation controlled by these EIM entities exactly mirrors the emission rate of the entire western electric grid. To reflect improvements in this rate caused by expansion of the EIM, it should be regularly updated. Moreover, ARB should work with CAISO to fully evaluate the impacts of requiring EIM Participating Resource Scheduling Coordinators to report EIM transfers, as this could have an impact on future EIM participation.

[8] As described in the transcript, pages 188-189, from the September 22, 2016 Air Resources Board meeting. https://www.arb.ca.gov/board/mt/2016/mt092216.pdf

Further consideration is needed to determine the effects of the proposal on allowance supply and pricing. ARB proposes to account for the "outstanding EIM GHG emissions" by retiring unsold allowances in the auction account. If this approach is an interim solution, offhand, it appears that the auction account would not be depleted; however, retirement of allowances may raise the price of allowances as the supply diminishes and will reduce the number of allowances that would have gone to the Allowance Price Containment Reserve. ARB has not provided information on how this proposal would impact allowance supply and prices and the proposal leaves substantial uncertainty regarding what would occur if there are insufficient unsold allowances to cover the calculated outstanding EIM GHG emissions.

CONCLUSION

Thank you for your time over the past year. SCPPA and our Members continue to seek forward progress on a variety of issues that have been raised over these months, but still remain unfinished as of this rulemaking package. We remain ready to constructively meet with ARB Staff and other agencies to work towards mutually agreeable solutions that best advance the State's climate change goals in an affordable manner for California ratepayers.

Respectfully submitted,

Tanya DeRivi
Tanya DeRivi
Director of Government Affairs

Sarah M. Taheri
Sarah Taheri
Energy Analyst, Government Affairs