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Submitted electronically

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Rajinder Sahota
Branch Chief, Cap-and-Trade Program
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: *Comments of the **Northern California Power Agency** on October 21 Workshop*

Dear Rajinder:

The Northern California Power Agency[1] (NCPA) appreciates the opportunity to provide these comments to the California Air Resources Board (CARB) staff on the October 21 Mandatory GHG Reporting and Cap-and-Trade Program Workshop (October 21 Workshop) related to the August 2, 2016 Proposed Amendments to the Cap-and-Trade Program Regulation (Proposed Amendments). In these comments, NCPA responds to the October 14, 2016 *Post-2020 Allocation to Electrical Distribution Utilities Informal Staff Proposal* (Staff Proposal), and to issues raised during the October 21 Workshop and in staff's Workshop Presentation. While the focus of these comments is limited to the October 21 workshop and informal allocation proposal, many of the concerns raised in the context of NCPA's written comments on the Proposed Amendments[2] are relevant to these discussions and remain outstanding. NCPA does not reiterate those comments herein, but urges staff to continue to work with stakeholders on resolution of those matters.

NCPA supports continuation of the Cap-and-Trade program (Program) and believes that it should remain a cornerstone of California's climate strategy. The program ensures state-wide

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[1] NCPA is a nonprofit California joint powers agency established in 1968 to construct and operate renewable and low-emitting generating facilities and assist in meeting the wholesale energy needs of its 15 members: the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, Plumas-Sierra Rural Electric Cooperative, Port of Oakland, San Francisco Bay Area Rapid Transit (BART), and Truckee Donner Public Utility District—collectively serving nearly 700,000 electric consumers in Central and Northern California.

[2] Comments of the Northern California Power Agency on Proposed Amendments to the Cap-and-Trade Program Regulation, September 19, 2016; https://www.arb.ca.gov/lists/com-attach/89-capandtrade16-BWtdOFAhUWMLUgdk.pdf.

emissions reductions without the imposition of additional source-specific mandates and measures, enabling compliance entities to plan and meet emissions reduction targets in the most cost-effective manner. The cap-and-trade program also provides a sound basis for transitioning the state into compliance with the Environmental Protection Agency's Clean Power Plan without requiring the promulgation of extensive new mandates. Despite this, the program has faced a great deal of criticism for what some believe it fails to do.

Discussions during the October 21 workshop covered a range of issues affecting compliance entities and the Program, but were largely shaped by a single common theme; the need for programmatic changes to address perceived shortcomings in the Program's efficacy or expectations associated with the direction set forth in Assembly Bill 197. NCPA has significant concerns about the influence of these expectations on proposals to modify the Program structure and allocation of allowances to electrical distribution utilities (EDUs), as they greatly increase the compliance burden for covered entities. Recent reports have highlighted the very real concerns raised by environmental justice community advocates regarding the need to ensure that the State's climate policies lead to real emissions reductions in the most impacted communities. NCPA is supportive of the state's efforts to further reduce criteria and other pollutants from source through direct measures that are technologically and economically feasible. Those efforts, however, should not be used as a basis to supplant or alter the existing framework and design features of the cap-and-trade program. Indeed, the cap-and-trade program provides billions of dollars for programs and measures that reduce climate change and associated impacts; a significant portion of which are designated directly to low-income and disadvantaged communities.[3]

The concerns identified in the September 2016 Preliminary Environmental Equity Assessment of California's Cap-and-Trade Program[4] can and should be addressed; however, the study – by its own admission – reflects a *preliminary analysis* based on a limited data set viewed over a short time period. As the study concludes, "[f]urther research is needed before firm policy conclusions can be drawn from this preliminary analysis. As regulated industries adapt to future reductions in the emissions cap, California is likely to see more reductions in localized GHG and co-pollutant emissions."[5] Therefore, the results cannot – and should not – form the basis for programmatic changes without more informed assessment, including analyses of the cost and other implications that are also relevant. One such factor is the impact that more direct regulation will have on the price of electricity for all Californians, including those in the very communities mentioned in the study.

The cap-and-trade program has been demonstrated to play a vital role in reducing the state's emission. Further, it does so in a manner that allows compliance entities to minimize the costs impacts of meeting aggressive emissions reduction targets. For entities like NCPA's member agencies that provide electricity to California's residents and businesses, this has a direct bearing on the price of electricity those customers pay. NCPA strongly cautions against programmatic

[3] https://arb.ca.gov/cc/capandtrade/auctionproceeds/cci_annual_report_2016_final.pdf

[4] Preliminary Environmental Equity Assessment of California's Cap-and-Trade Program (Preliminary Assessment), September 2016, http://dornsife.usc.edu/assets/sites/242/docs/Climate_Equity_Brief_CA_Cap_and_Trade_Sept2016_FINAL2.pdf

[5] Preliminary Assessment, p. 10

changes like those discussed during the October 21 workshop that will result in greater compliance costs for EDUs and increased electricity prices across the state.

2021-2030 Allocation to Electrical Distribution Utilities

Allocation of allowances to EDUs provides direct mitigation to California's residents and businesses by helping to offset the electricity rate increases resulting from GHG-reducing programs and measures. California's utilities are subject to numerous mandates as part of the State's comprehensive climate policy objectives, each of which impacts the price of electricity that customers must pay. This mitigation of the adverse rate impacts on California's residential and commercial electricity customers is of paramount importance in the post-2020 program, as the tightening cap and increasing mandates put upward pressure on compliance costs and electricity prices.

In the October 14 Staff Proposal and during the October 21 workshop, staff outlined its proposal for post-2020 allocation of allowances to EDUs. Staff noted that the proposal is based on "cost burden," which is defined as the "anticipated incremental cost of power to serve load due to the requirement to surrender compliance instruments in the Cap-and-Trade Program." While similar to the methodology used for the 2013-2020 allocation, the October 14 proposal differs in several material respects, and most notably on the extent to which it provides meaningful mitigation to the EDUs on behalf of their electricity customers. The allowance allocation proposal is concerning because of the substantial decrease in mitigation provided post-2020, and in particular, the significant difference between the 2020 allocation and proposed 2021 allocation and steep reductions in allocations through to 2030.

Since release of the proposal, NCPA has worked with staff and other utilities to clarify the assumptions and data used therein. NCPA will continue to work towards ensuring that the data accurately reflects each EDU's load profile and associated factors designated in staff's characterization of the cost burden, and correct inadvertent errors or miscalculations. In the meantime, NCPA offers these perspectives based on the information available so far, but looks forward to continuing to work with staff and other stakeholders on refinement of the proposal in advance of the release of 15-day changes. However, even as those specific inputs are refined, NCPA remains concerned with the overall characterization of the allocation methodology and the significant extent to which the proposal reduces the mitigation available for electricity customers.

As proposed, the allowances allocated to EDUs in 2021 reflects a significant drop from the 2020 allocation, yet corresponds with a tightening emissions cap. This reflects an approximately 65% reduction from 2021-2030 for EDUs whereas the overall cap decrease is aimed at meeting a 40% reduction mandate. The constricted allocation is compounded by application of both the 50% renewable portfolio standard (RPS) mandate and an aggressive cap decline factor over the course of the allocation period. NCPA recommends that the interaction between application of the increasing renewable mandate and corresponding cap decline factor be further assessed, and adjusted to alleviate the steep trajectory.

Accounting for Load Growth v. Fixed Allocation: The staff proposal includes two different options for determining the load used to base each EDU's allocation. The first option would account for load changes over time as estimated in the CEC demand forecast or S-2s. The

alternative is to apply a static number with loads fixed for 2021-2030 at the level estimated for 2020 in the demand forecast or S-2s. Allocation of allowances should cover the EDUs' cost burden, and should do so over the course of the program. Electricity usage will vary across utilities, but transportation of the transportation of the transportation and other sectors of the economy to lower emissions puts increase demand on electricity generation as a cleaner fuel source. Even accounting for increases in energy efficiency and other load-reduction options, California's economy is expected to grow, and that growth will directly impact the load EDU's will be serving in the future. Since some utilities anticipate more varied load growth than others, EDUs should be able to designate which option best meets their anticipated – and yet unknown – load growth.

RPS Adjustment: The RPS Adjustment is an important tool that helps mitigate compliance costs, recognizes EDU investments in renewable energy, and aligns the common objective of the cap-and-trade and RPS programs. NCPA appreciates staff's recognition that the previous proposal to eliminate the RPS adjustment and allocate allowances to compensate for renewable energy that cannot be directly delivered into California would have resulted in substantial harm to many EDUs. Staff's revised proposal to continue the RPS adjustment post-2020 addresses many of the concerns raised by stakeholders in their September 19 written comments and during the September 22 Board meeting. However, as staff noted during the October 21 workshop, there are still concerns with the way RPS adjustment claims are being report and credited which must be resolved. NCPA looks forward to working with CARB staff on the necessary clarifications and guidance to support accurate reporting of RPS-eligible resources and ensure that those entities that paid a premium for the renewable energy credit (REC) associated with the imported electricity are able to claim the RPS adjustment, including refining and modifying current proposed changed to the Program and MRR that would remove requirements to report and verify RECs. Amendments to the cap-and-trade program and MRR must continue to recognize the significance of RECs as a fundamental element.

Transportation Electrification: Electrification of the transportation sector is a critical component of the state's GHG reduction strategy. Transformation of the transportation sector is occurring right now and increased electrification has a direct impact on the EDUs. While this impact is readily acknowledged, staff's proposal does not allocate any allowances to the EDUs to mitigate the cost impacts of increased electrification on electricity customers. NCPA appreciates staff's commitment to continuing to work with stakeholders and the energy agencies on addressing the impacts that transportation electrification will have on EDUs, and urges the agency to make this a priority issue. Comprehensive and coordinated discussions and very important, as is recognition of the immediate impacts on EDUs as part of the current rulemaking.

RPS Program Mandate: The proposal includes a component linked to the EDUs' requirement to meet the state's RPS Program mandates; state law requires retail sellers to procure eligible renewable resources equal to 33% of their retail sales by December 31, 2020 and 50% of retail sales by December 31, 2030.[6] As part of the cost burden calculation, staff's proposal states that the RPS mandate will be applied to "load," whereas the statute provides that the RPS mandate applies to retail sales. Application of the 33%-50% RPS mandate to total load rather than retail sales can overstate the amount of zero-emissions resources in the EDU's

[6] Public Utilities Code Sections 399.15, 399.30.

portfolio, further reducing the total number of allowances allocated. The calculation used in staff's proposal should be corrected to properly reflect that the EDU's RPS obligation is based on retail sales and not on a retail seller's total load.

Reduction for Industrial Covered Entities' Purchased Electricity: NCPA shares the concerns expressed by other stakeholders regarding staff's proposal to reduce allowances allocated to EDUs to reflect the purchased electricity of industrial covered entities. Doing so complicates the manner in which EDUs – and POUs in particular – return allowance value to customers. It creates the potential for reducing the ultimate benefit to customers that are *not* covered entities because covered entities may still be benefit from various programs and measures funded by allowance proceeds. Likewise, the covered industrial customers that received a direct allocation are likely to receive a "double benefit." As noted in NCPA's September 19 comments, this proposal impacts ratemaking and program design, and should not be adopted.

Early Action in the Context of Decreasing Cap: In characterizing the differences between the 2013-2020 allocation and the current proposal, staff noted that early actions are not recognized post-2020 because those credits were intended to recognize actions taken prior to initiation of the new program (what is now the current program). This rationale, however, is flawed to the extent that the concept of early actions does not look at costs associated with EDU reductions that go beyond the current program *and* the fact that the post-2020 cap-and-trade program is not merely a continuation of the current program, but one that includes a significant reduction in the total emissions cap. As such, it is entirely appropriate for allowances to be allocated to the EDUs based on costs associated with actions taken to reduce emissions *beyond the current mandate*. To do otherwise will disincentive compliance entities from taking such actions in the future as they question the benefit of doing so considering the potential for ever-changing reduction mandates. And while it is true that actions that result in EDU emissions reductions ultimately reduce the EDU's cap-and-trade compliance costs, those other programs and measures are often costlier overall than cap-and-trade program compliance instruments. Staff is strongly urged to review the stakeholder comments on the definition of "cost burden" and ensure that allowance allocations properly recognize the role that the EDUs play in California's climate reduction strategy.

AB 197 & Post-2020 Cap-and-Trade Program Design

During the October 21 workshop, Staff discussed the need for potential changes to the Program to address new requirements mandated by AB 197 and in response to stakeholder comments about the efficacy of the current Program design features. First and foremost, as staff acknowledged, AB 197 *does not* mandate that any changes be made to the cap-and-trade program. Despite this, however, staff is considering changes, including reducing the ability of compliance entities to use offset credits, adjusting allocation of allowances to industrial covered entities, and retiring unsold state-owned allowances making them unavailable for compliance entities in the later years of the program. Each of the proposals has the same result: increasing cap-and-trade program compliance costs. For NCPA's members, this means increased electricity prices. NCPA does not believe that any of these changes are warranted, nor justifiable at this time. The cap-and-trade program is part of a comprehensive suite of programs and measures designed to meet the state's climate change objectives. It is does not take the place of some

facility-level measures, nor is it designed to meet the same objectives as those measures. Rather, it complements the state's other emissions reductions programs by filling a gap between no-regulation and onerous site-specific mandates; it does so while providing a way for entities to achieve mandated reductions in the most cost effective manner. The result is a statewide reduction in GHG emissions and mitigated cost impacts on California's consumers, residents, and businesses. It is within the this construct that any programmatic changes should be viewed.

Of greatest concern to NCPA is the proposal to retire state-owned allowances that are not sold in the auction before 2020. Doing so will significantly constrict the availability of compliance instruments leading into a time when they will be needed the most. It is incorrect to view these allowances as "excess" instruments or otherwise unnecessary based on the low volume of activity in recent auctions. As noted by NCPA and several other stakeholders in the September 19 comments, uncertainties regarding the cap-and-trade program, current market conditions, and myriad other factors are impacting the price and volume of allowances sold in the auction. Due to these uncertainties, the current market should be not viewed as an indication of the extent to which the allowances will be needed to meet the stricter reduction mandate moving forward. Constricting the availability of allowances will not necessarily result in more immediate reductions.

There is no evidence to support the correlation that fewer allowances in the market will result in the sought-after facility-level reductions the change is aimed at effecting. Instead, it will merely drive up the price of allowances and the price of program compliance. Furthermore, economic modeling indicates that achieving the 2030 cap will be a challenge for compliance entities, making the availability of compliance instruments in future years even more important in controlling program costs. The availability of unsold allowances is recognition that entities are achieving reductions under the current program, but should not be taken as an indication that the current trajectory of reductions can be maintained in the context of the 2030 (and beyond) more stringent emission reduction targets.

Market Data Transparency

A great deal of information regarding the cap-and-trade program auctions and markets is made publicly available by CARB. Stakeholders, regulators, and the public have varying interests in reviewing data about market participants, compliance entities' holdings and transactions, and auction results. The release of more information must be carefully considered to ensure that disclosure is narrowly tailored to address a specific and necessary need and does not jeopardize the market position of participants or compromise compliance strategies of those required to buy, sell, and surrender compliance instruments. During the 2013 rulemaking to amend the regulation, there was extensive discussion regarding market oversight and monitoring, and data disclosure. The culmination of several workshops, proposals, and rounds of comments is reflected in the data that is current made publicly available. Amendments to the Program were adopted that reflect a balance between the need for CARB oversight, the public's right-to-know, and protecting market participants.

NCPA does not believe that the release of more detailed information regarding compliance entities' market transactions is necessary; indeed, it is ill advised. The release of facility-level data does not provide additional benefits for market oversight or create greater market efficiencies. It does, however, provide insights into allowance procurement strategies utilized by

compliance entities, leaving those entities at risk of being gamed based on the information learned by third parties. Even when provided in an aggregated format, it creates the potential for market manipulation. There is already sufficient publicly available information to ensure that the market is functioning properly and to verify that entities are complying with the program mandates. Information on an entity's compliance with the Program is already released in Annual Compliance Reports. Information on GHG emissions by reporting entity is also reported and published annually. Likewise, quarterly auction reports, publication of allowance allocations, and summaries of allowance transfers are also publicly available. Cumulatively, this data provides considerable insight into the availability of compliance instruments versus compliance obligations. Any additional "transparency" would not further the objective of ensuing that the market is functioning properly or that participants are complying with all applicable rules. Rather, its sole purpose would be to allow monitoring of entity-specific compliance strategies. Information relevant to an entity's emission reduction strategy is not market-related data; CARB should not release this additional entity-specific data in any metric.

Emissions Accounting in the Energy Imbalance Market:

No stakeholder disputes the importance of accurately accounting for GHG emission under the cap-and-trade program, including emissions associated with transactions in the ISO Energy Imbalance Market. It is equally important to ensure that attribution of emissions that will result in a compliance obligation not result in increased electricity cost or otherwise alter the efficacy of the EIM. Staff is seeking input from stakeholders on potential options that will be incorporated into the cap-and-trade program amendments to address this accounting concern. At the same time, the ISO is assessing options to address this issue as part of its review of GHG compliance in the context of the regional grid integration assessment. On October 13, the ISO presented an update of its Regional Grid Integration – GHG Compliance Initiative that set forth the options under consideration.[7]

During the October 21 workshop, staff highlight two options it is currently reviewing. Staff's "incremental deeming option" is the same as Option 2 presented at the ISO October 13 technical workshop. Staff's second option, the "dynamic hurdle rate option," is a modification of the ISO Option 3. Neither option fully addresses the problem identified by CARB nor the concerns raised by stakeholders regarding the attribution of the GHG compliance obligations or impacts on the functionality of the EIM. Further, as NCPA noted in comments to the ISO,[8] there are several questions regarding the ISO's proposed options that must be addressed before moving forward; including how the GHG accounting proposals will protect against the potential for discriminatory treatment between in-state and out-of-state generators that could result in disadvantaging lower-emitting generators in the EIM.

[7] ISO Technical Workshop on Regional Integration California Greenhouse Gas Compliance, October 13, 2016; http://www.caiso.com/Documents/UpdatedAgenda-Presentation-RegionalIntegrationCaliforniaGreenhouseGasCompliance-TechnicalWorkshop.pdf

[8] Comments of Northern California Power Agency Regional GHG Compliance October 13 Technical Workshop, October 27, 2016; http://www.caiso.com/Documents/NCPAComments-RegionalIntegrationCaliforniaGreenhouseGasCompliance-TechnicalWorkshop.pdf

While resolution of this issue will require a solution coordinated between CARB and the ISO, both agencies are currently engaged in separate processes; CARB is working on proposed 15-day changes to the Cap-and-Trade Program Regulation and the ISO is developing GHG Compliance options for a potential regional market. Further compounding uncertainties regarding resolution of this matter is the fact that CARB is considering options not entirely aligned with the options being considered by the ISO. This creates significant challenges for stakeholders in providing meaningful feedback. NCPA urges CARB to address resolution of this issue in a single, coordinated tranche with the ISO. Once a viable solution has been determined as part of the coordinated process, each entity can then take the necessary steps to incorporate the proposal into their respective proceedings for final approval and implementation.

Conclusion

The Cap-and-Trade Program has played a critical role in success of California's climate change objectives and should continue. Compliance entities are successfully reducing emissions.[9] The important contribution that EDUs make to emissions reductions and the corresponding cost burdens should also continue to be recognized through meaning allocation of allowances to EDUs for the benefit of their electricity customers. Staff should to continue to work with the EDUs and other affected stakeholders to ensure that the allocation of allowances fully captures the EDUs' cost burden and provides the maximin mitigation to California's electricity customers. NCPA looks forward to this continued collaboration and development of a revised allocation proposal for 15-day changes. Please do not hesitate to contact the undersigned or Scott Tomashefsky at 916-781-4291 or scott.tomashefsky@ncpa.com if you have any questions regarding these comments.

Sincerely,

LAW OFFICES OF SUSIE BERLIN
Attorneys for the **Northern California Power Agency**

[9] https://www.arb.ca.gov/newsrel/newsrelease.php?id=872