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*Submitted electronically*

June 21, 2024

Ms. Rajinder Sahota
Deputy Executive Officer - Climate Change & Research
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: ***Northern California Power Agency Comments on May 31 Cap-and-Trade Workshop***

Dear Ms. Sahota:

The purpose of these comments is to provide the California Air Resources Board (CARB) information and feedback on the specific questions raised during the May 31, 2024, Cap-and-Trade Program Workshop. Specifically, the Northern California Power Agency (NCPA)[1] appreciates the opportunity to provide these comments on behalf of the electricity customers of the NCPA member agencies, and which focus on the importance of allocating Cap-and-Trade Program allowances for the benefit of electricity customers. [2] NCPA is also a signatory to the Joint Utilities Group (JUG) Comments on the Workshop (JUG June 21 Comments), and supports the positions and concerns set forth therein, including the proposal for 2025-2030 electrical distribution utility (EDU) allowance allocation based on the Senate Bill (SB) 100 renewable portfolio mandate effective rate and 2015 Integrated Energy Policy Report (IEPR) demand forecast.

## I. Introduction

Since its inception, the Cap-and-Trade Program has included a provision that allocates allowances to electrical distribution utilities (EDUs) for the benefit of their electricity customers.[3] The purpose of the allocation is to address the costs of Program compliance,

1 NCPA's members are the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, Shasta Lake, and Ukiah, Plumas-Sierra Rural Electric Cooperative, Port of Oakland, San Francisco Bay Area Rapid Transit (BART), and Truckee Donner Public Utility District.

2 NCPA is a California Joint Action Agency, established under Government Code §6500, et seq. in 1968 by a consortium of locally-owned electric utilities to make joint investments in energy resources that would ensure an affordable, reliable, and clean supply of electricity for customers in its member communities.[2] NCPA members include municipalities, a rural electric cooperative, and other publicly owned entities for which the public agency provides such services as the purchase, aggregation, scheduling, and management of electrical energy. NCPA operates and maintains a fleet of power plants that is among the cleanest in the nation, providing reliable and affordable electricity to more than 700,000 Californians.

3 "Section 95892(a) was added to explicitly state ARB's intent that allowances allocated to electrical distribution utilities be used for ratepayer benefit, and any proceeds from the sale of allowances be similarly used for ultimate ratepayer benefit." Final Statement of Reasons for California's Cap-and-Trade Program, October 2011, p. 25.

which costs would otherwise be borne by electricity customers. As CARB noted in the Workshop presentation, allowance allocated to the EDUs is "for the *protection and benefit* of ratepayers."[4] California's electricity customers are still in need of this protection and benefit, and the allocation is critically important for customers, as it helps to shield customers from electricity rate increases associated with the Cap-and-Trade Program. For NCPA's members, the benefit to their electricity customers ranges from providing direct credits to customers, energy efficiency projects and lighting retrofits, no-cost energy efficiency improvements for low-income customers, installation of public EV charging, and purchases of renewable energy, just to name a few. All of these programs and measures provide greenhouse gas reductions and would otherwise need to be forgone by the utility or funded by electricity rate increases.

## II. EDU Allowance Allocation Through 2030 Should Reflect the SB 100 Effective RPS and current IEPR Demand Forecast

### a. CARB Should Adopt the Joint Utilities Group Proposal for 2025-2030 EDU Allocation

CARB has expressed a desire to update the EDU allocation to reflect the state RPS mandate, as reflected in SB 100. NCPA supports the adjustments to EDU allocation as fully explained in the JUG June 21Comments, which would update the 2025-2030 EDU allowance allocation based on the total renewable resources with a Cap-and-Trade Program compliance obligation under the definitions in Public Utilities Code (PUC) section 399.16(c)(1) (the SB 100 "Effective RPS") and continued utilization of the 2015 IRPR demand forecast. This approach incorporates the increasing RPS mandate (60% by 2030) set forth in SB 100, but also recognizes and aligns the RPS and Cap-and-Trade Programs by accounting for the percentage of renewable energy an EDU may include in its RPS portfolio that has a Cap-and-Trade Program compliance obligation. The proposal is attached to these comments, and therefore, NCPA does not reiterate the explanation and justification set forth in the JUG June 21 Comments.

### b. CARB Should Work with EDUs to Address Electric Load that has Outpaced IEPR Demand Load Forecasts

Some POUs have electric load increases that have outpaced load forecasts, and which increases are not covered by escalating renewable energy mandates. Some of these increases may be attributable to transportation and building electrification, but those that have the most significant impact are due to unprecedented growth in energy demand brought about by data centers. For example, data centers alone resulted in the California Energy Commission (CEC) adjusting the City of Santa Clara's Silicon Valley Power (SVP) load forecast between 2022 and 2023 to add just under 5,000 megawatt hours of additional demand by 2040. These data centers range from 50 kilowatts to more than 1,000 megawatts, have high demands for reliability (availability of service), and operate around the clock. The emergence of these data centers and their impact on energy demands is having impacts beyond California. However, even nascent attempts to capture statewide load numbers do not adequately address the "load

4 Workshop Presentation, p. 18, see also 2012 Regulation, Section 95892; Allocation to Electrical Distribution Utilities for Protection of Electricity Ratepayers.

growth outliers" like SVP, which is located in the heart of the Silicon Valley, and whose existing fiber optic communication network, robust electric distribution system, and proximity to key businesses makes locating data centers in an around their service territory highly desirable. CARB should work with the EDUs to address instances where load growth outpaces any of the projections. CARB should further work with the EDUs to establish appropriate publicly available data that can substantiate the deviations from forecasted load growth and ensure that the EDU's cap-and-trade program compliance obligation is adequately covered.

## III. Reductions in EDU Allowance Allocation will have Direct, Adverse Ratepayer Impacts

The Staff presentation provides an illustrative allowance budget based on the Standardized Regulatory Impact Assessment (SRIA) Proposed Scenario B for 2025-2030. That illustration shows a significant decrease in the allowances that would be allocated to the EDUs moving forward, versus what is allocated under the current regulation. SRIA Scenario B, although only illustrative, would thwart utility efforts to maintain affordable rates and fund programs and projects that benefit customers and reduce GHG emissions. This reduction in allowances will result in a corresponding decrease in the allowance value available to protect electricity customers from Cap-and-Trade Program related rate increases and decrease the funds available for programs and measures aimed at reducing GHG emissions.

As NCPA noted in previous comments, utilities have relied on the fixed allowance allocation budgets adopted by CARB to set their procurement strategies, develop their Integrated Resource Plans (IRP), and adopt emissions reduction programs and measures.[5] IRP planning and investments represent long-term projections and establish the basis for utility rate-setting. Through the implementation of long-term planning and procurement strategies, utilities are able to maintain stable, affordable, and predictable retail rates for customers. Because the allowance allocations were fixed, utilities could make investments in targeted reductions and resource procurement based on the anticipated allocation of allowances. This also allowed the POUs to make decisions about GHG reduction strategies that best served their customers; in many cases, this resulted in reduced compliance obligations that enabled the POU to fund additional programs and measures for the benefit of their customers. Other than addressing the changes to allocation to reflect the Effective RPS mandate, CARB should retain the EDU allocation through 2030 as adopted. Doing otherwise would harm utility customers by reducing the funds available for essential GHG reduction and customer assistance programs. It would also be contrary to the stated intent of CARB. In the 2017 FSOR, CARB noted:

> "Staff supports utilities' taking voluntary action to reduce GHG emissions from electricity generation. Given that EDU allowance allocation is based on cost burden, this is one of the reasons that **ARB has opted to set fixed EDU allowance allocations for 2021-2030**. Any changes that utilities make to reduce GHG emissions will reduce their GHG costs while not changing their allocations, thus resulting in a net benefit.

5 Staff notes that the EDU "allocations are fixed" in the 2017 FSOR, p. 39

This incentive is inherent to the Cap-and-Trade Program and applies in all sectors that see costs from the Program."[6]

For some NCPA members, and particularly those with a high percentage of low-income customers and disadvantaged communities, reducing the allocation for 2025-2030 would jeopardize the utility's ability to meet compliance obligations, shifting funds away from those investments, resulting in *rate increases* associated with the need to cover higher cap-and-trade program compliance costs. Making changes to the allowance budgets of the EDUs before the end of 2030 would undermine the stability that should be inherent in fixed allocations.

## IV. Responses to Workshop Questions

### a. Is the current EDU and NGS allocation sufficiently aligned to promoted state electrification goals?

The current allocation to EDUs is intended to cover cap-and-trade program costs that would otherwise result in utility rate increases. To the extent that cap-and-trade compliance obligations are covered by the allocated allowances, rate increases would not be necessary to cover those costs. While rates are impacted by myriad factors, including a broad range of state programs and policies, as well as increased maintenance and supply costs, any avoided increase helps promote electrification. Increased electrification can only be achieved if electric utility customers are able to afford their electricity, thus making it more feasible to invest in appliances that would increase their electric load. NCPA believes that the current allocation is aligned to help promote state electrification goals to the extent that it helps to avoid Program-associated rate increases. This benefit has an exponential impact in that keeping utility rates low both encourages and enables electrification, which should ultimately reduce consumers' overall energy burden while also enabling the transition to cleaner generation resources. Stable, affordable, and predictable rates are pillars of POU ratemaking. These principles are essential to ensuring that utility services remain accessible and reliable for all customers, particularly those in low-income or disadvantaged communities. By prioritizing these pillars, POUs aim to provide consistent and fair pricing while supporting long-term financial stability and customer satisfaction. This underscores the importance of ensuring that the allocation of allowances remains stable through 2030 to adequately cover Cap-and-Trade Program costs; therefore, CARB should implement the EDU allowance allocation proposal set forth in the JUG June 21 Comments.

### b. How should EDU and NGS allocation be set post-2030 given decreasing Program allowance budgets?

The Scoping Plan expresses a need for post-2030 allowance budgets to decrease in order to continue to increase the stringency of the Cap-and-Trade Program. The first step in addressing post-2030 allowance budgets, however, is providing clear market signals regarding program expectations through 2045 with an affirmative commitment to a post-2030 Cap-and-Trade Program. The proposed amendments should also send a signal that CARB is continuing its commitment to protect utility customers, and thereby continuing to allocate allowances to

6 2017 FSOR, p. 39 (emphasis added)

the EDUs to cover the cost of their Cap-and-Trade Program compliance obligations. Covering those compliance costs may mean that the total EDU allocation does not change commensurately with the decreasing Program allowance budget. This does not mean, however, that the state's overall climate – and the cap-and-trade program in particular – objectives are not being met. Rather, the opposite is true, since this allocation on behalf of electricity customers means that there would not be a utility rate increase to cover those costs. Again, without the allowance allocation, these are costs that would be borne directly by the utility customers and would have to be covered through electricity rate increases or cuts to essential programs and measures provided by the utility for their customers. As noted above, any increase in electricity rates not only impacts customers in their normal electricity usage, but also jeopardizes the ability of customers to invest in electrification technologies and appliances. While it is important for CARB to herald that the Cap-and-Trade Program will continue and that electricity customers will continue to receive allowances through the EDUs, it is premature to set a post-2030 allocation at this time due to the uncertainties surrounding the cost of necessary technologies that will drive electrification.

**c. Should there be any additional limitations on the types of GHG reduction projects that can be funded with EDU or NGS allocated allowance value?**

There is no need for additional limitations on the types of GHG reduction projects funded with EDU allowance value. The utilities provide detailed reports regarding the use of their allowance value and have demonstrated the resulting GHG reductions. Furthermore, during the 2016 Cap-and-Trade Rulemaking, CARB and stakeholders engaged in an extensive review of the rules governing the use of allowance value, resulting in several significant changes in the rules. Since that time, POUs have made investments and programmatic decisions based on the fixed allowance allocation and the rules governing use of that allowance value. These include leveraging cap-and-trade funds to pursue projects supported by grants and other sources of funding that would not otherwise be available to the POU. Changes to the rules at this time would jeopardize those programs and measures. If the utility has insufficient funds to continue a program, then customers would be harmed, and emissions reductions would be lost. Further, to the extent that funds are committed, utilities may be forced to raise electricity rates to cover the costs of those programs. Without an absolute showing that any of the existing authorized uses are falling short of the Program goals, CARB should avoid making changes to the types of projects that can be funded with the EDU allowance value.

**d. Should CARB consider this type of exemption for emergency generation aligned with the overall requirements in EO N-14-22?**

CARB should ensure that utilities that incur an unplanned compliance obligation responding to a state of emergency are not penalized. It is important that utilities be able to commit resources without regard to how that usage would impact their Program compliance threshold. Therefore, CARB should exempt emissions associated with emergency generation during a declared state of emergency from the Program.

## V. Utility Use of Allowance Value Directly Benefiting Electricity Customers

Climate credits: Some POUs have provided direct climate credits to their customers. The main value proposition of a direct credit is it ensures that 100% of the utility's customers can get a tangible benefit from the allowance value.

Energy Efficiency: Use of allowance value for energy efficiency provides benefits to electricity ratepayers by reducing the utility's compliance obligation and the customer's overall utility bills. For example, one NCPA member used funds to contract with the Self Help Home Improvement Project to directly install EE measures for income-qualified customers, greatly improving their efficiency and reducing their overall energy costs and burden. Similarly, in one instance, the installation of energy efficient lighting resulted in approximately 50% more lighting and over 40% reduction in load for a community project.

Low-Income Customer Assistance: All NCPA members are committed to equity and environmental justice and ensuring that their low-income customers are able to equitably share in the energy transition. To that end, several utilities have programs that directly benefit these customers by providing energy efficiency upgrades or retrofits, for example, which reduce the customer's energy burden and overall GHG emissions.

Electric Vehicle Charging: Some utilities have found that the lack of EV charging infrastructure is a deterrent to purchasing EVs. NCPA members have used their allowance value to install DC Fast Chargers and public charging stations for electricity customers. Another NCPA member was able to leverage their allowance value to support a new Solar EV charging station that was recently installed via a county grant. NCPA members have also used the GHG funds to offset large commercial demand fees, which allows the utility to pass through a very low fee for public fast charging, ensuring equitable access to clean mobility options.

Renewable Energy Project: By coupling the GHG dollars with a renewable energy project, a dollar spent can be stretched since the IRS will give a 30% to 50% direct payment back to the utility for the project; domestic sourcing is an important determining factor in the amount of IRS support, targeting the installations to support DAC and low-income areas further enhance the ability to obtain approval from the IRS.

Solar and Battery Energy Storage: NCPA members have invested in renewable energy projects that not only meet the RPS mandate, but also enable transformation of existing facilities and expansion of emerging technologies. One project currently being explored is a 5 MW solar with a BESS on a retired reclaimed water pond at a wastewater treatment plant. For one of the members installing new solar/BESS system, the project would be supported by a requested Department of Energy Grid Resilience and Innovation Partnership grant; the ability to use the allowance value to support the utility's efforts allows a small utility to undertake a project of this type. Investments in projects such as these would not be possible without the cap-and-trade program allowance value, as the utility would have to spend funds on compliance costs instead.

Infrastructure and System Conversions: Investments have been made in long-term projects that provide emissions reductions and greater energy efficiency. One such project is the conversion from 4kV to 12kV.

Compliance Instruments: As noted, utilities have relied on the fixed allowance allocation to plan their compliance strategies, for utility resource planning, and adoption of programs and measures to reduce GHG emissions. For some utilities, this included the sale of compliance instruments, which funds were used to invest in programs, measures, and renewable energy. Any reduction in the allowance allocation will result in a commensurate increase in utility costs, which would likely be reflected in electricity rates.

## VI. Conclusion

Allocation of Cap-and-Trade Program allowances for the benefit of electricity customers plays an essential role in the State's climate program, and CARB should ensure that the EDUs are allocated allowances to cover the Program costs that would otherwise impact utility rates and adversely impact electrification efforts. NCPA urges CARB update the 2025-2030 EDU allowance allocation based on the total renewable resources with a Cap-and-Trade Program compliance obligation under the definitions in PUC section 399.16(c)(1) (the SB 100 "Effective RPS") and continued utilization of the 2015 IRPR demand forecast.

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**

Attachment: Excerpt from *Joint Utilities Group Comments on Potential Updates to the California Cap-and-Trade Program*, dated June 21, 2024.

**Attachment**

**Excerpt from *Joint Utilities Group Comments on Potential Updates to the California Cap-and-Trade Program*, dated June 21, 2024**

## II. Continued Allocation to EDUs is Critical to Promoting the State's Electrification Goals

Electric utilities play an important and pivotal role in the State's electrification and decarbonization efforts. That role is underscored by the importance of providing customers with reliable electricity at affordable rates. The JUG and CARB share the goal of increasing electrification, which is critical to achieving State GHG reduction goals by supporting the decarbonization of other sectors, including buildings, industry and transportation. Any increase in electricity costs jeopardize customers' ability to electrify. As such, it is important to ensure that regulatory changes to the Cap-and-Trade Program do not exacerbate electricity affordability challenges and undermine customer incentive to electrify. Therefore, the JUG presents this proposal to continue the existing valuable cost protections for electricity customers.

The 2021-2030 EDU allowance allocation was determined in the 2016 Cap-and-Trade rulemaking through which staff proposed "to continue allocation to electric distribution utilities [EDUs] for the benefit of ratepayers, consistent with the goals of AB 32, beyond 2020."[1] The following proposal would preserve the important value that the direct allocation of allowances provides for electric utility customers while aligning the allocation calculation with the updated Renewables Portfolio Standard (RPS) target established by Senate Bill 100 (SB 100). Though the proposal below focuses on allocations through 2030, the JUG underscores the importance of continuing EDU allowance allocations for the years that follow as well.

A. **Implementation of SB 100 and the Flexibility Afforded via RPS Portfolio Content Categories**: In addition to protecting customers from the Cap-and-Trade Program compliance costs, the 2021-2030 EDU allowance allocation was also intended to create regulatory certainty and incentivize EDU investments to decarbonize the electricity supply. The JUG recommends preserving essential cost protections for electricity customers by limiting changes to the EDU allowance allocation to those needed to align with current RPS requirements as modified by SB 100.[2] Ensuring that the EDU allowance allocations recognize the full range of procurement allowed by the RPS is increasingly important as renewable procurement targets escalate and utilities face mounting challenges due to lingering supply chain issues, project siting complexities, and increased competition with Western states for renewable resources.

   SB 100 increased the minimum RPS targets from 50% to 60% by December 31, 2030, with intermediate targets in intervening years. However, to properly reflect the RPS requirements, the EDU allowance allocation calculation method must recognize that some RPS-compliant resources still carry a compliance obligation under the Cap-and-

[1] California Air Resources Board, First Notice of Public Availability of 15-Day Amendment Text, Attachment C. December 21, 2016

[2] Senate Bill 100, De León. California Renewables Portfolio Standard Program: emissions of greenhouse gases. https://legiscan.com/CA/text/SB100/id/1819458

Trade Program. Current EDU allowance allocations reflect this to an extent, but do not incorporate the full extent of RPS procurement that is authorized by the Legislature – and may be necessary – for some utilities to comply with the higher RPS target. This flexibility to procure different types of RPS-eligible resources becomes more important as electric utilities increase the proportion of their portfolios consisting of RPS procurement, with simultaneous load growth and the above-cited challenges, to meet the 60% target in 2030.

More specifically, through PUC section 399.16(c)(1), the legislature mandated that at least 75% of the generation used to satisfy the RPS requirements of each compliance period come from renewable energy resources categorized as Portfolio Content Category (PCC) 1, starting January 1, 2017. PCC 1 RPS-eligible electricity is directly delivered from renewable generating resources, is treated as zero-emission under the CARB Mandatory Reporting Regulation (MRR), and does not have a Cap-and-Trade Program compliance obligation. PUC section 399.16(c)(1) allows up to 25% of RPS generation to come from PCC 2 or PCC 3 resources, in recognition of the variability of utility procurement and the need to ensure flexibility in resource planning. PCC 2 and PCC 3 resources are not treated as carbon free under the MRR, and therefore have compliance obligations under the Cap-and-Trade Program. The EDU allocation methodology should thus recognize that PCC 2 and PCC 3 RPS-eligible products do result in Cap-and-Trade compliance obligations and remove the maximum allowable PCC 2 or PCC 3 procurement from the assumed percentage of zero-emission RPS electricity. This 25% proportion, when applied to the 60% RPS mandate by 2030, would yield a 45% "Effective RPS" for 2030. The Effective RPS for the intervening years between 2025-2020 are also illustrated below.

| | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 |
|---|---|---|---|---|---|---|
| CEC Interim RPS Targets[3] | 46.0% | 50.0% | 52.0% | 54.7% | 57.3% | 60.0% |
| Effective RPS | 34.5% | 37.5% | 39.0% | 41.0% | 43.0% | 45.0% |

Note: CPUC Interim targets differ slightly[4]

**B. Retaining the RPS Adjustment**: To prevent potential conflicts between the RPS Adjustment provision and the Effective RPS, the JUG proposes to modify the application of the RPS Adjustment to apply only to PCC-0 resources.[5]

[3] CEC RPS Regulation, Section 3204(a)(5) and (6)

[4] CPUC Decision 19-06-023 uses 46.7% in 2025 and 49.3% in 2026.

[5] "For the purposes of RPS compliance, any eligible RPS RECs that are not subject to PCC 1, 2, or 3 will be placed in their own classification, which Energy Division staff categorize as PCC 0." California Public Utilities Commission Portfolio Content Category Classification Review Process Handbook, p. 3; updated June 2020. *See also;* California Energy Commission, Renewables Portfolio Standard Eligibility Ninth Edition (Revised) Commission Guidebook; dated January 2017, updated April 2017.

**C. SB 100 Effective RPS and Utility Forecasts**: The electricity sector load growth associated with data centers, expanded transportation electrification, large-scale housing and industrial developments, hydrogen production, and experiential entertainments, among other factors, is expected to increase.[6] In the past, load growth not reflected in the IEPR forecast has been addressed and accounted for in utility allowance allocations following the presentation of verifiable data. The JUG believes that CARB should continue to work with the utilities in the same manner to address this expected growth.

*In summary, updates to the EDU allowance allocation in Table 9-4 should be limited to the SB 100 informed Effective RPS, and utility-specific load growth modifications to 2015 IEPR utility forecasts, where necessary. The JUG recommends avoiding any modifications to Table 9-4 beyond accounting for the new RPS targets in SB 100.*

[6] California Energy Commission's Integrated Energy Policy Report (IEPR) workshop on May 16, 2024.