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Submitted electronically

August 17, 2023

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 July 27 Cap-and-Trade Workshop***

Dear Ms. Sahota:

The Northern California Power Agency (NCPA) appreciates the opportunity to provide these comments to the California Air Resources Board (CARB) on the July 27, 2023, workshop to discuss potential amendments to the Cap-and-Trade Program regulation.¹

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.

NCPA has been an active stakeholder at CARB throughout the implementation of Assembly Bill (AB) 32, including the initial rulemaking process for the cap-and-trade regulation and each subsequent update to the regulation. The cap-and-trade program is a vital part of the state's

¹ NCPA is a signatory to the *Joint Utilities Group Comments on Potential Amendments to the Cap-and-Trade Regulation*; as such NCPA endorses the comments set forth therein and does not reiterate them here.

² 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.

climate strategy, and the benefits provided directly to electricity ratepayers is a critical component of the program. Since the regulation was first adopted and implemented in 2012, the state's energy landscape has changed, with evolving regional markets and greater development of renewable energy resources. The cap-and-trade program has been amended several times to accommodate and adjust to various changes, all with the objective of creating the best possible market-based program. Critical to the success of the program from an NCPA-member perspective was the decision by CARB early on to provide electric utilities with the flexibility to use the value of the allowances that are directly allocated to publicly owned utilities and cooperatives to support local climate reduction programs for the benefit of their communities and help alleviate upward pressure on customer energy bills.³

The allocation of allowances to electrical distribution utilities (EDUs) was a critically important feature of the cap-and-trade program when the program was first adopted. It remains critical more than a decade later as NCPA members receive more than \$30 million in revenues that can be used to spur clean energy investments at home. Looking out to 2030 and beyond, cap-and-trade could continue providing such value in the future as the state looks to electrify the economy. Without question, the ability of publicly owned utilities (POUs) and cooperatives to retain that value and use it for the benefit of their electricity customers, and in particular to focus programs on low-income and priority households, is more important now than ever before.

In these comments, NCPA address two fundamental issues raised during the workshop:

- *On reducing allowance budgets, allow EDUs to retain all allocated allowances, to be used for the primary benefit of electricity customers, with potential program amendments to clarify prioritization of expenditures on low-income and priority customers within each utility's service territory; and*
- *On POU EDU allowance consignment, allow the POUs and cooperatives to retain the ability to designate allowances into their compliance accounts and not require 100% consignment of allowances, with consideration of potential program amendments that would address staff's concerns with reporting transparency.*

The Importance of Allocated Allowances to EDUs

CARB designed the allocation structure for the utility sector to mitigate the cost burden of the program on retail electricity customer's by returning allowance value through retail electricity providers. Since that time, the state has rapidly expanded its carbon emission reduction goals, and electric utilities – largely through their customers – have funded the lion's share of the

³ NCPA is a joint sponsor of the Joint Utility Group (JUG) comments on the Initial Modeling Results Workshop, and supports the positions and concerns set forth therein.

programs to reduce emissions. As these measures, increased reduction targets, and widespread electrification continue to put upward pressure on electricity rates, the ability of the POUs to retain the auction proceeds and allowance value to use for the benefit of their customers must be preserved in the cap-and-trade regulation. Utility customers cannot be treated as a “captive audience” to fund so many of the state’s climate programs without receiving funds to use towards targeted reductions. The allowance value derived from allowances allocated to the EUDs provides essential funds to facilitate the development and implementation of these important programs.

Future Allowance Budgets

NCPA understands that CARB is looking to cut allowance budgets in order to meet the more aggressive greenhouse gas (GHG) reduction targets set forth in the Scoping Plan Update. During the workshop, CARB presented three allowance budget scenarios with one starting point and three end points: 40% target, 48% target, and 55% target. The potential 2021-2030 allowance budgets represent a significant decline in the total allowances, which would directly impact current and planned expenditures of allowance value. NCPA believes that the future allowance budgets should not be adjusted until a new set of regulations is effective. NCPA appreciates the increased ambition reflected in the 2022 Scoping Plan Update, but wants to ensure that the state’s plans are not unduly reliant upon technologies that have not yet been employed and which require significant additional investments and infrastructure before they can be fully utilized. Carbon capture and sequestration and carbon dioxide reduction technologies will be necessary to meet the state’s climate goals, but we must align the timing of bringing those technologies online with any commensurate adjustments to the allowance budgets. NCPA believes that CARB can continue to strive for more ambitious carbon reduction targets, but it must do so without compromising the continued success of the cap-and-trade program and while considering the cost impacts on consumers across the state.

CARB staff has set forth a multi-step process for evaluating allowance budget scenarios (p. 28), which includes:

- Build out allowance budgets for 2031-2045
- Evaluate removal of allowances from different available pools and which pools impact stringency
- Evaluate total compliance instrument supply informed by state climate goals and 2022 Scoping Plan modeling
- Allowance cost evaluations for various budget scenarios
- Québec and California will each utilize independent models to estimate allowance costs

Of these, the most important first step is going to be scenario modeling to look closely at the viability of the various targets and the manner in which the removal of allowances from different pools impacts not only the stringency of the program, but the benefits to targeted communities, as well. When CARB is considering potential pools for retiring allowances, NCPA believes that it is important to consider the benefits that allocated allowances provide to reducing electricity cost impacts, and the ability of the EDUs to customize the use of that value for the greatest advantage of their electricity ratepayers. Cost containment should always remain a program priority, and therefore NCPA believes that the 77.7 million allowances currently set aside to address price ceiling should be evaluated first for retirement out of the system.

Targeted assistance for low-income and priority communities

Cap-and-trade program funding for low-income and priority communities does not come solely from the Greenhouse Gas Reduction Fund (GGRF). The allowances allocated to POU and cooperatives are used for direct emissions reductions that benefit electricity customers; any program assistance that keeps the POU from raising rates to implement them provides a financial benefit to customers, and in particular, low-income customers who face disproportionate impacts from increasing utility rates. NCPA believes that targeting priority communities with allowance proceeds should be further explored in the context of ensuring that those targeted usages also comply with the regulatory mandate that the allowance value be used to directly reduce GHG emissions. Amending the regulation to specifically address the use of allowance value in this manner would enable POU to investigate programs and measures that may not currently fall squarely within the regulatory mandate. NCPA looks forward to working with CARB and stakeholders on appropriate language that will allow for maximizing the GHG reductions from allowance values while prioritizing investments in low-income communities and for low-income customer benefits.

One important element of POU and cooperative use of allowance value is the ability those utilities have to control the use of the funds for programs and measures in their communities. Not all communities are the same, and the POU and cooperatives have a unique perspective, being able to target and fashion programs for those most impacted within their service areas. NCPA and its member agencies do not support a one-size-fits-all definition of low-income or priority populations that could inhibit the ability of the POU to best target customers within their service territory. Rather, NCPA believes that any amendments to the regulation that are designed to authorize expenditures with a priority for low-income customers be designed to allow each utility to build upon their existing low-income programs and definitions, as well as their GHG reduction programs.

Consignment of POU Allowances

During the workshop, staff recommended consideration of whether all POU and cooperative allowances should be consigned to auction, changing the current program structure that allows the POUs and cooperatives to designate allowances to their compliance accounts if certain conditions are met. It has been suggested that the change is necessary to provide parity with the way in which allowances are consigned for the investor owned utilities (IOUs) and the Gas utilities, and in order to provide greater transparency into how POU allowance value and auction proceeds are used. It was also noted during the workshop that a significant number of POUs participate in the CAISO markets, which flagged as a reason in support of full consignment.

First and foremost, as discussed herein, irrespective of how allowances are valued – either through the auction directly or through the prescribed valuation – the ability of the POUs and cooperatives to maintain control over the expenditure of that value is absolutely paramount. It provides direct benefits to the communities, allows for the most targeted emissions reduction programs, and measures, and provides the most immediate vehicle for facilitating the extended use of the value for low income and priority customers.

Parity with the IOUs: NCPA appreciates the optics of ensuring that all EDUs are treated the same way. However, as this matter was raised and addressed in past rulemakings, the IOUs and the POUs are not identical. As CARB noted in when the program was first developed:

“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.”⁴

Furthermore, after considerable deliberation, CARB also *determined that “even though POUs [and cooperatives] are not required to consign allocations, they are required to use that value for ratepayer benefit and no other purpose. This is equitable with the requirements of the IOUs.”*⁵ Despite the fact that IOUs and POUs similarly provide electricity service to customers at retail, there are distinct and fundamental differences between the two different business types, as noted in the 2011 FSOR (see also, p. 564) Furthermore, the IOUs and POUs have different governing bodies, and as the 2011 FSOR found, the CPUC and POU governing

4 October 2011 FSOR, p. 342

5 October 2011 FSOR, p. 687

boards will determine the most equal and fair way to redistribute the auction value back to customers. The fundamental differences between POUs and IOUs that were recognized by CARB in 2011 remain today, and there are no reasons to change the current rules. As CARB moves forward with consideration of amendments to the cap-and-trade program, it is important for the agency to retain the distinction between POUs and cooperatives, and IOUs.

Transparency: On an annual basis, POUs and cooperatives provide to CARB a set of comprehensive reports detailing the use of their allowance value. Section 95892(d) of the regulation sets forth clearly defined parameters on the use of allowance value and allowed uses. Section 95892(e) provides the requirements for reporting on the use of auction proceeds and allowance value. These reports are publicly available and provide detailed information on how POUs and cooperatives are spending – or planning to spend – their cap-and-trade program allowance value and auction proceeds. Furthermore, the programs and measures implemented by the POUs and cooperatives are those approved by their locally governing entities; these are public agencies directly accountable to the communities in which they live and serve. The POUs and cooperatives are interested in working with CARB and stakeholders on ways to ensure that those reports are better understood and available on CARB’s website.

CAISO Markets: Allowance value may not be used to meet compliance obligations for electricity sold into the California Independent System Operator (CAISO) markets. (95892(d)(7)(a)) For that reason, POUs located in the CAISO footprint already consign their allowances to auction. That does not alter the underlying rationale for why not all POUs and cooperatives, particularly those that are smaller and face greater administrative cost burdens, should be forced to consign all of their allowances. A fundamental premise of the program is to send a clear price signal for carbon. That can be done without mandatory consignment. Carbon prices, be they part of the EIM or the emerging EDAM, are reflected in the GHG adder. This is a part of the CAISO, as well as California’s other balancing authorities. This adder makes thermal resources more costly, and therefore less likely to be dispatched to serve customer load. NCPA does not believe that the introduction of more resources into the CAISO markets changes the underlying rationale for distinguishing between the IOUs and POUs for purposes of consigning allowances to the auction.

Conclusion

CARB should recognize the benefits that California’s electricity customers receive from the auction proceeds and allowance value, and in particular the value the EDUs are able to provide directly to their customers, and do everything possible to preserve that value. NCPA also urges CARB to remove from consideration a requirement to have all POU and cooperative allowances consigned to the auction, and affirm that those entities retain the ability to control their allowance value and auction proceeds consistent with the provisions of the regulation.

June 23, 2022

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NCPA looks forward to working with CARB staff and stakeholders in developing amendments to the cap-and-trade regulation that will update the regulation in light of the state's updated Scoping Plan, but still ensure the viability and integrity of the program.

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,

A handwritten signature in blue ink that reads "Susie Berlin". The signature is written in a cursive style with a blue ink stamp or highlight behind it.

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Attorneys for the Northern California Power Agency