

June 21, 2024

Rajinder Sahota  
Deputy Executive Officer  
California Air Resources Board  
1001 I Street  
Sacramento, California 95814

RE: Joint Utilities Group Comments on Potential Updates to the California Cap-and-Trade Program

Dear Ms. Sahota,

The Joint Utilities Group<sup>12345</sup> (JUG) appreciates the opportunity to offer comments on the May 31, 2024, workshop (Workshop) hosted by the California Air Resources Board (CARB) to discuss allowance allocation and potential updates to the Cap-and-Trade Program Regulation (Regulation or Program). The JUG consists of investor-owned utilities (IOUs), publicly owned utilities (POUs), and electric cooperative utilities in California participating in this rulemaking on behalf of their customers. We look forward to continuing to work with you, CARB staff, and other stakeholders in the public process to design modifications to the Program that will help facilitate the achievement of California's ambitious climate goals while maintaining energy reliability and minimizing cost impacts to California residents and the economy.

The JUG believes the Program should continue to play an important role in the State's emissions reduction portfolio, a critical element of which is allocation of allowances for electric utility

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<sup>1</sup> Pacific Gas & Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, Sacramento Municipal Utility District, Los Angeles Department of Water and Power, Turlock Irrigation District, Liberty Utilities, Bear Valley Electric Service, the Northern California Power Agency, Southern California Public Power Authority, Golden State Power Cooperative, and the California Municipal Utilities Association.

<sup>2</sup> The Northern California Power Agency (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 16 members: 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—collectively serving nearly 700,000 electric consumers in Central and Northern California.

<sup>3</sup> 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. SCPPA 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.

<sup>4</sup> The California Municipal Utilities Association is a statewide organization of local public agencies in California that provide electricity and water service to California consumers. CMUA membership includes publicly owned electric utilities that operate electric distribution and transmission systems. In total, CMUA members provide approximately 25 percent of the electric load in California.

<sup>5</sup> Golden State Power Cooperative (GSPC) is the association representing California's rural electrical cooperatives: Anza Electric Cooperative, Plumas-Sierra Rural Electric Cooperative, and Surprise Valley Electrification Corp.

customers. The JUG generally supports Program modifications that will support achievement of climate goals through incremental, cost-effective emission reductions. In the comments below, the JUG responds to the staff Workshop inquiries and provides reasons why CARB should allocate 2025-2030 Electric Distribution Utility (EDU) allowances for the benefit of electric utility customers, consistent with Public Utilities Code (PUC) section 399.16(c)(1) and Senate Bill 100 (SB 100), and the commitments made during the 2016 Cap-and-Trade rulemaking.

**I. Is the current EDU and NGS allocation sufficiently aligned to promote state electrification goals?**

The allocation of allowances to EDUs for the benefit of electric utility customers is an important tool that can help promote electrification by mitigating adverse customer bill impacts from the Cap-and-Trade Program. Meeting California’s electrification goals will require residents, businesses, and industry to actively choose electricity to charge their cars and energize their homes and businesses. Some might incur minimal upfront costs to electrify while others could face costly panel upgrades, building retrofits, and expensive appliance replacements. Achieving broad electrification will require incentivizing fuel switching and electricity rates low enough to compensate or significantly mitigate electrification costs, including any initial costs associated with transitioning to electric appliances and vehicles.

Cap-and-Trade compliance is only one of multiple cost elements in electric rates, thus allowance allocation alone cannot contain the impact of other electricity rate components. However, Cap-and-Trade allowance allocations can help as previously noted by CARB: “the purpose of EDU allocation is to protect EDU ratepayers from the costs that the Cap-and-Trade Regulation imposes on these ratepayers as a whole.”<sup>6</sup> While Cap-and-Trade Program allowances do not, and cannot, mitigate all factors that lead to escalating utility rates, they are critical for mitigating additional cost pressures from the Program. To date electric utility customers have benefited from EDU allocation in multiple ways (varies by utility), as demonstrated in the Use of Allowance Value reports<sup>7</sup> and Summary of Allowance Value Expenditure Data<sup>8</sup> that are published by CARB each year. These benefits include Investor-Owned Utility bi-annual climate credits, other direct payments to customers for financial relief, procurement of renewable energy resources, investments in electrification infrastructure, and other programs which reduce greenhouse gas (GHG) emissions, including programs targeted directly for the benefit of low-income and disadvantaged communities. The climate credits and programs made possible by the EDU allocation have helped to avoid or offset electricity customer costs, as well as costs for GHG-reducing customer-facing programs that would otherwise have to be funded directly through customer bills.

The JUG believes that directly allocating allowances to EDUs for the benefit of electric customers is even more important and relevant today than it was in the past. Given the upward

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<sup>6</sup> *Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms*, Final Statement of Reasons, dated August 2017; p. 34.

<sup>7</sup> See Cap-and-Trade Program Summary of 2013-2022 Electrical Distribution Utility Use of Allocated Allowance Value, dated April 2024; [https://ww2.arb.ca.gov/sites/default/files/cap-and-trade/allowanceallocation/edu\\_2013to2022useofvaluereport.pdf](https://ww2.arb.ca.gov/sites/default/files/cap-and-trade/allowanceallocation/edu_2013to2022useofvaluereport.pdf).

<sup>8</sup> See 2013-2022 EDU Allocated Allowance Value Expenditure Data, revised May 20, 2024; [https://ww3.arb.ca.gov/cc/capandtrade/allowanceallocation/edu\\_uofavtables.xlsx](https://ww3.arb.ca.gov/cc/capandtrade/allowanceallocation/edu_uofavtables.xlsx).

pressure on electricity rates, historically high interest rates and the need to keep electricity affordable to encourage electrification and achieve the State’s GHG emission reduction goals, it is vital that electricity customers receive the benefits of the EDU allocation to mitigate bill impacts that would otherwise be associated with the Cap-and-Trade Program.

## **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.”<sup>9</sup> 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.<sup>10</sup> 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-

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<sup>9</sup> California Air Resources Board, First Notice of Public Availability of 15-Day Amendment Text, Attachment C. December 21, 2016

<sup>10</sup> 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 <sup>11</sup>	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<sup>12</sup>

**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.<sup>13</sup>

<sup>11</sup> [CEC RPS Regulation](#), Section 3204(a)(5) and (6)

<sup>12</sup> CPUC Decision 19-06-023 uses 46.7% in 2025 and 49.3% in 2026.

<sup>13</sup> “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.<sup>14</sup> 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.*

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

The JUG appreciates that CARB is opening the discussion of post-2030 allowance allocation. Acknowledging the need to address post-2030 allowance allocation is the first step to providing regulatory certainty that is fundamental to maintaining stability of the Cap-and-Trade Program. CARB should ensure that upcoming regulatory amendments send a clear signal that allocation of allowances for the benefit of electricity customers will continue post-2030. The JUG also notes that beyond 2030, electricity load growth is expected to accelerate in line with the State's climate change goals, and costs associated with further decarbonizing the electricity sector are also expected to increase as utilities approach 100% clean energy. Furthermore, given the need to ensure the continuity of the markets and proper functioning of the allowance auctions, and to provide compliance entities the necessary certainty moving forward, CARB should initiate a subsequent rulemaking process to address the appropriate data for the post-2030 allocation by no later than 2025. The JUG looks forward to continuing to work with CARB on the best approach for post-2030 allocation, consistent with protecting utility customers, aligning with state goals, and taking the above considerations into account.

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

The JUG believes that the existing limitations and reporting requirements are sufficient. In addition, as noted in prior JUG comments, CARB should preserve the regulatory structure that allows local publicly owned electric utilities and electric cooperatives to determine whether to retire allowances for compliance and/or consign allowances, as this provides an efficient and cost-effective mechanism to optimize benefits to POU and electric cooperative customers.

The current limitations on the use of allowance value reflect significant stakeholder discussion and revisions during the 2016 Amendments rulemaking process.<sup>15</sup> Any changes or additional limitations imposed at this time would jeopardize existing programs and investments, and harm electricity customers. While the JUG does not believe that there should be any additional limitations on the types of projects for which EDUs can use the allowance value, more flexibility

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<sup>14</sup> California Energy Commission's Integrated Energy Policy Report (IEPR) workshop on May 16, 2024.

<sup>15</sup> See Final Statement of Reasons for Rulemaking, Including Summary of Comments and Agency Responses, Public Hearing, dated December 13, 2018.

in the use of allowances could help enable new emerging technologies to receive support while shielding utility customers from the early market costs of those technologies during the nascent period.

#### **V. Should CARB consider this type of exemption for emergency generation aligned with the overall requirements in Executive Order N-14-22?**

As noted in the Workshop presentation, extreme heat events and other emergencies can strain the State's electricity infrastructure and overwhelm the power supply. During such emergencies, prompt action is critical to support grid reliability and protect the health and safety of our communities. To ensure prompt action during past emergency events, the Governor has effectively used the authority vested in him to waive or suspend laws, regulations, and/or permits that would restrict or penalize the deployment of electric generating resources to reduce demand and/or support the grid. These actions (and rationale) are reflected not only in Executive Order N-14-22<sup>16</sup>, but also in the August 31, 2022, Proclamation of a State of Emergency<sup>17</sup> and in Executive Order N-15-22.<sup>18</sup>

To provide clarity to the regulated community – including those that answer the State's call to provide support during emergency situations – and to ensure that CARB's regulations are consistent with the exemptions, suspensions, and waivers established by the Governor, we support the promulgation of an exemption for emergency generation aligned with the overall requirements in Governor's August 31, 2022 Proclamation of a State of Emergency, EO N-14-22, and EO N-15-22.<sup>19</sup> As such, the JUG believes that in the limited case where generation exceeds the 25,000 tons CO<sub>2</sub>e threshold solely due to emergency generation, the associated generator's emissions for emergency use should be excluded when assessing whether a facility meets the Cap-and-Trade Program threshold. In this special circumstance, the generator should be required to show that the emergency dispatch caused the threshold exceedance.

#### **VI. Conclusion**

The allocation of allowances to EDUs for the benefit of electricity customers should remain an essential part of the Cap-and-Trade Program. The JUG reiterates its support of a well-designed California Program that recognizes its role to help ensure electricity affordability via EDU allowance allocation. Further, 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 the statutory changes included in SB 100.

We look forward to working with CARB to achieve these objectives through the upcoming rulemaking process.

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<sup>16</sup> Executive Order N-14-22. Governor of California. September 2, 2022. [LINK?](#)

<sup>17</sup> Proclamation of a State of Emergency. Governor of California. August 31, 2022. <https://www.gov.ca.gov/wp-content/uploads/2022/08/8.31.22-Heat-Proclamation.pdf?emrc=78e3fc>

<sup>18</sup> Executive Order N-15-22. Governor of California. September 6, 2022. <https://www.gov.ca.gov/wp-content/uploads/2022/09/9.6.22-Labor-Day-Heat-Event-EO.pdf?emrc=631eef>

<sup>19</sup> While the staff presentation and question reference EO N-14-22, the Emergency Proclamation of August 31, 2022, provides a more complete description of the waivers, suspensions, and exemptions enacted by the Governor.