

7/31/2024

Ms. Liane M. Randolph
Chair
California Air Resources Board
1001 "I" Street
Post Office Box 2815
Sacramento, California 95812

Dear Ms. Randolph,

The California Large Energy Consumers Association (CLECA) appreciates the opportunity to provide comments in response to the July 10th, 2024 California Air Resources Board (CARB) workshop regarding potential amendments to the Cap-and-Trade Regulation. CLECA previously filed related comments on June 21st and with reference to the May 31st, 2024 workshop topic: *Emission-Intensive Trade-Exposed (EITE) Electricity Allocation on slide 38 and related topic discussion from the July 27th, 2023, CARB Workshop slides 48-50.*

CLECA members represent a broad array of EITE designated industries. CLECA member companies produce goods essential for daily life, including critical infrastructure, oxygen for hospitals, and food distribution. CLECA members represent the steel, cement, industrial and medical gas, beverage, minerals processing, cold storage, and pipeline transportation industries.

A robust EITE program to minimize emissions leakage for both direct and indirect emissions is critically important for the state to achieve its long-term climate goals. Emissions increase when critical industries can no longer compete in the state and production shifts to facilities out of state with less stringent environmental regulations, higher emission production and farther transportation to import materials back into the state. The competitive pressures on EITE industries operating in California have only increased since the EITE program inception. For example, the price of industrial sector electricity has increased dramatically compared to neighboring states in the last decade.

CARB proposes to “transfer the process of providing value to industrial covered entities for the carbon costs in electricity purchases from CPUC to CARB” and asks for stakeholder feedback on, “Should CARB make this change?” (July 27th workshop, slide 50). The transition to CARB may indeed improve the transparency and simplicity of the calculation process.

However, complexity and risk may increase for EITE companies themselves by “directly allocating to industrial covered entities to address carbon costs associated with purchases electricity” rather than issuing a monetary credit or rebate in the current process (July 27th workshop, slide 49).

CLECA has identified preliminary concerns related to the proposal. The unintended consequences of a change to direct allocation for electricity related carbon cost offsets include accounting, tax, and transactional complexity. For a customer to offset the carbon costs embedded in electricity costs, any direct allocation would need to be sold in auctions or bilateral transactions. Some customers may decide to apply the proposed direct allocation to their direct compliance obligations with relatively low complexity. However, the diversity of customer situations should be adequately considered.

Customers may or may not have excess direct compliance obligations in future years due to investment in industrial decarbonization technologies including electrification or because their process is weighted toward electricity with indirect credits greater than excess direct emission compliance obligations.

Customers with excess direct compliance obligations may be contractually required to sell the proposed direct allocation for a variety of reasons. Large industrial companies have complex ownership, partnership, joint venture, and contractual relationships. The entity responsible for electricity cost may be different than the entity responsible for direct emissions compliance.

These customers may have no experience monetizing direct allocation of carbon credits introducing new transactional cost and complexity, and potentially degrading the effectiveness of leakage mitigation. The potential tax implications of receiving a direct allocation for resale rather than an electricity-related rebate should also be considered.

There may also be significant corporate accounting and external financial reporting implications of receiving a direct allocation intended for later resale at volatile market pricing, including hedge accounting and mark-to-market accounting implications. Companies that expect to receive a direct allocation of credits intended for sale may need to mark-to-market the market value of several years of expected future allocations. The associated accounting treatment is complex under GAAP and/or IFRS standards and would require professional accounting advice.

CLECA proposes the following for CARB consideration:

- Clarify that the proposed change would only apply to mandatory reporting entities with over 25,000 tons of annual emissions. EITE eligible companies that do not have mandatory reporting requirements would continue to receive indirect electricity offset credits as they do today.
- Allow optionality for those companies with mandatory reporting requirements to continue to receive indirect electricity offsets through monetary credit or rebate. The utilities that currently monetize allowances and issue monetary credits or rebates will continue to do so for several customer classes. CARB should create a mechanism for an EITE customer to assign its direct allocation to its utility to be monetized on the customer's behalf and credited to the customer.

CLECA encourages CARB to consider these concerns and proposals to preserve the intended leakage mitigation value of the EITE electricity allocation. CLECA appreciates the opportunity to provide comments and looks forward to exploring these ideas in further detail with CARB staff.

Respectfully submitted,



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CC:

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