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Clerk's Office
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Re: Comments of Sempra in Response to Information Solicitation to Inform Implementation of California Climate-Disclosure Legislation: Senate Bills 253 and 261, as Amended by SB 219

Sempra appreciates the opportunity to submit the enclosed Comments in Response to CARB's December 16, 2024, Information Solicitation on Senate Bills (SB) 253, 261 and 219.

Sempra is a California-based holding company with energy infrastructure investments in North America. Our businesses invest in, develop and operate energy infrastructure, and provide electric and gas services to customers. Sempra's business activities are organized under various reportable segments, including Sempra California, which consists of San Diego Gas & Electric Company ("SDG&E") and Southern California Gas Company ("SoCalGas"). SDG&E is a regulated public utility that provides electric and natural gas services to more than 3 million people in San Diego County and a portion of Orange County. SoCalGas is also a regulated public utility that owns and operates a natural gas distribution, transmission and storage system that delivers natural gas to approximately 21 million people in Southern California and portions of Central California. Another reportable segment, Sempra Infrastructure, develops, builds, operates and invests in energy infrastructure to help enable the energy transition in North American markets and globally.

Please contact me if you have any questions regarding this submission.

Respectfully submitted,

/s/ Christopher M. Lyons

Enclosure

Comments of Sempra in Response to Information Solicitation to Inform Implementation of California Climate-Disclosure Legislation:
<u>Senate Bills 253 and 261, as Amended by SB 219</u>

General: Applicability

1. SB 253 and 261 both require an entity that "does business in California" to provide specified information to CARB. This terminology is not defined in the statutes.

a. **Should CARB adopt the interpretation of "doing business in California" found in the Revenue and Tax Code section 23101?**

<u>Comments</u>:

CARB should adopt a clear, well-defined description for "does business in California" that: (1) regulates companies with applicable connections to, and greenhouse gas (GHG) emissions in, California; (2) gives entities the certainty of knowing whether they are in-scope for these laws; and (3) enables CARB to readily enforce these laws in a time and cost effective manner. The predictable application of a clear definition is the best way for these climate laws to promote their purpose of creating dependable and valuable climate-related reporting.

Utilizing Revenue and Tax Code Section 23101's definition of "doing business in California" could be used for purposes of SB 253 and 261 as long as there are additional clarifications to ensure that the definition will not encompass any transactions, no matter how small or unrelated to carbon emissions. Section 23101 defines "doing business" as "actively engaging in any transaction for the purpose of financial or pecuniary gain or profit." This section then deems that a taxpayer is "doing business" in California if it (1) is "organized or commercially domiciled" in California; or (2) has California sales, property, or payroll in 2024 that exceed $735,019, $73,502 and $73,502, respectively, subject to annual adjustments for inflation.

Simply using this definition would potentially encompass many very small transactions that, as a practical matter, could be difficult for both CARB and the impacted company to track, monitor and verify. Additionally, given the low threshold of this definition and the potentially significant costs associated with complying, companies could decide that the risk of unplanned exposure to liability under these laws is too great and may reduce their market exposure to California.

Thus, we recommend clarifying that the definition of "doing business in California" does *not* encompass companies that engage in *any* transaction for the purpose of financial gain within California.

In addition, we believe that the sales, property or payroll thresholds for "doing business" set forth under Revenue and Tax Code Section 23101—applicable to entities with

California sales, property, or payroll in 2024 exceeding $735,019, $73,502, and $73,502, respectively, and subject to annual inflation adjustments—are too minimal for both CARB and in-scope entities to effectively monitor, as well as too arbitrary to capture a requisite connection to California. These thresholds are set at such low values that they could inadvertently encompass entities with minimal engagement in California, such as those with only a single transaction in the state.

Therefore, we recommend adopting a different *de minimis* threshold related to companies' connections to California: "doing business" should include those companies with (1) at least 5 percent of global business revenue attributable to California; or (2) at least 100 employees located in California. We recognize that perspectives may differ, and CARB may choose to adopt different thresholds than 5% of global revenue and 100 California employees (a 5 percent materiality threshold is commonly used in GAAP accounting, with lesser amounts presumed to be immaterial). What matters most is not the precise thresholds, but whether the thresholds are easily verifiable for companies and CARB, and whether the thresholds cover companies with a sufficient nexus to California.

In summary, we recommend that CARB adopt a definition of "doing business" that encompasses companies that are (1) organized or commercially domiciled in California, or (2) have revenue or employee ties to California that exceed specified *de minimis* amounts, such as 5% percent of global business revenue attributable to California and 100 employees located in California.

b. Should federal and state government entities that generate revenue be included in the definition of a "business entity" that "does business in California?"

Comments: No comment.

c. Should SB 253 and 261 cover entities that are owned in part or wholly owned by a foreign government?

Comments: No comment.

d. Should entities that sell energy, or other goods and services, into California through a separate market, like the energy imbalance market or extended day ahead market, be covered?

Comments: The administrative burden of complying with SB 253 and SB 261 could deter out-of-state entities from participating in California energy markets, potentially causing adverse market impacts and reducing energy supply. The reporting requirements, particularly concerning Scope 3 emissions, are complex and potentially costly to implement. These requirements may lead certain entities to exit California energy markets (both electricity and natural gas).

The stated purpose of SB 253 and 261 is to promote transparency and accountability regarding climate-related emissions and risks. This objective can be achieved without directly regulating out-of-state entities. An alternative approach is to focus the reporting requirements on the California entities that receive and distribute the energy.

Load-serving entities (LSEs) and utilities within California are already subject to CARB's regulatory authority. Requiring these entities to report the emissions associated with the energy they procure, regardless of geographic origin, would be consistent with the existing regulatory framework, maintain transparency, minimize the risk of market disruption arising from additional reporting requirements, while mitigating extraterritorial regulation concerns.

2. What are your recommendations on a cost-effective manner to identify all businesses covered by the laws (i.e., that exceed the annual revenue thresholds in the statutes and do business in California)?

Comments: No comment.

a. **For private companies, what databases or datasets should CARB rely on to identify reporting entities? What is the frequency by which these data are updated and how is it verified?**

Comments: No comment.

b. **In what way(s) should CARB track parent/subsidiary relationships to assure companies doing business in California that report under a parent are clearly identified and included in any reporting requirements?**

Comments: Companies that are doing business in California and submitting reports or filings to CARB under SBs 253 and 261 could be required to list the entities that are included in their reporting.

General: Standards in Regulation

3. CARB is tasked with implementing both SB 253 and 261 in ways that would rely on protocols or standards published by external and potentially non-governmental entities.

a. **How do we ensure that CARB's regulations address California-specific needs and are also kept current and stay in alignment with standards incorporated into the statute as these external standards and protocols evolve?**

Comments: For SB 253, which requires companies to report GHG emissions for Scopes 1, 2 and, in future years, Scope 3. CARB should align reporting frameworks to those currently used by California agencies and reporting companies. Sempra's California Operating Companies (SDG&E and SoCalGas) have been voluntarily reporting Scope 1 and 2 emissions for decades through a nonprofit entity with expertise in GHG reporting called The Climate Registry (TCR).

TCR reporting is based on the World Resources Institute (WRI) GHG Protocols. These same WRI GHG Protocols were referenced in SB 253 and are used by CARB for select entities subject to the GHG Mandatory Reporting Regulation (MRR) and the California Cap and Trade program. The EPA has also used the WRI GHG Protocols as a basis for developing its GHG Reporting Program (GHGRP) for entities subject to reporting under the federal requirements. Aligning SB 253 reporting with already existing standards such as TCR's General Reporting Protocol would help to ensure GHG reporting continuity across the various state and federal entities, streamline work for reporting companies and minimize confusion for report readers.

For SB 261 climate-related risk reporting, CARB should use the 2017 Recommendations of the Task Force on Climate-Related Disclosures (TCFD) and the 2021 Annex to Implementing the Recommendations of the TCFD to support alignment with existing GHG risk reporting protocols. Sempra, along with many other reporting entities, currently reports climate-related risks using the TCFD framework.

In 2023, the TCFD was found to have met its remit and disbanded as an organization and the TCFD framework and its oversight was requested to be monitored by the International Financial Reporting Standards Foundation (IFRS). The IFRS has encouraged companies to continue to use the TCFD framework, as the requirements in their framework (IFRS S2) are consistent with the core recommendations published by the TCFD. Notably, TCFD is a reporting framework with core recommendations and recommended disclosures. It is intended to provide guidance to companies in determining and disclosing their climate-related risks. The TCFD framework relies on companies to disclose based on their assessment of how each core recommendation and recommended disclosure may align to or affect their business, and we support CARB adopting this approach to SB 261 reporting. SB 261 also directly refers to the TCFD framework, providing further support for CARB selecting the TCFD framework as the reporting framework for SB 261 compliance.

A comprehensive public review process that includes input from reporting companies should be undertaken if CARB wishes to explore new reporting protocols or amend reporting guidelines from existing standards, as emissions reporting is a complex process where changes in protocols or guidelines could increase cost burdens with very little value. CARB should further engage a diverse group of stakeholders through a participatory rule-making process to review protocol options and/or align on any new future standards.

b. **How could CARB ensure reporting under the laws minimizes a duplication of effort for entities that are required to report GHG emissions or financial risk under other mandatory programs and under SB 253 or 261 reporting requirements?**

Comments: To minimize reporting duplication, which is an important and very legitimate concern for many reporting entities, CARB should allow companies to submit the same reports that they are already preparing and providing to state and federal regulatory agencies and other stakeholders, including investors, to satisfy the SB 253 and SB 261 reporting requirements. As an example, many companies, including Sempra, already disclose GHG emissions and climate-related financial risks (using the TCFD framework) in their annual Corporate Sustainability Reports.

In future years, companies are likely to continue to disclose Scope 1, 2 and 3 emissions and climate-related financial risks through annual sustainability reports, investor disclosures and accompanying voluntary documentation and appendices such as the CDP (formerly known as the Carbon Disclosure Project) and Sustainability Accounting Board Standards (SASB). Some companies, like the Sempra California reporting entities SoCalGas and SDG&E, are also already required to report Scope 1 emissions to meet existing CARB and EPA compliance requirements. These documents are already being prepared for stakeholders, and CARB can create efficiency, as well as avoid unnecessary additional costs, reduce risk and reduce administrative burdens, for reporting entities by accepting these existing reports to satisfy the SB 253 and 261 reporting requirements.

To the greatest extent possible, CARB should allow companies the flexibility to determine which reporting methods are most relevant to their business, including, most importantly, material categories for Scope 3 emissions, and allow these disclosures, already in development through the standard course of business, to be sufficient for meeting the SB 253 and SB 261 requirements.

c. **To the extent the standards and protocols incorporated into the statute provide flexibility in reporting methods, should reporting entities be required to pick a specific reporting method and consistently use it year-to-year?**

Comments: No. As reporting methods and frameworks change, reporting entities should be able to update their standards and protocols to align to those emissions categories and/or climate-related financial risks that are material to their business. GHG accounting and climate risk reporting – both financial and otherwise – are very important, but also time-intensive and costly endeavors. If a company is making a change to their reporting method in accordance with an accepted framework like the WRI GHG Protocol and TCFD, that change would require an exhaustive internal review that examines how the reporting update may better align with operations and/or stakeholder expectations.

Year over year changes in reporting can be noted within the documents, if necessary, to provide clarity on the reasoning for the change and transparency in data to CARB and other readers. Reporting entities would then use these updated methods and frameworks to report emissions and/or climate financial risks moving forward and without restating prior year numbers or information. For example, changes in the global warming potential (GWP) would impact annual emissions reporting, however, this type of change has not historically resulted in changes to previous years' reporting.

General: Data Reporting

4. To inform CARB's regulatory processes, are there any public datasets that identify the costs for voluntary reporting already being submitted by companies? What factors affect the cost or anticipated cost for entities to comply with either legislation? What data should CARB rely on when assessing the fiscal impacts of either regulation?

<u>Comments</u>: We are not aware of public datasets that wholly captures the true costs related to verified voluntary reporting. To inform the regulatory process, CARB may consider engaging with reporting entities to understand the costs and administrative burden of voluntary emissions reporting.

5. Should the state require reporting directly to CARB or contract out to an "emissions" and/or "climate" reporting organization?

<u>Comments</u>: It is recommended that a reporting organization with experience hosting a GHG inventory and with emissions protocol development and emission verification expertise be strongly considered. Given the rapid timeline for climate disclosure rules to be implemented, contracting out to a reporting organization could help with efficiencies related to time, capacity and resources, at least until CARB can build the capacity and proper skillsets to support the requirements of SB 253 and 261 effectively. CARB may also wish to survey the existing emissions reporting landscape to develop efficiencies in CA reporting and reduce duplicative efforts.

6. If contracting out for reporting services, are there non-profits or private companies that already provide these services?

<u>Comments</u>: The Climate Registry (TCR), a nonprofit organization headquartered in California, has a long history of managing a voluntary GHG reporting program with deep expertise in GHG protocols, verification, and data management. SoCalGas and SDG&E have been voluntarily reporting and utilizing verification services through TCR for more than two decades. In our experience, TCR's Climate Registry Information System (CRIS) has proven to be flexible and adaptable in accommodating the evolving GHG protocols and standards. It is expected that CARB will desire a system that can adapt to changes as reporting rules and guidelines update. TCR has over 200 hundred members, many of whom will need to comply with the SB 253 GHG disclosure requirements. As such, CARB could leverage this familiarity and experience with an

existing GHG registry to act as the reporting organization as authorized by SB 219. Additionally, as a non-profit organization, the reporting entity data is not commercialized nor used for other purposes, and the reporter retains ownership of their data – an important feature for many stakeholders.

SB 253: Climate Corporate Data Accountability Act

7. Entities must measure and report their emissions of greenhouse gases in conformance with the GHG Protocol, which allows for flexibility in some areas (i.e. boundary setting, apportioning emissions in multiple ownerships, GHGs subject to reporting, reporting by sector vs business unit, or others). Are there specific aspects of scopes 1, 2, or 3 reporting that CARB should consider standardizing?

Comments: The flexibility provided by the GHG protocol helps companies to develop inventories that reflect their unique business or industry attributes. We support maintaining this flexibility as prescribed and intended in the GHG Protocol guidelines.

CARB should be clear on Scope 3 emissions measurement and reporting requirements. The GHG Protocol's Corporate Value Chain (Scope 3) Accounting and Reporting Standard (Scope 3 Standard) and the Technical Guidance for Calculating Scope 3 Emissions (Scope 3 Technical Guidance) offer guidance on assessing, calculating and reporting indirect emissions in a company's value chain, both upstream and downstream emissions. Not all fifteen Scope 3 categories listed in the Scope 3 Standard will be applicable or significant to every organization.

The GHG Protocol recommends eight criteria for identifying relevant Scope 3 categories. For categories applicable to a company, relevance of these emissions is determined at the reporting company's discretion, with relevance typically intended to indicate some level of materiality for inclusion or exclusion, as defined by the GHG Reporting Protocol. This allows companies to focus on those areas that have the most impact and are relevant to business operations and goals.

Without this clarification, companies would need to expend significant resources on measuring data that is not material to a company's overall emissions inventory.

8. SB 253 requires that reporting entities obtain "assurance providers." An assurance provider is required to be third-party, independent, and have significant experience in measuring, analyzing, reporting, or attesting in accordance with professional standards and applicable legal and regulatory requirements.

a. **For entities required to report under SB 253, what options exist for third-party verification or assurance for scope 3 emissions?**

Comments: No comment.

b. **For purposes of implementing SB 253, what standards should be used to define limited assurance and reasonable level of assurance? Should the existing definition for “reasonable assurance” in MRR be utilized, and if not why?**

Comments: The existing definition for “reasonable assurance” in the MRR should be utilized. The MRR requirements have been a longstanding guideline of reasonable assurance within the industry. Also, standards and requirements have been developed for the MRR that meet the definition of assurance providers or third-party verifiers that CARB can continue to utilize and industry is familiar with.

In addition, our recommendation would be to bolster the existing third-party verifier list and expand accordingly where needed. The addition of SB 253 reporting requirements will likely increase the number of reporting entities, which will in turn increase the need for additional third-party verifiers.

9. How should voluntary emissions reporting inform CARB’s approach to implementing SB 253 requirements? For those parties currently reporting scopes 1 and 2 emissions on a voluntary basis:

a. **What frequency (annual or other) and time period (1 year or more) are currently used for reporting?**

Comments: Many organizations already report emissions to state and federal agencies. For example, reporting entities like regulated utilities, report Scope 1 emissions to meet existing CARB and EPA compliance requirements based on established timelines. Consideration of varying companies’ closing cycle and availability of data should be strongly weighed as CARB implements SB 253 requirements. In addition, there are certain mandatory disclosures in place today such as the CARB’s current mandatory reporting program that requires threshold level reporting, 25,000 metric tons and 10,000 metric tons respectively. Third party verifications are only required for the higher threshold. For parties currently reporting voluntary Scope 1 and 2 emissions, The Climate Registry (TCR) should be considered/leveraged to implement SB 253 requirements.

TCR, formerly the California Climate Action Registry (CCAR), has had a voluntary reporting program with entity level reporting that requires third-party verification based on general GHG protocol practices since 2001. The voluntary organization was created when SB1771 was signed by then Governor Gray Davis on October 13, 2001.

Emissions currently reported on an annual basis to TCR can be used to streamline the need for additional SB 253 reporting where possible. This alignment could also reduce potential duplication of information and effort. Additionally, the verifiers recognized and utilized by the TCR’s existing verification process appear to closely align with approved verifiers in the CARB Mandatory Program.

b. When are data available from the prior year to support reporting?

Comments: Different companies have varying disclosure practices/requirements as well as varying year-end reconciliations, further varied by fiscal year versus calendar year. For entities such as Sempra that operate on a calendar year-end schedule, emissions data is reported on a 2-year cycle, where unverified emissions data is available for reporting by end of Q2 for the previous calendar year. However, third party verified emissions data is generally unavailable until December 31st of the disclosing year and shared in the company's disclosure in the following reporting year.

c. What software systems are commonly used for voluntary reporting?

Comments: Companies should have the discretion to choose their voluntary reporting systems or platforms. Any future reporting system considered by CARB should be flexible enough to accommodate various document types, offer a simplified data upload process, and feature an easy-to-use interface.

SB 261: Climate Related Financial Risk Disclosure

10. For SB 261, if the data needed to develop each biennial report are the prior year's data, what is the appropriate timeframe within a reporting year to ensure data are available, reporting is complete, and the necessary assurance review is completed?

Comments: From the end of the data year, it takes approximately eighteen months to aggregate data, complete third-party verification with an assurance opinion of annual emissions and report verified emissions based on current processes. Eighteen months from the last date of the data year is the minimum timeframe necessary for reporting with a completed assurance process, with longer timeframes potentially becoming necessary as requirements continue to be further clarified.

11. Should CARB require a standardized reporting year (i.e., 2027, 2029, 2031, etc.), or allow for reporting any time in a two-year period (2026-2027, 2028-2029, etc.)?

Comments: Given that companies have varying operational, regulatory reporting, and fiscal calendars, it is essential that CARB takes into account the multifaceted nature of these schedules. A flexible biennial reporting cycle (versus a standardized reporting) would offer a more adaptable framework to serve the diverse needs of companies and will more likely provide the necessary latitude for companies to align their reporting with their internal processes, thereby reducing administrative burdens and enhancing compliance efficiency. Furthermore, a biennial approach respects the unique operational rhythms of different industries, acknowledging that a one-size-fits-all model may not be feasible. By allowing companies the option to report within a two-year window, CARB can ensure that organizations are better able to integrate their environmental reporting with other regulatory requirements and fiscal planning cycles.

12. SB 261 requires entities to prepare a climate-related financial risk report biennially. What, if any, disclosures should be required by an entity that qualifies as a reporting entity (because it exceeds the revenue threshold) for the first time during the two years before a reporting year?

Comments: No comment.

13. Many entities that are potentially subject to reporting requirements under SB 261 are already providing other types of climate financial risk disclosures.

a. **What other types of existing climate financial risk disclosures are entities already preparing?**

Comments: No comment.

b. **For covered entities that already report climate related financial risk, what approaches do entities use?**

Comments: No comment.

c. **In what areas, if any, is current reporting typically different than the guidance provided by the Final Report of Recommendations of the Task Force on Climate-related Financial Disclosures?**

Comments: No comment.

d. **If not consistent with the Final Report of Recommendations of the Task Force on Climate-related Financial Disclosures, are there other laws, regulations, or listing Requirements issued by any regulated exchange, national government, or other governmental entity that is guiding the development of these reports?**

Comments: No comment.

Additional Information

Comments: No comment.