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RE: Comments on July 27, 2023, Cap-and-Trade Workshop

The California Municipal Utilities Association¹ appreciates the opportunity to provide comments on the July 27, 2023, Cap-and-Trade workshop.

CMUA represents California's local publicly owned utilities (POUs), which are governed by a board of local officials and are accountable to the communities which they serve. CMUA's member agencies are committed to maintaining reliable and affordable electric service in a manner that supports the state's climate goals. Many of CMUA's members will additionally be submitting individual comment letters.

Comments

CMUA provides feedback to the following questions raised in the staff presentation:²

How could EDU and NGS allocation be used to maximize ratepayer benefit and support Scoping Plan targets?

Allowing EDUs to use allowance allocations directly for compliance, and allowance value for emissions reduction programs and measures that directly benefit their electric customers maximizes the direct benefit to those customers. California's POUs apply 100% of their allocated allowance value to provide direct benefit to their electricity ratepayers through programs and efforts tailored to the individual communities our POUs serve. This allows POUs to help control costs of direct GHG emissions measures, supporting electric vehicle (EV) charging programs, facilitate renewable energy development and purchases, and strengthen local building electrification and energy efficiency programs—all while reducing upward impacts on electricity rates. Keeping electricity affordable is paramount to the success of the goals set forth in the

¹ 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.

² Cap-and-Trade Program Workshop Presentation, July 27, 2023, https://ww2.arb.ca.gov/sites/default/files/2023-07/hc-CapTradeWorkshop_July272023_0.pdf.

Scoping Plan Update (SPU), and local POU's are best positioned to ensure allocations and allowance value are used optimally for the benefit of POU communities.

As a result, under the current program design and regulatory framework, POU ratepayers already benefit fully and directly from the POU's ability to use allowance allocations for compliance and apply allowance value to these cost control measures and clean energy programs. Ensuring that local POU's retain control of how allocations are used, and how allowance value is spent is a successful and significant policy mechanism that will continue to maximize ratepayer benefit. Further, maintaining affordable electric service is an important tool to help California meet the goals established in the 2022 SPU.

How could the requirements for use of allocated allowance value be designed to better protect low-income ratepayers and priority communities?

The more discretion POU's have in the way in which the value is spent for the direct benefit of their electricity ratepayers, the greater the ability of those POU's to effectively target programs to low-income and priority communities. California's POU's serve varied communities, including low-income and disadvantaged populations. As essential public service providers, California's POU's are community partners, and are best able to develop rate structures and energy efficiency and clean energy programs to help meet the needs of low-income customers and disadvantaged communities. To best serve low-income and priority community needs, CARB should continue to allow POU's to have the flexibility to spend their allowance value on projects that reduce GHG emissions, while benefiting ratepayers and the communities in which they live. Section 95892(d)(3) provides a wide variety of uses for POU allowance values. CMUA respectfully requests that these eligible categories remain in the program. Because POU's serve diverse communities in various regions consisting of various demographics, further restrictions on allowance value spending could hinder, rather than help, effective and efficient delivery of valuable GHG reduction efforts.

Should requirements for the use of allocated allowance value differ between electricity and natural gas utilities? Between IOUs, POU's, and COOP's?

CARB has recognized that there are fundamental differences between investor-owned utilities (IOUs) and POU's that are material to this discussion. Although POU's and IOUs both provide electricity, the two utility types are different in objectives, resource mix, financial structures, and governance.

POU's are not for profit entities that have been formed to serve their communities. They are governed by local governing boards comprised of people who are members of the local community who listen to, understand, and are accountable to the needs of their ratepayers. As such, POU's are uniquely equipped to respond to their ratepayers,

including low-income and priority communities. These differences are statutorily directed and have been historically acknowledged by CARB under the Cap-and-Trade program. Indeed, the current regulatory framework allows POU's greater flexibility to determine how allowances and allowance value should be used, reflecting the tenet that local POU's are most capable of understanding the unique needs of their ratepayers.

Parity for the sake of parity should be avoided; as set forth elsewhere in this letter, there are significant benefits to ensuring POU's, through their locally elected representatives, retain discretion to using allowance allocations and value in ways best suited to meet the needs of their constituents.

Should the Regulation require POU's and COOP's to consign allowances similar to IOU's?

No, CMUA strongly opposes policies that would require POU's to consign *all their* allocated allowances. Requiring consignment of all POU allowances would needlessly increase customer costs without providing any additional GHG mitigation benefits, nor would it directly increase transparency directly. If additional transparency on the use of allowance value is needed, then the POU's are open to future discussions with CARB on reporting parameters and granularity. The need for additional data should not be the basis for fundamental policy shifts, particularly where those shifts unnecessarily increase costs to California communities.

It is important to recall that POU's and cooperatives are fundamentally different from IOU's. Just as there are differences in regional generation resources that define the impact of the regulations on a particular utility, the differences between POU and IOU administration are material to this discussion. As stated above, although POU's and IOU's both provide electricity, the two utility types are fundamentally different in objectives, resource mix, financial structures, and governance. POU governing boards consist of locally elected officials who must answer directly to their constituents regarding how, and at what cost, their fundamental services are provided. Moreover, many POU's are vertically integrated, meaning that they often own and/or operate their generation assets to serve their customers. Because of this role, POU's have the direct programmatic compliance obligation for the assets, and a direct incentive to reduce those compliance obligations to the maximum extent possible. Allowing POU's to retain the ability to exercise local discretion in choosing future carbon cost prices in their supply portfolios and assign allowance value towards cost-effective GHG mitigation programs is critically important to allowing POU's to optimally reduce their carbon footprints in a cost-effective manner for ratepayers. These fundamental differences between POU's and others are statutorily directed, have been historically acknowledged by CARB under the Cap-and-Trade program, and have not changed since CARB last considered updates to Cap-and-Trade regulation. CARB has previously exercised its

administrative discretion in this matter and should continue to do so in the 2023 rulemaking.

As CARB staff has indicated, some POU, particularly those within the California Independent System Operator footprint, consign some of their allocated allowances to auction. However, this process is fundamentally different from the forced consignment of *all* allowances to auction; substantial differences in financial risk between these two paradigms must be recognized. Furthermore, the timing and strategic layering of the allowance consignment is unstandardized amongst each utility relative to their respective consumer rates. Once again, POU are diverse—they serve diverse communities in diverse regions of the state. A “one size fits all” approach to consignment and allowance value spending is unnecessary and would not solve any perceived issues with respect to lack of transparency.

California’s Cap-and-Trade program has succeeded to date—particularly in the electricity sector—in part due to its stringency, but also due to its flexibility in acknowledging operation constraints and impacts on various sectors of the economy. CARB should not make changes that put the ongoing success of the Cap-and-Trade program within the electric sector at risk.

Forced Consignment Will Not Provide Any Increased Market Transparency

During the workshop, CARB staff asserted that forced consignment would increase transparency. However, no supporting evidence for this assertion was provided. Indeed, staff stated that it was not the consignment that provides transparency, but the reporting of the disposition of the allowances that provides transparency. As stated during the workshop, California’s POU already report that details the disposition of allocated allowances and allowance value, which provides transparency to California ratepayers.³

CMUA understands and appreciates that tracking and confirming the disposition of POU allowance value presents a challenge for CARB staff. CMUA stands ready to collaborate with CARB to develop alternative approaches to mitigate this challenge that would not mandate 100% consignment of POU allocated allowances and would protect the confidentiality of energy market transactions.

³ See *Summary of 2013-2021 Electrical Distribution Utility Use of Allocated Allowance Value* at https://ww2.arb.ca.gov/sites/default/files/cap-and-trade/allowanceallocation/edu_2013to2021useofvaluereport.pdf, and *2013-2021 Electrical Distribution Utility Allocated Allowance Value Expenditure Data* at https://ww3.arb.ca.gov/cc/capandtrade/allowanceallocation/edu_uofavtables.xlsx.

Forced Consignment is Not Necessary to Implement Carbon Price Signals

A fundamental pillar of California's climate change mitigation policy is that behavior is impacted by price. This, of course, can occur at the consumer level; if electricity rates rise, consumers may be less inclined to electrify buildings and transportation—both critical to achieving state emissions reduction goals. The same concept applies at a higher level in the procurement and/or distribution chain. Having a price on carbon, even if it is not a direct charge to consumers, does impact the dispatch of California POU's power resources.

California Balancing Authorities all include a "GHG adder" in their economic resource dispatch calculations; indeed, every generating unit under POU control has such an adder. As a result, lower carbon resources are more likely to be dispatched because this places a cost premium on resources that have a greater GHG emissions intensity. This GHG adder makes it costlier to dispatch higher-emitting resources than it is to use lower-emitting ones to serve customer load.

POUs that operate thermal power plants in California are already seeing, and passing along, the carbon cost associated with any fossil fuels combusted, e.g., natural gas. This carbon cost is embedded in the purchase of the fuel.

Requiring the consignment, and subsequent repurchase of allowances does not assist in POU's recognizing the cost of carbon.

Forced Consignment of All Allowances Introduces Significant Financial Risk for Government Entities

As local and regional governmental entities, all POU's, regardless of size, would be exposed to material and potentially significant financial risks if they were required to consign *all* their allocated allowances and participate in auctions. The impact of such risks disproportionately affects some POU's more than others. Many POU's have limited staff to participate in the carbon market process and do not have the infrastructure or financial resources to mitigate financial exposure in the same way that the much larger IOU's can. CARB has previously acknowledged these core differences.⁴ The same conditions that brought CARB to that conclusion remain valid today.

In addition to the increase in transaction costs, some POU's would be required to have significant capital available to participate in auctions, particularly if limitations on the use of proceeds prohibit them from using purchased allowances to meet their compliance

⁴ See pages 342 and 564 of the October 2011 Final Statement of Reasons for the Cap- and- Trade Regulations.

obligations. This issue is compounded by substantial challenges larger POU would face in securing a sufficient line of credit required to participate in the auction process, as no dedicated pool of funding is available for this purpose. POU also do not have shareholder funding to “backstop” their financial needs. These additional cost burdens (including mitigating the aforementioned financial risks associated with the consignment requirement) would negatively impact POU’s ratepayers. These additional cost burdens would be especially impactful on low income and priority communities without achieving incremental GHG emissions reduction benefits. Moreover, the associated cost risks would harm low-income customers the most, whether in inland (warmer) regions or in coastal areas (more moderate temperatures, but higher cost of living). The financial risk for governmental entities will increase as the carbon market tightens and is more constrained with higher prices.

In short, requiring POU to consign all allocated allowances to auction would lead to cost increases for POU customers without providing any additional GHG mitigation benefits or market transparency.

Should all POU and COOPs be treated the same, regardless of size, or other factors?

California’s POU and COOPs share many characteristics, perhaps the most important of which is that they know the communities they serve. As a result, CMUA sees no reason to develop different operational rules for different community-owned electric service providers. As set forth above, the changes staff proposed at the July 27, 2023, workshop concerning forced POU consignment and additional restrictions on allowance value spending—particularly when coupled and magnified even further when paired with potential reductions to POU’s allocations generally—would have material, negative impacts on every California POU, regardless of size. California’s POU are community-owned and community-focused; the current regulations adequately guide POU spending and ensure POU flexibility, which inure to the benefit of our regions and local ratepayers.

Conclusion

CMUA appreciates the opportunity to provide these comments in response to the July 27th workshop. In addition to these comments, CMUA supports the comments submitted by the Northern California Power Agency and the Southern California Public Power Authority. CMUA is also a signatory to the comment letter submitted by the Joint Utilities Group. CMUA looks forward to collaborating with CARB and other stakeholders in the Cap-and-Trade proceeding.

Respectfully submitted,

/s/

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