M-S-R Public Power Agency
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October 26, 2023

Rajinder Sahota
Deputy Executive Officer for Climate Change and Research
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: **Comments on Proposed Changes to the RPS Adjustment**

Dear Ms. Sahota:

During the October 5, 2023 pre-rulemaking workshop on potential amendments to the Cap-and-Trade Program, California Air Resources Board (CARB) staff introduced potential amendments to the regulation that would impact electricity emissions. M-S-R Public Power Agency (M-S-R)[1] appreciates the opportunity to provide feedback to CARB on the potential amendments to the regulation relevant to the Renewable Portfolio Standard (RPS) Adjustment found in section 95852(b)(4) of the Cap-and-Trade Program regulation.[2]

Introduction

In 2011, when CARB adopted the Cap-and-Trade Program regulation, and again in 2017 when CARB adopted amendments to the regulation, the Final Statement of Reasons for both rulemakings clearly stated the rationale for creating – and retaining – the RPS Adjustment for

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1 Created in 1980, the M-S-R Public Power Agency is a public agency formed by the Modesto Irrigation District, the City of Santa Clara, and the City of Redding. M-S-R is authorized to acquire, construct, maintain, and operate facilities for the generation and transmission of electric power and to enter into contractual agreements for the benefit of any of its members. Currently, M-S-R and its members have contractual arrangements for over 625 megawatts of California Energy Commission RPS-certified renewable energy.

2 M-S-R supports the comments submitted by the Joint Utilities Group, and failure to address other issues raised during the workshop should not be seen as a position in support of or against any of those issues.

electric distribution utilities (EDUs). Since that time, there have been no fundamental changes in the market mandates and operations that negate or mitigate any of the underlying reasons that supported inclusion of the RPS Adjustment in the Cap-and-Trade Program. The RPS Adjustment is an important part of the Cap-and-Trade Program, designed to recognize the significant investments utilities have made in renewable resources, not all of which are located in California. The RPS Adjustment serves an important function in both ensuring that the value of out-of-states renewables are fully realized by the California electricity customers whose utilities made the investments and in recognizing the overlapping policy objectives of two important, but separate programs aimed at meeting California's climate change goals.

The RPS Adjustment Should not be Phased Out

During the October 5, 2023 Workshop, Staff stated that they are evaluating "phasing out the RPS adjustment to align with the deep decarbonization necessary to achieve the zero carbon electricity goals of SB 100 and the updated Integrated Resource Planning target of 30–38 MMTCO2e in 2030 set by CARB's Board." CARB proposes a planned phase out to provide certainty and time for entities to respond. M-S-R does not believe that CARB should phase out or eliminate the RPS Adjustment. Doing so will increase compliance costs, adversely impact electricity ratepayers, and undermine investments in early actions. Even with a "planned phase out," there is no other way for compliance entities to "respond" to the loss of the RPS Adjustment without increasing compliance costs. Eliminating the RPS Adjustment would result in greater costs for the utilities, putting further upward pressure on electricity rates. The resulting increase in compliance costs would have additional and immediate impacts on electricity customers, as it would increase an entity's compliance obligation commensurate with the imported, RPS-eligible resources used to serve its load.[3]

CARB staff articulated ongoing challenges associated with the RPS Adjustment,

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3 M-S-R does not support reopening the EDU Allowance Allocation in Table 9-4 and urges CARB to ensure that the EDUs retain the maximum number of allowances feasible. Any change to EDU allowance allocation, along with various of the items discussed during the October 5 workshop will impact EDU compliance costs, each of which must be modeled and assessed in order to ensure that the full extent of electricity ratepayer impacts are understood. Reduction in allocated allowances would have adverse rate impacts.

including verifying that electricity was not directly delivered, particularly when not all generation is tagged; reporting and verifying claims where a portion of RPS-eligible power is imported and a portion is claimed as an RPS adjustment, often by multiple entities; and confidentiality agreements hinder CARB staff's ability to communicate with multiple counterparties. CARB staff also posited that the RPS Adjustment was not as necessary given the state's move to deep decarbonization and that the role of Portfolio Content Category 2 in the RPS has declined over time. However, this rationale does not support elimination of the RPS Adjustment because there have been no changes in the underlying rationale supporting the need for the adjustment, nor are there any changes in the way the RPS Adjustment is used. Furthermore, CARB staff's arguments did not recognize the critical role of Portfolio Content Category 0 resources for the load-serving and RPS program needs of many EDUs, amplifying the cost impact to such utilities' ratepayers should the RPS Adjustment be diminished or discontinued. As noted in 2011, the "RPS adjustment provision accomplishes the purpose of reducing a deliverer's compliance obligation by accounting for renewable imports." (2011 FSOR, p. 57) CARB confirmed the rationale in 2017 when it determined that the RPS Adjustment should not be eliminated, stating that "as has always been the intent of these provisions, the purpose of the RPS Adjustment is to allow for a reduction of the compliance obligation for EDUs or for entities that import electricity on behalf of EDUs. The RPS Adjustment was created to recognize investments in out-of-State renewable resources, and is allowed when RPS-eligible electricity is purchased along with RECs and the electricity is not directly delivered to California." (2017 FSOR, p, 353) The need to recognize these investments has not changed and the need to not appear to punish early action in support of the State's goals remains.

M-S-R believes that the challenges staff faces in verifying the RPS Adjustment can be addressed while ensuring the integrity of the Cap-and-Trade Program without phasing out the RPS Adjustment. M-S-R is open to working directly with CARB and stakeholders to address these challenges in a manner that will ensure the continued integrity of the program and still allow compliance entities to utilize this important compliance tool. Admittedly, the challenges associated with tracking and reporting the RPS Adjustment can be complicated. However, those challenges should not override the compelling reasons why the provision was adopted and retained. Rather, CARB and electricity stakeholders can work together on the areas of concern and proposed solutions is the simplest and most productive means to address this issue, which would allow CARB to continue recognizing the early investments and avoid adding to the electricity customers' cost burden.

Conclusion

CARB has asked "How should CARB align the RPS adjustment with state climate policy?" M-S-R believes that it already does. The RPS Adjustment recognizes the investments of compliance entities in the RPS program; without this recognition, the Cap-and-Trade program would actually increase compliance costs for utilities and punish investments made in furtherance of the state's climate policies. Retaining the current RPS Adjustment would best align with the state's climate policies. As such, M-S-R does not believe that the RPS adjustment should be phased out for so long as there is both a Cap-and-Trade program and an RPS mandate with the ability to use out-of-state, RPS-eligible resources.

The RPS Adjustment was supported by sound policy and continues to be sound policy. It is an essential tool in managing Cap-and-Trade Program compliance costs, supports early action and utility investments in eligible renewable energy resources. The fact is that the RPS Adjustment also reduces compliance costs – and in turn, electricity rates. M-S-R urges CARB to work with stakeholders on ways to address challenges to verifying the RPS Adjustment rather than eliminate it.

Respectfully submitted,

Martin Hopper
General Manager
M-S-R Public Power Agency