CRS center for resource solutions

January 20, 2016

Ryan Schauland
Air Pollution Specialist
Industrial Strategies Division
California Air Resources Board (ARB)
1001 I Street
Sacramento, CA 95814

Re: Informal Comments of Center for Resource Solutions (CRS) regarding the Cap-and-Trade Regulation 2016 Amendments

Dear Ryan:

CRS appreciates the opportunity to submit informal comments regarding the cap-and-trade regulation 2016 amendments between workshop and official regulatory comment periods. Specifically, these comments pertain to the final presentation[1] at the December 14, 2015 workshop on *CA Plan for Compliance with the Clean Power Plan and Potential 2016 Amendments to the Cap-and-Trade Program*, which discussed the RPS Adjustment and the rules for accounting for specified source imports.

We are seeking to confirm our understanding of the double counting that is occurring and to respond to the next steps and changes to the Mandatory Reporting Regulation (MRR) and cap-and-trade regulation proposed at the workshop in advance of any rulemaking.

Summary of Double Counting between RPS Adjustment and Specified Source Imports

It is our understanding based on the presentation by ARB on December 14, 2015 that there have been instances in which entities have direct delivered power for which they were generation-providing entity (GPE) unbeknownst to an entity that was purchasing the Renewable Energy Certificates (RECs) associated with that power and taking an RPS Adjustment for those RECs. In data year 2014, these initial claims for the RPS adjustment in violation of the MRR and cap-and-trade regulation represented double counting of approximately 600,000 metric tons carbon dioxide-equivalent (mtCO2e). We understand that ARB was able to identify these RECs and correct this double counting with individual entities through email correspondence.

It is possible for ARB staff to compare REC serial numbers to prevent this, but according to ARB, they would face a moving target, in the sense that entities can resubmit data up until the verification deadline. Also, since it is the only entity with access to all serial numbers for all entities, this would represent a significant administrative burden for ARB staff.

We understand that ARB is planning rulemaking to correct the issue. At the December 14 workshop, ARB staff presented next steps including:

- Possible removal of the RPS Adjustment;

[1] Available on the ARB website at: http://www.arb.ca.gov/cc/capandtrade/meetings/20151214/rpssb350.pdf.

1012 torney avenue
2nd floor
san francisco, ca 94129
tel 415.561.2100
fax 415.561.2105
web www.resource-solutions.org

- Possible removal of REC serial reporting for specified sources from MRR and the Cap-and-Trade Regulation; and
- Alignment of the Cap-and-Trade Regulation with the MRR to make clear that claims of specified source electricity can/must be made when the entity does not report the RECs associated with the electricity.

We have been informed that there is one perspective at ARB that the program should just focus on power that is imported and consumed—on direct delivery of power—and that the associated RECs may not be important in this context.

Informal Comments

Assuming that our understanding above is correct, we have the following comments.

1. There will be double counting if energy is imported without the REC, considered zero emissions specified power, and then the associated REC is counted as zero emissions by another program, e.g. toward the Oregon RPS. RECs are therefore important in this context to prevent double counting with other programs and policies. RECs are the currency for zero-emission electricity delivery and consumption in state compliance markets and the voluntary renewable energy market. RECs are required for imported specified renewable energy to identify the energy as renewable (avoid a compliance obligation) and to avoid double counting.

2. The Clean Power Plan (CPP) could be another reason not to remove the requirement for REC reporting for imports. Thinking about the same scenario as above, if Oregon (or any other state in the WECC) were also to adopt a mass-based state measures plan and includes its RPS as a state measure, it could get CPP compliance credit for electricity that was counted a zero emissions in California, resulting in double counting between California and Oregon within the CPP.

3. Double counting is not a permissible alternative to administrative burden. There are solutions to alleviate this burden, such having an outside entity do verification of REC serial numbers, for example.

4. The emissions associated with imported power must be verifiably tracked regardless because electricity can also be double counted if not tracked all the way to end use. Eliminating REC reporting requirement does not appear to simplify that verification.

5. Eliminating the REC reporting requirement for imports while keeping the RPS Adjustment would not appear to prevent the double counting, which could still happen and would still require monitoring by ARB, except it is made more difficult because in that case there are two different tracking mechanisms used (i.e. the power or other instrument for the import and the REC for the RPS Adjustment). Having the REC serial numbers for both allows the two to be compared. It is unclear to us how eliminating the requirement for REC reporting for specified imports would help prevent directly delivered RECs from being counted in RPS Adjustment.

6. The current requirement at Sec. 95852(b)(3)(D) of the cap-and-trade regulation is nevertheless insufficient to prevent double counting, and its wholesale removal would weaken it further. Ideally, to prevent double counting, ARB must ensure that RECs associated with imported

electricity do not leave the state, once a MWh is imported without emissions. See *Comments of Center for Resource Solutions regarding the July 2013 Discussion Draft of the California Cap-and-Trade Regulation, August 2, 2013*[2] (reproduced below).

> *Regarding the change to the criterion for electricity importers to claim a compliance obligation for delivered electricity based on a specified source emissions factor at Sec. 95852(b)(3)(D), from "RECs must be retired" to "REC serial numbers must be reported," this change appears to be appropriate provided that 1) the importer is not itself delivering to load, and 2) the REC stays in state and the electricity is not wheeled out of state as zero emissions electricity. If the importer is delivering directly to end users, including for the RPS, then retirement of the REC should be required to prevent double counting. And if the REC is traded out of state to be used in a different system by either the importer, an in-state LSE, or other entity after the REC has been reported by the importer to avoid a compliance obligation, then there is double counting. Only in the case that the FJD importer is not delivering to load and simply using the REC to prove that the electricity was delivered into the state without emissions (avoiding compliance obligations) and then trading the REC in state is "reporting" sufficient. The in-state LSE isn't regulated for imports, so there wouldn't be double counting of the REC under the cap-and-trade in this case. Please clarify whether you agree. Please also clarify how double counting will be avoided if the REC is sold out of state or power is wheeled out of state as zero emissions after "reporting" by the FJD per this Section. How will ARB track the REC to make sure it stays in state or whether the power is wheeled out in order to prevent double counting?*

Please feel to contact us with any questions about these comments, or if we can otherwise be of assistance.

Sincerely,

Todd Jones
Senior Manager, Policy and Climate Change Programs

[2] Available online at: http://resource-solutions.org/site/wp-content/uploads/2015/07/CRScommentstoARBonJuly2013draftCTreg_8-2-2013.pdf