Comments of the Western Power Trading Forum to the California Air Resources Board on Proposed Amendments to the Cap-and-Trade Regulation

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The Western Power Trading Forum[1] (WPTF) welcomes the opportunity to provide input to the California Air Resources Board (CARB) on its 15-day Proposed Amendments to the Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms.

WPTF generally supports adoption of the proposed amendments to the regulation, including the new emission cap trajectories and the new covered sources. However, we are extremely concerned about the amendment that would terminate the Renewable Portfolio Standard (RPS) Adjustment after this year.

WPTF has consistently supported elimination of the RPS adjustment, provided that elimination is done in a way that does not financially impact legacy RPS contracts. CARB staff have signaled since 2023 that phase-out of the RPS Adjustment was being considered for 2030.[2] Expectations of that timeframe were further enforced by staff's publication of the 45-day Proposed Amendments to the Regulations, which provided for termination of the RPS Adjustment after 2030.

The abrupt decision by CARB staff to instead terminate the RPS adjustment in 2027 and to provide a corresponding increase in allowance allocations[3] to electric utilities protects the financial interests of the electric distribution utilities, but would harm their independent power producer counterparties, community choice aggregators and electricity service providers who would have no means of recouping cap-and-invest compliance costs for Product Content Category 2 (PCC2) imports. These compliance costs and the costs of unwinding contracts for PCC2 delivery will ultimately be born by California ratepayers.

WPTF believes there is a significant volume of contracts in place for PCC2 deliveries after 2026 that rely on the RPS adjustment. Many of these contracts were executed after CARB released its 45-day language. The change in the 15-day language to suddenly remove the RPS adjustment after this year will be extremely problematic for these contracts. While WPTF is not able to accurately quantify the total volume of affected contracts that extend beyond 2024, an informal survey of our members (which do not include Community Choice Aggregators) suggests that this volume is north of 2 million MWh annually. Under a back-of-the-envelope calculation using non-utility load (91,500,000 MWh) and the 2030 RPS target of 15% maximum percentage of PCC2, the potential affected volume for Community Choice Aggregators and Electricity Service Providers could be as a high as 8,235,000 MWh annually.

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[1] WPTF is a diverse organization comprising power marketers, generators, investment banks, public utilities and energy service providers, whose common interest is the development of competitive electricity markets in the West. WPTF has over 100 members participating in power markets within California and elsewhere across the United States.

[2] See slide 47 at https://ww2.arb.ca.gov/sites/default/files/2023-10/nc-CapTradeWorkshop_Oct052023_afternoon_0.pdf

3 WPTF does not take a position on electricity allocation generally and therefore does not oppose the Joint Utility Group request to align emissions assumption used in determining allowance allocations with the SB 100 and RPS targets.

Our understanding is that CARB could not revert to the previous post 2030 RPS phase-out language from the 45-day proposed amendments without triggering another 15-day package. WPTF does not wish to delay adoption of the revised regulation, nor the process for linking to the Washington cap-and-invest program. However, because of the significant financial harm caused by the sudden termination of the RPS Adjustment, we urge staff to find a way to provide relief to parties for affected contracts that would not result in a delay, such as a grandfathered exemption for contracts signed prior to release of the 15-day amendments. Alternatively, CARB could track the volume of emissions associated with PCC2 imports under these existing contracts and CARB could retire allowances to cover these emissions in a subsequent compliance period.