

LAW OFFICES OF SUSIE BERLIN

1346 The Alameda, Suite 7, #141
San José, CA 95126
berlin@susieberlinlaw.com

Submitted electronically

March 9, 2026

Lauren Sanchez
Chair, California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: Northern California Power Agency Comments on Rulemaking

Dear Chair Sanchez and Board Members:

The Northern California Power Agency (NCPA)¹ provides these comments to the California Air Resources Board (CARB) on the Proposed Amendments to the Regulation for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms, Cap-and-Invest Program, dated January 23, 2026. Providing clean, safe, and reliable electricity is of the utmost importance to NCPA and its member agencies,² as is ensuring that energy is *affordable*. Energy affordability is paramount to NCPA's members and with that focus, NCPA focuses these comments on the following points:

- Allocation of allowances to electrical distribution utilities for the benefit of electricity ratepayers remains a critical element of the Cap-and-Invest Program.
- The 2027-2030 electrical distribution utility (EDU) allocation proposal, although consistent with CARB staff's intent to update the data sources, ignores the regulatory certainty CARB intended to provide when adopting the 2021-2030 vintage allocation and fails completely to address the Legislative directive specific to energy affordability.
- CARB should retain the current allocation of allowances to electrical distribution utilities for 2027-2030.
- CARB must avoid any changes to the current electrical distribution utility allocation that would place upward pressure on electricity rates or otherwise adversely impact energy affordability.

¹ NCPA is a California Joint Action Agency, established under Government Code §6500, et seq. in 1968 by a consortium of locally owned electric utilities to make joint investments in energy resources that would ensure an affordable, reliable, and clean supply of electricity for customers in its member communities. NCPA members include municipalities, a rural electric cooperative, and other publicly owned entities for which the public agency provides such services as the purchase, aggregation, scheduling, and management of electrical energy. NCPA operates and maintains a fleet of power plants that is among the cleanest in the nation, providing reliable and affordable electricity to more than 700,000 Californians.

² NCPA's members are the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, Shasta Lake, and Ukiah, Plumas-Sierra Rural Electric Cooperative, Port of Oakland, San Francisco Bay Area Rapid Transit (BART), and Truckee Donner Public Utility District.

- CARB should honor the 2021-2030 vintage EDU allocation commitment; failing to do so jeopardizes certainty in capital investments and penalizes the EDUs that invested in lowering their emissions profile.
- Implementation of the 60% renewable portfolio standard must reflect the “effective” RPS rate.
- The final post-2030 allocation will benefit from a more thorough assessment that addresses affordability impacts, as envisioned by the Legislature.
- Compliance periods should be no less than 3 years.

I. INTRODUCTION

One of the most important elements of the Cap-and-Invest program is the allocation of allowances to EDUs. NCPA’s publicly owned utility (POU) and electric cooperative members use that value to directly invest in programs and measures that reduce their greenhouse gas (GHG) emissions and meet their compliance; this helps mitigate electricity rate increases and provides transition assistance for electricity customers in the face ever increasing upward pressure on energy affordability and greater electrification. Their current emissions profile reflects the early actions and capital investments made to reduce carbon emissions, investments that are largely the result of long-term commitments funded by ratepayers and augmented by Program allowance value.

NCPA appreciates the time that CARB staff has spent with the EDU stakeholders and the discussions regarding the allocation of allowances to the EDUs for continued ratepayer protection. Since CARB first previewed proposed amendments in the pre-rulemaking phase of this proceeding, NCPA has been steadfast in its commitment to work with the agency and fellow stakeholders to ensure that any amendments to the Cap-and-Trade – now Cap-and-Invest – regulation protect the value of the 2021-2030 vintage allowance allocation that directly benefits electric ratepayers. NCPA believes that the emphasis that we have always placed on ratepayer protection was underscored by the Legislature when the program was reauthorized last fall, further highlighting the importance of energy affordability. Electricity affordability is inextricably linked to meeting the state’s climate goals. NCPA is gravely concerned that the EDU allocation proposal set forth in the 45-day language fails completely to address the Legislative directive specific to energy affordability in Assembly Bill (AB) 1207 (Irwin).

The Legislature has given CARB the ability to look beyond the narrow definition of Program compliance costs and address electricity affordability more broadly. This means that CARB can – and must – address not only the empirical rationale for providing allowances to cover program costs but must also look at the sound public policy interests that support increasing utility allowance allocation. Assemblymember Irwin’s letter dated March 9, 2026, articulates this direction further. NCPA urges CARB to take that direction and look to the additional benefits that allowance allocation can provide to electricity ratepayers and mitigate the impacts on electricity affordability that come with increased electrification. As part of that effort, *NCPA believes that CARB should focus efforts on post-2030 allocation methodologies and leave in place the current allocations for 2027-2030.* Doing so helps to ensure the integrity of the Cap-and-Invest program, recognizes the critical role that utilities play in

meeting the state’s climate objectives, is sound public policy, and is in furtherance of protecting energy consumers from needless cost impacts.

II. BACKGROUND

NCPA has exhibited a long tradition of environmental stewardship that began well before the adoption of the Cap-and-Trade, now Invest, program. The NCPA member utilities share a strong commitment to GHG emissions, promoting energy efficiency, increasing renewable power generation, all while providing safe, reliable, and affordable electricity to their residential, commercial, and industrial customers.

Early on in the development of Cap-and-Invest program NCPA noted that “retail electric providers must be able to simultaneously balance the competing priorities of ongoing and increasing emissions reduction mandates with the related cost implications to customers -- while also continuing to provide safe and reliable electricity.” This remains just as true today as it did in 2009 when we first made this statement. NCPA appreciates that the Legislature, in approving AB 1207, has called even greater attention to the “cost implications to customers” and energy affordability. NCPA urges CARB to do the same and recognize that staff’s existing focus on covering program costs not only falls short of protecting energy affordability, but undermines the regulatory certainty that so many emissions reduction investments were based on.

III. COMMENTS ON PROPOSED AMENDMENTS

Electric utilities have been, and will continue to be, key to meeting the state’s clean energy goals. As CARB noted in the most recent Scoping Plan Update:

“Much of the state’s success to date in reducing GHGs is due to decarbonization of the electricity sector as a result of the RPS, SB 100 implementation, and the Cap-and-Trade Program. Moving forward, a clean, affordable, and reliable electricity grid will serve as a backbone to support deep decarbonization across California’s economy. *Under this Scoping Plan, the role of electricity in powering the economy will grow in almost every sector.*”³

It is from this perspective that NCPA offers these comments.

A. MAINTAINING THE 2027-2030 EDU ALLOCATION IS ESSENTIAL TO PROTECTING RATEPAYERS

CARB has consistently recognized, since the Cap-and-Invest program was first adopted and in each subsequent rulemaking to update and amend the regulation, that EDUs are best situated to deliver the benefits of allowance value directly to the State’s retail customers, and EDUs supported the allowance allocation proposal because it would help “*ensure that electricity ratepayers do not experience sudden increases in their electricity bills associated with the cap-and-trade regulation.*”⁴ However, as currently proposed, the 2027-2030 allocation to EDUs offers no such ratepayer protection. Instead, the current staff proposal would upend the current vintage allocation, which should run through 2030. To correct this, CARB should continue the allocation of allowances from 2027-2030.

3 2022 Scoping Plan Update, p. 195, emphasis added.

4 Cap-and-Trade Program, 2010 Initial Statement of Reasons (ISOR), p. II-28.

The EDU allowance allocation for vintage 2021-2030 was based on the 2015 California Energy Commission (CEC) Integrated Energy Policy Report (IEPR) data and projected to cover each EDU's Program compliance costs. EDUs that received allowances have used the value of those allowances to invest in GHG reducing measures and compliance cost mitigation that directly benefit their electric customers, as a component of their capital investments in long-term planning. These investments provide not only near-term benefits in reduced electric bills but also form the basis for long-term carbon reducing strategies that are critical to advancing the state's broader GHG emissions reduction objectives. While the Cap-and-Invest allowance value has played a significant part in the planning and funding structure. Because electricity rates are set based on these investments and funding structure, capital investments in emissions reducing technologies and renewable energy contracts are ultimately paid for by electricity ratepayers. Reductions in allowance value will alter the expected funding structure, likely necessitating a rate increase to cover the shortfall.

The allocation methodology ultimately adopted by CARB was subject to months of stakeholder discussions and meetings, and multiple rounds of comments. It was non-updating and based on cost burden, energy efficiency, and early action as defined by investments in renewable energy resources during the period 2007-2011. In the end, CARB concluded that the adopted approach

“fairly apportions value to the electric distribution utilities in a way that compensates retail customers for their cost, providing transition assistance, while **maintaining a strong incentive for distribution utilities to make investments toward lowering their emissions profile.**”⁵

Similarly, in 2017, CARB stated that:

Staff supports utilities' taking voluntary action to reduce GHG emissions from electricity generation. Given that EDU allowance allocation is based on cost burden, **this is one of the reasons that ARB has opted to set fixed EDU allowance allocations for 2021-2030. Any changes that utilities make to reduce GHG emissions will reduce their GHG costs while not changing their allocations,** thus resulting in a net benefit. This incentive is inherent to the Cap-and-Trade Program and applies in all sectors that see costs from the Program.⁶

Reducing that allocation at this time is contrary to those very principles, placing a greater burden on retail electric customers and ultimately punishing those utilities that made capital investments to lower their emissions profile.

1. The Electric Utilities Are Uniquely Situated to Facilitate the State's Energy Transition Through Direct Benefits to Electricity Ratepayers.

NCPA appreciates that the total number of allowances available in the program are limited, and that all allowances allocated to the utilities means that there will be fewer allowances available for other elements of the program. As such, CARB must carefully assess the value of assigning more allowances to one group over another, and must be able to justify that allocation. NCPA believes that allocation of allowances to the EDUs, not only to cover the traditional costs of Program compliance, but also to help address the broader statewide

⁵ Cap-and-Trade Program, 2011 Final Statement of Reasons (FSOR), p. 573-575 (emphasis added).

⁶ Cap-and-Trade Program, 2017 FSOR, p. 39 (emphasis added).

concerns with electricity affordability is warranted, prudent, and consistent with legislative policy intentions.

The March 9, 2026, letter from Assemblymember Irwin’s office states that “Allowance allocation to the utilities could be leveraged to provide significant affordability benefit to California ratepayers on utility bills – supporting both household budgets across the state and enabling greater electrification.” The utilities are best situated to provide the allowance value directly to electricity customers while simultaneously facilitating the state’s clean energy objectives. Providing additional allowances to the utilities helps to offset upward pressure on electricity rates. As Assemblymember Irwin has noted “we must reinforce the critical nature of electricity affordability for meeting the needs of Californians and enabling the scale of electrification we will need to reach our state’s climate goals.”

2. It is Sound Public Policy to Retain the Existing EDU Allocation.

Based on the 2021-2030 vintage allocation, EDUs made important strategic decisions more than a decade ago regarding Program compliance and GHG reductions. Utility integrated resource planning requires long-term certainty; investments in clean energy resources and programs and measures that directly reduce GHG emissions and protect ratepayers are essential parts of that planning. Capital investments and compliance commitment approaches were planned years in advance. These investments and decisions were made with the expectation that the allowance allocation tables adopted by CARB would cover the full planning period and CARB’s stated objective to incentivize GHG emissions reductions. As CARB has noted in the past and indeed recognizes in the current rulemaking, the allowance allocation construct intentionally incentivizes early investments in clean energy and emissions reducing infrastructure.⁷ Any retroactive reduction in allowance allocation as a result of those early actions directly punishes utilities – and their ratepayers – for actions they were encouraged to take.

3. Regulatory Certainty Protects Ratepayers from Unreasonable Cost Increases during the Clean Energy Transition.

Changes to the 2021-2030 allocation – other than to update load forecasts for growth that was unanticipated or unknown at that time – undermines the certainty utilities need to make sound and long-term business decisions. In Appendix D, staff notes that “[I]n order to support the transition to lower-carbon electricity sources **and to provide certainty to EDUs regarding ratepayer protection**, CARB set the annual EDU allowance allocation in the Regulation multiple years ahead of time. Table 9-4 of the Regulation, which was adopted in the 2016 rulemaking, specifies the vintage 2021–2030 allowance allocations to each EDU.”⁸ The background further notes that “when allowances are allocated in advance...there is a risk that the load projections will be too high or too low or that the supply projections would not reflect the actual generation mix.”⁹ Based on this rationale, CARB proposes to revise the 2027-2030 allocation, the remaining four years of the current vintage 2021-2030 allocation previously adopted. *However, modifying the allocation before the end of the current vintage allocations directly and adversely impacts the “transition to lower-carbon electricity sources” and undermines “certainty to EDUs regarding ratepayer protection.”* The “risk” that the current

⁷ See Cap-and-Trade Program, 2017 FSOR, p. 39, and 2026 Proposed Amendments, Appendix D-1, p. 3.

⁸ 2026 Proposed Amendments, Appendix D-1 Updated 2027-2030 and Post-2030 Allowance Allocation to Electrical Distribution Utilities, p. 3, emphasis added.

⁹ *Id.*, p. 5.

generation mix has changed not only should not override the public interest in regulatory certainty but is exactly what the EDU allowance value was intended to accomplish. Resource planning and ratepayer protection require regulatory certainty. EDUs must have confidence in allocations in order to fund GHG reducing investments, many of which are long-term investments.

Changes mid-vintage jeopardizes this certainty, penalizes utilities that made sound business decisions in capital investments to reduce emissions, and will have a significant chilling effect on future actions. It will also result in likely increases in electricity rates or decreases in other customer support programs offered by the EDUs to help customers electrify or reduce their electricity usage.

4. EDUs Face Increasing Costs for Emissions Reductions, Directly Impacting Electricity Affordability.

The EDU allowance allocation fails to include any consideration of the legislative directive to address energy affordability. The legislature, in passing AB 1207, directed that electricity affordability specifically be addressed as part of the EDU allowance allocation construct. CARB's approach does exactly the opposite.

Revising the 2027-2030 allowance allocation as proposed would result in more than \$2 billion dollars in lost allowance value for the utilities based on the most recent auction price, or *nearly \$5 billion based on CARB's own projections for allowance auction price.*¹⁰ NCPA's member agencies are not-for-profit, locally owned electric utilities directly accountable to their ratepayers. Electricity ratepayers will bear the burden of any reductions in allowance allocation. Whether those impacts result in necessary rate increases or reductions in the availability of other programs and services that benefit ratepayers and effect GHG reductions, the result is the same – a direct impact on energy affordability. This reduction comes at a time when electricity rates are at historic highs, amplifying affordability concerns for households and businesses.

In originally adopting the Cap-and-Invest Program regulation, CARB stated that: “electrical utility allocation is designed to protect electricity customers and reward these customers for utility investment in renewable energy and energy efficiency.”¹¹ Changes to the 2021-2030 allocation that reduce the allowances to EDUs would actually *harm and not reward* customers for utility investment in renewable energy and energy efficiency. The reasons and basis for freely allocating allowances to the electrical distribution utilities are just as true and relevant today as they were in 2011. The only difference is that when reauthorizing the Program in 2025, *the Legislature specifically recognized the importance of ensuring energy affordability as part of the Cap-and-Invest program reauthorization.* As such, more than ever, affordability must be a central consideration; yet CARB's proposal to adjust the 2027-2030 allocation is completely devoid of any consideration of energy affordability. Allocation of allowances to electrical distribution utilities, the value of which is used to directly benefit electric customers, is *even more important today* than it has been at any time in the past.

10 2026 Proposed Amendments, Appendix C, Standardized Regulatory Impact Assessment, Department of Finance Comment Letter, and CARB Responses, pp. 46, 57, assuming an estimated allowance value of \$60.

11 Cap-and-Trade Program 2011 FSOR, p. 215.

5. Reducing Utility Allocation Will Further Exacerbate Ratepayer Impacts Associated with Increasing Uncertainty in Carbon-Free Resource Procurement.

Many utilities are currently facing challenges in bringing carbon-free resource online in the next four years. Slow-rolling of renewable projects by federal agencies, increased competition for zero-emission resources from private companies like Google and Microsoft, and regional transmission constraints have greatly impacted renewable energy procurement. Many utilities, including NCPA members, have been actively pursuing new carbon-free generation and storage resources; however, the development pipeline, permitting timelines, interconnection constraints, and supply chain limitations make it extremely difficult to bring new projects online within the timeframe contemplated by the proposed changes. For example, Redding Electric Utility has been actively seeking new carbon-free resources but has found very few projects that can be delivered before the end of the decade. At the same time, the utility is facing the loss of the Big Horn Wind Project, making even the replacement of existing renewable generation challenging. Reducing allowance allocation to the utilities for 2027-2030 means that customers will see increased electricity costs or reductions in the programs and services utilities provide to help reduce electricity consumption and GHG emissions. Reducing allowance allocations before viable replacement resources are available does not accelerate decarbonization of utility portfolios.

6. Any Changes to Reflect The 60% RPS Must Reflect the Correct Percentage of Zero Emissions Resources Authorized to Meet the Mandate.

Staff's proposal to update EDU allocation to address higher RPS mandates must properly reflect the scope of those program mandates. In the 2018 Rulemaking FSOR, "staff indicated plans to re-evaluate post-2020 allocation to EDUs, including re-evaluating allocation levels to incorporate the increased Renewable Portfolio Standard requirement of 60% of retail sales in 2030, as mandated by SB 100 (De León, Chapter 312, Statutes of 2018)." ¹² And accordingly, the proposed amendments "include updates to the EDU allocation from the vintage 2027-2030 allowance budgets to account for the more ambitious Renewable Portfolio Standard target for 2030 under SB 100."

To accomplish this, staff proposes a methodology whereby the "RPS target was updated by applying a linear increase in RPS procurement from the 2020 RPS target of 33% to the 2030 target of 60%. For each year during 2021-2030, 5% was subtracted from that year's expected RPS procurement to represent other electricity used to 'firm and shape' zero-emissions electricity, which was then annually rounded to the nearest whole percent."¹³ Staff's proposal, however, fails to account for all of the RPS-eligible resources an EDU may use to meet the RPS mandate. Updating the EDU allocation to reflect the current RPS mandate must reflect the actual, Effective RPS; doing otherwise unduly and needlessly impose emissions obligations on electricity that is delivered to California in full compliance with the state's RPS mandates. Furthermore, utilizing the Effective RPS is consistent with CARB's intention to recognize the legislative mandate for increased RPS requirements. *The rules governing the RPS program allow for non-zero resources within the program, and therefore those should be acknowledged in the allowance allocation.* This includes not just "firmed and shaped"

¹² 2026 Proposed Amendments, Initial Statement of Reasons, p. 50; Appendix D-1 Updated 2027-2030 and Post-2030 Allowance Allocation to Electrical Distribution Utilities, p. 3.

¹³ 2026 Proposed Amendments, Appendix D-1 Updated 2027-2030 and Post-2030 Allowance Allocation to Electrical Distribution Utilities, p. 4.

resources, but unbundled renewable energy credits, as well. As noted above, retail electricity providers face increasing competition for RPS-eligible renewable resources, including competition from private entities. As availability of renewable resources become more constrained, and costs increase, it may become increasingly necessary for EDUs to rely on RECs and other non-zero RPS-eligible compliance instruments to meet the RPS mandate.

7. The Effective RPS Captures the Accurate 60% RPS Mandate

Even with the state's objectives to increase renewable energy procurement and reach deep decarbonization, under the 60% RPS mandate EDUs may still be 100% compliant with their RPS obligation while serving up to 25% of their retail load with non-RPS resources; meaning that those resources would have a compliance obligation that adds to the EDU's Cap-and-Invest program cost burden that is not recognized in the number of allowances allocated to the EDUs if CARB fails to recognize and adopt the Effective RPS. For 2030, recognizing the full scope of the RPS compliance obligation yields a 45% Effective RPS. The ability to meet the RPS obligation with up to 25% of Portfolio Content Category (PCC) 2 and 3 resources was recognized by the legislature when the program was designed and should likewise be recognized by CARB in the allowance allocation calculation. The Cap-and-Invest program should align to the greatest extent possible with other climate programs, and in particular when those other programs define and influence the policy direction of the Cap-and-Invest program as the RPS mandate does in this instance.

8. Use of the Effective RPS Accomplishes CARB's Objective of Updating to the 60% RPS while also Protecting Ratepayers Against Excess Compliance Costs

Application of the SB 100 and 60% RPS mandate, without recognizing the Effective RPS will cost NCPA member utilities millions of dollars in additional compliance costs as they are forced to surrender Program compliance instruments for resources procured in compliance with the RPS mandate, but which are unrecognized by CARB. Utilizing the Effective RPS ensures that the compliance obligation of the affected EDU is not overstated by requiring deliveries of RPS-eligible resources to be counted as part of the compliance obligation. The value of both the Program and RPS must be fully recognized and integrated for the benefit of the State's electricity customers. The non zero-GHG value of the renewable resources – RECs and firmed-and-shaped resources – EDUs are authorized to use to meet their the RPS compliance mandate should be fully recognized in the Cap-and-Invest program. Utilizing the effective RPS would accomplish this.

NCPA is cognizant of the potential for double counting, and therefore believes that CARB can eliminate the RPS Adjustment for PCC 2 renewable resources, and the challenges associated with administering the program if CARB instead adopts the Effective RPS for purposes of allocating allowances consistent with the state RPS mandate. CARB has expressed concerns with administration of the RPS adjustment and proposes to eliminate its use for PCC2 resources after the 2030 budget year. Eliminating the RPS adjustment beginning with the 2027 program allocation, in conjunction with implementation of the Effective RPS that more accurately captures the requirements of the state's RPS program, will allow CARB to both incorporate the more stringent statewide RPS mandate and eliminate the implementation challenges associated with the RPS adjustment for PCC2 resources.

9. Unique Circumstances Warrant Consideration of Load Growth Not Previously Contemplated

NCPA notes that in rare instances, some of the state's utilities have seen unique and extensive load growth as a result of data centers and other extreme development that was not and could not have been foreseen in 2015. For example, data centers alone resulted in the CEC adjusting the City of Santa Clara's Silicon Valley Power (SVP) load forecast between 2022 and 2023 to add just under 5,000 gigawatt hours of additional demand by 2040. These impacts on load growth, such as the one being experienced in the SVP service territory can – and must be – distinguished from updates to the allocation that reflect investments in cleaner resources. CARB has the ability and the precedent¹⁴ to recognize that there is load growth that was not contemplated as part of that design, such as data centers, and adjust allocation accordingly. In these instances, when utilities come forth with demonstrable evidence of their unforeseen load growth, CARB should utilize the 2024 IEPR demand forecast and proposed allocation that it has already incorporated into its rulemaking package.

10. Should CARB Reject Sound Public Policy and Determine to Adjust the EDU Allocation for 2027-2030 Based on a New IEPR Forecast, the 2024 IEPR Should be Used.

NCPA understands that CARB is seeking to update the Program to reflect the most recently available information on utility load growth and resources, reflected in publicly available reports submitted to the California Energy Commission, as outlined in Appendix D. Doing so, however, would upend the 2021-2030 allocation commitment that EDUs relied upon in making their GHG emissions reduction investments and strategies. Should CARB determine, contrary to good public policy to update the EDU allocation, load growth should be distinguished from changes in resource mix.

Should the EDU allocation be based on updated data, NCPA urges CARB to use the 2024 IEPR forms and information, rather than the 2025 IEPR scheduled to be adopted later this month. To be clear, NCPA feels very strongly that the allowance allocation for 2027-2030 should not be updated beyond the Effective RPS discussed above. Any update, however, should reflect the 2024 IEPR, rather than the 2025 IEPR and also include the Effective 60% RPS, in order to help mitigate the adverse impacts ensuing to electricity ratepayers from an update to the EDU allocation for 2027-2030. While utilizing the 2024 IEPR – rather than retaining the 2015 data – still compromises utility investments and long-term capital planning decisions, the 2024 IEPR data has been deemed more accurate than the projected 2025 IEPR. As demonstrated by the Single Forecast Set Agreement submitted in the CEC's 2025 IEPR docket, the 2025 IEPR demand forecasts have not been finalized, and are not being currently relied upon by the CEC, the California Public Utilities Commission (CPUC), and the CAISO for long-term planning.

B. COMPLIANCE PERIODS SHOULD BE A MINIMUM OF THREE YEARS

NCPA opposes changes to the regulation that would reduce the three-year compliance period, even intermittently. The three-year compliance cycle is one of the most important flexible compliance and cost control mechanisms available to a compliance entity. CARB

proposes to “[a]djust future compliance periods so that the last year of a compliance period aligns with statutory GHG emissions reduction target dates.” To accomplish this, CARB proposes to modify compliance period six and seven to be biannual and for the subsequent compliance periods to alternate between a duration of three and two calendar years.¹⁵

Compliance Periods must continue to be a minimum of three years. The three-year period was decided on as the appropriate time frame to provide sufficient flexibility for covered entities to meet their compliance obligations, while helping to smooth allowance price volatility related to variations in emissions levels due to changes in weather, market conditions, or other variables. CARB concluded that the three-year compliance periods—with interim partial surrenders annually—would appropriately balance the goals of flexibility and environmental integrity.¹⁶ Minimum three-year compliance periods are necessary to allow for fluctuations in weather and resource availability, to support long-term planning, and as a cost containment tool; all of which would be adversely impacted by instituting two-year compliance periods. If it is necessary to force compliance entities into a timeline that is wholly unrelated to actual emissions reductions, then the compliance periods should be increased to four years, rather than reduced. The fact that compliance entities will continue to have an annual surrender obligation should obviate any concerns that a four-year compliance period will adversely impact Program compliance.¹⁷ Alignment of the compliance periods with the statutory GHG emissions target dates can be accomplished by instituting four-year, rather than two-year compliance periods in the alternating years.

The three-year compliance period was not arbitrarily adopted. The three-year duration is necessary to address resource variability. It facilitates forecasting and resource planning. This is especially true for EDUs that have hydroelectric resources. Hydroelectric resources can vary considerably year-over-year, and a longer compliance period helps provide certainty for compliance entities. During the initial Cap-and-Invest rulemaking, stakeholders deliberated the merits of longer versus shorter compliance periods. It was also made in response to stakeholder concerns about the fluctuations and volatility in the electricity markets associated with seasonal resources, such as hydroelectric generation. Indeed, the multi-year compliance periods are in place to help with year-to-year variability that may affect the emissions obligation, including issues such as low hydro years.¹⁸ The three-year compliance period was also offered as a cost containment measure. CARB itself repeatedly references the three-year compliance period as one of the Program’s protections for price volatility.¹⁹ “There are also several cost-containment measures that are integrated into the program, including the use of offsets, *three-year compliance periods*, and the Allowance Price Containment Reserve.” (emphasis added)

Even with the proposal to alternate between two- and three-year compliance periods, the change would negate the ability of some compliance entities to address seasonal fluctuations in their emissions, and in particular, the use of renewable, seasonal electric resources. If CARB was to lengthen the alternating compliance periods to four years, compliance entities would be better able to utilize effective cost-containment tools for

¹⁵ 2026 Rulemaking, ISOR, pp. 26, 48.

¹⁶ California Cap-and-Trade Program, 2010 ISOR, p. IX-33.

¹⁷ Cap-and-Invest Program Regulation, Section 95856(d).

¹⁸ California Cap-and-Trade Program; 2011 FSOR, p. 2040.

¹⁹ See Cap-and-Trade Program, 2011 FSOR, pp. 175-176; 1197.

compliance entities, allowing them to plan over variations and fluctuations with minimal impact on electricity rates.

Since its adoption, nothing has changed the importance of ensuring that the compliance periods are sufficiently long enough to take into account those variations and other variables that occur across electricity resource planning and procurement. Any changes to the compliance periods should not shorten the time allowed to level and control compliance costs.

C. POST 2030 ALLOWANCE ALLOCATION REQUIRE FURTHER CONSIDERATION

NCPA believes that the concepts that CARB has proposed for post-2030 utility allocations could provide regulatory certainty and alignment with both Program and statewide policy objectives. However, the final allocation table for 2031-2035 must be supported by the necessary data to provide regulatory certainty when it is adopted. The record has not yet been developed to do so at this time. Irrespective of the methodology used for the 2031-2035 allocation, CARB must reflect the Effective RPS, as increasing competition for non-GHG emitting resources will continue to place upward pressure on resource commitments. Furthermore, the final post-2030 allocation would benefit from a more thorough assessment of how allowance allocations can be used to provide significant affordability benefits to electricity ratepayers, looking beyond merely covering Program compliance costs.

Given the importance of the utility allowance allocation, and the role that allocation plays in helping to protect ratepayers from increasing electricity costs that jeopardize the state's decarbonization efforts, NCPA urges CARB to include updated data, including the most recent information from utility Integrated Resource Plans and CEC demand forecast information. Updated information that accurately captures the impacts of a fully operational EDAM is not yet available. Additionally, utilities are currently facing uncertainties associated with renewable resource availability and development, including delays from federal policies. The proposed framework set forth in the draft amendments can form the basis for more robust stakeholder engagement and benefit from additional information. In light of all of these factors, it would be prudent to provide additional time to fully assess the post-2030 proposals to ensure that the stated objectives will in fact result.

D. THE TRANSITION OF ALLOWANCES VALUE FROM NATURAL GAS CORPORATIONS TO EDUS WILL HELP MITIGATE CUSTOMER IMPACTS ASSOCIATED WITH ELECTRIFICATION.

NCPA fully supports the Legislature's intent to use the value of allowances from the natural gas corporations to benefit ratepayers. The transition from natural gas corporations to the EDUs is important, since it is the EDUs that will face increasing compliance burdens as the state transitions away from natural gas and to greater electricity usage. As we had previously noted, transitioning allowances from gas corporations to EDUs "to minimize ratepayer impacts" must be done in a manner that protects all ratepayers. The objective is to optimize the value to customers that need it to mitigate energy costs and help offset reductions in the natural gas climate credit.

PUC section 748.5.5(a) requires POUs to provide "a credit in an amount equal to the total value of that additional allocation *directly to ratepayers.*" (emphasis added) The proposed amendments provide that POUs and electrical cooperatives would be required to provide the additional allowance value as direct non-volumetric credits to residential ratepayers either on-

or off-bill.²⁰ NCPA appreciates the explicit acknowledgment that the credit can be on- or off-bill. As the ISOR notes the value of these allowances will ultimately come from a reduction in the climate credit that would otherwise have gone to the IOU natural gas utilities' customers, and therefore, it is important that the POU and cooperative EDUs be able to best determine how to provide that value back to the customers that would benefit the most and in a manner that maximizes this mitigation. NCPA supports the acknowledgement that additional time may be necessary to address information technology issues such as modifying billing systems. However, NCPA urges CARB to complete the transition in a timely manner, to facilitate electrification and just as importantly, ensure that the allowance value is available to electricity customers as they transition away from natural gas usage.

VI. CONCLUSION

NCPA members have placed great value on this Program for nearly 15 years and hope that any changes to the Program will continue to allow the utilities to support the state and their electricity customers through the decarbonization transition. NCPA appreciates CARB's thoughtful consideration of these comments and looks forward to ongoing dialogue with CARB staff and other interested stakeholders. Please do not hesitate to contact the undersigned or Scott Tomashefsky at 916-781-4291 or scott.tomashefsky@ncpa.com if you have any questions regarding these comments.

Sincerely,



LAW OFFICES OF SUSIE BERLIN
Attorneys for the **Northern California Power Agency**