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CALIFORNIA ENERGY COMMISSION
REPLY COMMENTS OF PACIFIC GAS AND ELECTRIC
COMPANY (U 39 E) ON JOINT STAFF PROPOSAL FOR A
GREENHOUSE GAS REPORTING PROTOCOL UNDER
AB 32

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Pursuant to the ruling of the Administrative Law Judges dated June 12, 2007 (ALJs' Ruling), Pacific Gas and Electric Company (PG&E) provides its reply comments on the joint CPUC-CEC staff proposal (Joint Staff Proposal) for a greenhouse gas (GHG) reporting protocol under AB 32. PG&E's comments respond to three issues regarding the Joint Staff Proposal which appear to have been raised by most opening comments.

The three common issues are: (1) **Default emissions rates.** Numerous commenters expressed disagreements over the use and calculation of default emissions factors and rates in the Joint Staff Proposal; (2) **"First seller" reporting is more accurate.** Several commenters endorsed an alternative reporting protocol based on the "first seller" recommendations of the Market Advisory Committee, and recommended that the Joint Staff Proposal be revised to accommodate the "first seller" approach; and (3) **The need for coordinated and unified regional emissions reporting.** The opening comments expressed near-unanimous support for the recommendation that reporting protocols under AB 32 should be coordinated and consolidated with reporting protocols developed by other jurisdictions, especially in the West.

PG&E recommends that these three common issues be resolved as follows:

(1) Default emissions rates. As the opening comments of most parties indicate, the Joint Staff Proposal should not set default emissions rates and factors for unspecified energy without further extensive technical discussion and research. In particular, contrary to some commenters,¹ default emissions rates should not be set at artificially high or low levels in order to achieve some preordained preference for low or high emitting resources. The use of potentially inaccurate “proxy” emissions rates creates the high risk of distorting the entire AB 32 regulatory system as well as Western commercial power markets generally, because such proxies will heavily influence marginal decisions regarding dispatch and procurement of carbon-emitting and non-carbon emitting power supplies in California. The purpose of reporting under AB 32 is to track and measure GHG emissions as accurately as possible, not to prejudge or distort the emissions limits or market mechanisms that will be developed under other AB 32 provisions.

Some comments in particular demonstrate the risks of making snap judgments on default emissions rates. For example, NRDC/UCS suggest that default emissions rates be updated annually based on ex post data, with the ex post data presumably then applied retroactively to transactions occurring in the prior reporting period.² This approach is commercially unworkable and inefficient, because buyers and sellers in commercial power markets need to know what environmental regulations apply to their

¹ E.g. NRDC-UCS, at pp. 3, 5- 6; Calpine, at pp. 2- 4.

² NRDC-UCS, at pp. 6- 8.

transactions *before* they enter into the transactions, so that the transactions can be priced and fit within their portfolios in an economically efficient manner. If the rules of the game are subject to change *after* the transactions are entered into, there is no way to efficiently and effectively incorporate the price signals of those regulations into commercial decisions. It is appropriate to update default emissions rates *prospectively* based on the changing character of emissions, but those changes should not be applied retroactively to transactions already entered into under default emissions rates in effect at the time.

EPUC/CAC argue that a load-based reporting system should not allow LSEs to use a blended or average emissions rate, stating that “PG&E’s performance, for example, should not be judged by its average portfolio emissions, which incorporates all of its existing hydro, renewables and nuclear generation. Rather, its performance should be judged by the new procurement decisions it makes and the emission rates from those individual generators.”³ EPUC/CAC’s recommendation is illogical and should be rejected, because it actually would result in *increased* GHG emissions, not decreased emissions, under the preferred loading order and other resource planning criteria adopted by the CPUC and PG&E. Under the CPUC’s loading order, PG&E’s latest resource plan would ensure that virtually all of PG&E’s incremental baseload energy needs are obtained from carbon-free resources, such as renewables, customer energy efficiency and the California Solar Initiative. However, if EPUC/CAC’s approach were adopted, PG&E would not be judged on the emissions profile of these carbon-free non-dispatchable resources, but would be judged solely on the emissions profile of

³ EPUC/CAC, at p 2.

incremental dispatchable resources it obtains for peaking needs—resources that by definition are likely to be gas-fired and therefore higher carbon-emitting than PG&E’s incremental baseload resources. This would turn the preferred loading order on its head and provide incentives to displace carbon-free baseload resources with carbon-emitting peaking resources. EPUC-CAC’s recommendation vividly demonstrates the risk of setting default emissions rates using the wrong criteria.

For these reasons, PG&E shares the concerns of many commenters that the Joint Staff Proposal, albeit a good start on the key issue of default emissions rates, nonetheless needs much more technical work, discussion and research before the use or calculation of default emissions rates for unspecified energy can be endorsed. PG&E recommends that, instead of continued “paper” debates and discussions, the CPUC and CEC immediately convene further public workshops for consideration of the technical issues and alternative modeling results associated with default emissions rates and “proxies.” This is much too important an issue to decide on the basis of “paper” filings alone.

(2) **“First seller” approach to reporting.** The Joint Staff Proposal can and should be revised as proposed in PG&E’s opening comments to accommodate a “first seller” point of regulation and reporting. Revising the protocols consistent with the first seller approach also will have the benefit of reducing the inaccuracies inherent in relying on indirect reporting of GHG emissions, such as by retail providers or through default emissions rates where more direct tracking is available. “First seller” reporting will reduce the potential conflicts between least-cost power dispatch principles and a reporting protocol that relies on reporting by retail providers who have no direct responsibility for the generating facilities that are the sources of emissions.

(3) Regional coordination in development of reporting protocols. Several parties, including PG&E, commented on the need for coordination between the reporting protocols required to be developed under AB 32 and the voluntary coordination of reporting protocols underway between California and other jurisdictions, including other states in the West. AB 32 indeed contains inconsistent goals for California and regional GHG reporting.⁴ On the one hand, AB 32 requires specific AB 32 reporting protocols to be adopted and in place by the end of 2007, clearly an accelerated schedule in light of the fact that AB 32 emissions limits will not be in place until 4 years later, beginning in 2012. On the other hand, AB 32 clearly envisions regional, national and even international cooperation and coordination in GHG reporting and regulation. Because other jurisdictions, particularly other Western states, are developing their reporting protocols and regulatory programs on schedules different than California's, coordination is problematic.

PG&E believes this approach/avoidance problem can be resolved by pragmatic phasing-in of AB 32's reporting protocols. The ARB, with support from the CPUC, CEC, the California Climate Action Registry, the CAISO and other interested parties, should adopt "interim" reporting protocols by the end of this year on a "trial" basis, and then immediately convene and implement a series of iterative West-wide regional technical GHG reporting workshops for the electric sector, with participation from all relevant GHG policy and regulatory agencies as well as other interested parties, including powerplant operators, major electric utilities and transmission grid operators, environmental groups, and members of the public. Through the use of technical multi-

⁴ Compare Health & Safety Code sections 38530(a) and 38530(c)(2).

party subcommittees, this regional process should provide an effective forum for resolving the thorniest reporting issues that are unlikely to be resolved without regional cooperation and coordination, such as default emissions rates, contract shuffling, and avoidance of “double-counting” or “under-counting” of GHG emissions due to different reporting protocols in different states.

PG&E notes in this regard that the “first seller” approach eliminates one key problem in developing reporting protocols. Under the first seller approach, unlike a load-based reporting protocol, a default emissions rate is not needed for purchases from the CAISO spot markets, because each generator or other entity selling into the CAISO markets bears responsibility for reporting its emissions.

For all these reasons, PG&E believes that ARB, CPUC and CEC need to reassess the overall process by which AB 32 reporting protocols are being developed. In light of the significant gap between the well-intentioned goals and actual results of the Joint Staff Proposal and similar ARB reporting proposals so far, especially on the daunting issues of default emissions rates for power imports, multiple state reporting, and different proposals for the point of regulation, PG&E recommends that the AB 32 reporting protocol process immediately be reoriented toward more frequent technical workshops and exchanges of specific “straw person” alternatives and specific modeling results and studies for informal consideration, so that progress can be made on these issues on a face-to-face, roll-up-the-sleeves basis using the actual modeling alternatives. If there is one thing that the opening comments have demonstrated, it is that these key reporting protocol issues cannot be resolved merely by exchange of “paper” comments. PG&E is ready, willing and able to assist in participating in a more active, iterative

approach to finding practical solutions to these important AB 32 issues.

Respectfully Submitted,

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