

CALIFORNIA ENERGY COMMISSION

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**In the Matter of: Order Instituting Informational
Proceeding – AB 32**

Docket No. 07-OIIP-01

REPLY COMMENTS OF SEMPRA GLOBAL ON PROPOSED INTERIM OPINION

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I. INTRODUCTION

In accordance with Rules 14.3 and 14.6 of the Commission's Rules of Practice and Procedure, Sempra Global herewith files its reply comments on the Proposed Interim Opinion of Reporting and Tracking of Greenhouse Gas Emissions in the Electricity Sector (the "PD") that was publicly released on August 15, 2007. In its opening comments, Sempra Global commented on only a single issue, namely, the discussion in Section V.B.2.(a), which states that:

[I]n our opinion it is unlikely that new contracts with existing generation sources would produce real reductions in GHG emissions, since most, if not all, of existing power plants would run the same regardless of any new contract. Therefore, we recommend that ARB attribute emissions for purchases from specified sources based on emissions of the specified resource only if (a) the purchase is made through a PPA that was in effect prior to January 1, 2008 and either is still in effect or has been renewed without interruption, or (b) the purchase is made through a PPA from a power plant that became operational on or after January 1, 2008. PD, at p. 21.

Sempra Global's comments emphasized that this proposed "fix" for alleged problems related to contract shuffling was not supported by the record, was speculative, suffered from potential legal defects, and did not promote the goals of the Legislature or of the Commission in implementing AB 32.

Sempra Global notes with satisfaction that there was nearly unanimous agreement among the commenting parties that this proposed recommendation should not be adopted. Many of the arguments were similar to those of Sempra Global, and the Alliance for Retail Energy Markets ("AREM") in particular added thoughtful comments of the potential impact of this proposed recommendation on California's retail energy markets and load-serving entities. In fact, the only party that supported the proposed recommendation was the Commission's Division of Ratepayer

Advocates (“DRA”). In addition, the joint comments of the Environmental Defense /Natural Resources Defense Council/ Union of Concerned Scientists (“ED/NRDC/UCS”), while not specifically addressing this issue, did express support for the achievement of “real reductions,” which was one premise upon which the proposed recommendation was based.

Sempra Global will address the comments of these two parties in its reply. Sempra Global believes that these parties’ explicit or implicit support of the proposed recommendation is misplaced because it is based on the creation of false emissions data with respect to the existing units. Sempra Global believes that a paramount requirement for a successful program is the use of accurate and “real” emissions to the fullest extent possible. This fundamental requirement is undermined by the proposed recommendation, and is at odds with other principles supported by DRA and ED/NRDC/UCS.

II. REPLY COMMENTS

DRA states at page 2 that it supports the idea of the Air Resources Board making adjustments to the emissions reported by load-serving entities in order to minimize contract shuffling and achieve “real reductions.” DRA cites the proposed recommendation on contracts with existing resources as one recommendation of which it approves. However, in the next section of its comments, discussing emissions from resources used as firming power to support renewable generation DRA states that:

For reporting purposes under AB 32, accuracy is critical, and ignoring the actual emissions factor, and hence emissions, of firming power would undermine this accuracy. Ignoring this distinction in the purposes of the two statutes amounts to a factual error that the Commission should correct in the final decision by requiring firming resources to be assigned their actual emissions value. DRA comments, at p. 3.

Sempra Global wholeheartedly with the DRA agrees that accuracy is critical, and that the Commission should not undermine that accuracy. This same reasoning supports Sempra Global's position that the Commission should recommend use of the actual emissions of existing resources in reporting, and find other means of dealing with contract shuffling if the need arises. In that respect, Sempra Global also agrees with Pacific Gas and Electric ("PG&E"), who stated:

[N]othing in section 38530(a) allows the reporting rules to be used to change the actual emissions to a fictional quantity of emissions that has no basis in fact, merely to solve a perceived regulatory problem. PG&E comments, at p. 7.

As to ED/NRDC/UCS, while committed to the idea of achieving "real reductions" in emissions, they also devote several paragraphs of their comments to the notion that the adopted recommendations should provide incentives for load-serving entities to enter into contracts with low- and zero- emitting resources, a proposition that Sempra Global supports. As such, Sempra Global believes that this proposition is severely undermined by the proposed recommendation which, as discussed by AReM, would penalize load-serving entities who wish to contract with low-emitting existing resources.

The Commission should pay heed to the overwhelming opposition to its proposed recommendation, and eliminate it from the final decision.

III. CONCLUSION

As discussed in Sempra Global's opening comments and echoed by the comments of nearly every other party, the proposed recommendation to require load-serving entities to report the emissions associated with new contracts with existing resources is deeply flawed and should not be adopted. In order to achieve real reductions and to ensure that the program is credible, emissions must be accurately tracked and reported to the maximum feasible extent. The proposed recommendation undermines such accuracy. Even the two parties that expressed

explicit or implicit support for the proposed recommendation take other positions in conflict with such support. For these reasons, it should not be adopted.

Respectfully submitted,

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