

PAUL HASTINGS

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VIA ELECTRONIC SUBMISSION¹

Jason Gray
Chief, Cap-and-Trade Program
California Air Resources Board
1001 I Street
Sacramento, CA 95812

Re: Comments of Crockett Cogeneration on the Modified Text of the Proposed Amendments to the California Cap On Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation

Dear Mr. Gray:

On behalf of Crockett Cogeneration (“Crockett”), I am writing in support of the modifications to the proposed California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation (“Cap-and-Trade Program”) amendments, which would provide transition assistance to legacy contract generators without industrial counterparties for the third compliance period and post-2020.²

As outlined in our prior comments,³ Crockett operates a cogeneration facility that provides steam to C&H Sugar under a steam sale contract running through 2026. This contract was executed before passage of Assembly Bill (“AB”) 32 and does not provide for recovery of Cap-and-Trade Program compliance costs. Like other similarly situated counterparties, C&H has not been willing to renegotiate its contract with Crockett to shoulder any portion of these compliance costs, nor has C&H been willing to join the Program as an opt-in covered entity.

Due to the inequities caused by these “legacy contracts” that predate AB 32, in 2014 the Board decided that transition assistance would be provided for the life of legacy contracts *with* an industrial counterparty. However, for those legacy contracts *without* an industrial counterparty – such as Crockett – the Board limited transition assistance to the end of the second compliance period. If the transition assistance expires, Crockett faces the prospect of bearing stranded compliance costs alone without assistance through 2026.

¹ Submitted at: https://www.arb.ca.gov/lispub/comm/bcsubform.php?listname=ct2018&comm_period=1.

² See ARB, Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation – Proposed Modifications to the Regulation Order (November 15, 2018), <https://www.arb.ca.gov/regact/2018/capandtrade18/ct15dayregtext.pdf>.

³ See, e.g., Comments of Crockett Cogeneration (Mar. 16, 2018), https://www.arb.ca.gov/lispub/comm2/bccomdisp.php?listname=ct-3-2-18-wkshp-ws&comment_num=32&virt_num=26; Comments of Crockett Cogeneration (July 5, 2018), https://www.arb.ca.gov/lispub/comm2/bccomdisp.php?listname=ct-6-21-18-wkshp-ws&comment_num=17&virt_num=16; Comments of Crockett Cogeneration (October 17, 2018), <https://www.arb.ca.gov/lists/com-attach/9-ct2018-AWJWIIM9VGQCb113.pdf>.

July 5, 2018
Page 2

Providing third compliance period and post-2020 transition assistance to legacy contract generators without industrial counterparties is an equitable solution in line with the assistance provided to legacy contract generators with industrial counterparties, waste-to-energy facilities, and low- and medium-leakage risk industries.

Crockett supports the proposed modifications to the proposed California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation amendments. Crockett believes that a vintage 2020 allowance allocation, including true-up allowance allocation for the 2018 and 2019 budget years, is appropriate and consistent with the Board's findings in Resolution 17-21.

Thank you for your consideration. Please contact me if you have any questions at 415-856-7010.

Sincerely,



Peter H. Weiner,
for PAUL HASTINGS LLP