

BOARD MEETING DATE: February 7, 2014

AGENDA NO. 29

PROPOSAL: Approve Staff Recommendation to Proceed with Rulemaking to Expedite Natural Gas Power Plant Capacities to be Permitted in SCAQMD, if Needed

SYNOPSIS: As a follow-up to its presentation to the Board in October 2013, staff will discuss in more detail the recommendations that are in response to the contingency plans recommended in the Governor's Grid Reliability Task Force report, and seek Board direction regarding future rulemaking. The proposed action would focus on what SCAQMD can and should do in siting new natural gas power capacities in the region, when deemed necessary by the state energy agencies for grid reliability, while encouraging preferred resources to be developed as envisioned in the report.

COMMITTEE: Stationary Source, January 24, 2014; Reviewed

RECOMMENDED ACTION:

Direct staff to collaborate with stakeholders to develop a regulatory proposal for the Board's consideration in the third quarter of 2014 that will enable permitting of required new power plant capacities to ensure grid reliability in the South Coast region.

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Executive Officer

EC:ft

Background

At its October 2013 Board meeting, staff made a presentation on the state agencies' preliminary grid reliability plan for the Los Angeles Basin and San Diego and associated status of power plant siting due to permanent retirement of the San Onofre Generating Station and state policy on once-through cooling replacements and corresponding offset

issues. Staff presented a potential approach to address the power plant permitting concerns raised in the report related to offset availability. However, at the October 2013 Board meeting, staff requested additional time to work with stakeholders to solicit their input on how best a regulatory program can be designed to address contingencies needed in case additional natural gas power plants are needed, and to identify key concerns from the environmental community as well as the business community before returning to the Board for more detailed discussions and to seek Board direction. Staff also presented its initial concepts and stakeholder comments to the Stationary Source Committee at its January 24, 2014 meeting. (A copy of the presentation material is attached).

Proposal

Staff is proposing to develop a regulation (i.e., Proposed Rule 1304.2) similar to the recently adopted Rule 1304.1 or an amendment to Rule 1304.1 that will allow power plants to access the SCAQMD's Internal Offset Account to meet the existing Regulation XIII offset requirements by paying mitigation fees. Power plants accessing the offsets can be located at a new site or an existing power plant expanding beyond its existing permitted capacity. The proposed new plants or capacities can be either an investor-owned utility (IOU), regulated by the California Public Utilities Commission (CPUC) and licensed by the California Energy Commission or a municipal utility (MUNI) serving native loads. These facilities all have to meet the Regulation XIII Best Available Control Technology (BACT) and other requirements. Furthermore, the staff proposal will not change the existing Regulation XIII offset requirements, but will make the SCAQMD's internal offsets available to the power plant operators, if certain requirements are met. Therefore, staff believes that changing the Senate Bill 288 requirements on preserving the NSR program for non-attainment pollutants will not be needed under the staff proposal.

The staff proposal aims to address the two key concerns raised in the Governor's Task Force Report regarding natural gas power plant siting in the SCAQMD: 1) seven plus years are needed for power plant permitting, procurement and construction completion; and 2) the non-availability of offsets in the form of Emission Reduction Credits (ERCs) in the open market for SO_x and PM₁₀. The same report also reiterates the state's energy policy that the preferred resources, such as renewable energy, demand side management, energy efficiency and energy conservation and storage would have higher loading orders than natural gas plants. Therefore, under the staff proposal, a power plant can undergo its permitting process in order to be ready for construction; however, staff's proposal is that SCAQMD's offsets will not be granted until CEC approval is granted and a CPUC-approved long-term contract is awarded. This is to rely on the CEC permitting and CPUC long-term procurement proceedings to determine the additional capacities needed for natural gas plants in the SCAQMD. In the case of a MUNI, staff's proposal is that it has to receive CEC approval and be serving native loads only, and safeguards will be in place to prevent transferring capacity from a MUNI

to private parties. Staff believes shortening the permitting time for natural gas power plants would in effect maximize the time allowed for preferred resources to be developed, because now the decision on whether to build a natural plant can be pushed back instead of implemented seven plus years ahead. All offsets granted will be tracked under the existing Rule 1315 tracking mechanism and stay below the CEQA cap contained in Rule 1315.

The proposed mitigation fee structure would be similar to the existing Rule 1304.1 to provide project developer flexibility in selecting the payment plan and the revenues collected will be reinvested in the impacted communities in projects consistent with the 2012 AQMP long-term needs to reduce the section 182(e)(5) obligations.

A summary of staff’s initial concepts is provided in Table 1.

Table 1 - Summary of Key Concepts for Proposed Rule 1304.2	
Design Principles	<ul style="list-style-type: none"> • Promote preferred resources consistent with CPUC loading order, CEC Integrated Resource Plan, CARB AB32 Scoping Plan and SCAQMD Air Quality-Related Energy Policy • Facilitate grid reliability • Level playing field for power producers to benefit rate payers
Eligibility Criteria	<ul style="list-style-type: none"> • New power plants, existing power plants with expanded capacity
Proposal	<ul style="list-style-type: none"> • Access SCAQMD Internal Offset Account, when <ul style="list-style-type: none"> - IOUs: obtain CEC permit approval and long-term contracts authorized by CPUC - MUNIs: CEC permit approval and native loads only • Meeting all other existing Reg XIII requirements
Safeguards	<ul style="list-style-type: none"> • Total capacity capped by CPUC Long Term Procurement Proceeding determination • SCAQMD offsets not tradable or transferrable • Offset amount tracked by R1315 mechanism and within R1315 CEQA cap
SB288	<ul style="list-style-type: none"> • Meeting offset requirements through SCAQMD bank; no need for legislative amendments
Benefits	<ul style="list-style-type: none"> • Shorten lead time for natural gas power plant development that would in turn provide additional time for preferred resource to be materialized • Mitigation fees to implement emission reduction projects in impacted communities consistent with AQMP long-term commitment

Outreach

In order to present staff initial concepts and to solicit stakeholder comments, staff met with the California Council for Environmental & Economic Balance, with members present from utilities, power producers, Los Angeles Department of Water & Power, aerospace, refineries, credit brokers, and others; the Southern California Leadership Council Energy Subgroup, consisting of Southern California Edison, Southern California Gas Company, San Diego Gas & Electric, Southern California Association of Governments, Bizfed, Inland Empire Transportation Coalition, Port of Los Angeles; the

Southern California Association of Public Works; and the Small Business Association. Staff also met separately with the Natural Resources Defense Council, and held a conference call with the Communities for a Better Environment, the Sierra Club, and Earthjustice to provide a similar briefing. The key comments received are summarized below.

Business Community: The business community in Southern California is in general supportive of the staff proposal. They argue that a reliable grid is essential to support the anticipated growth in this region. Southern California Gas/San Diego Gas & Electric inquired about the potential to broaden the proposal to address necessary pipeline expansion, due to increased natural gas consumption by power plants in the San Diego region. Staff's initial response was to keep the proposal narrow and focused. Small businesses and essential public services want assurance that the expansion of access to SCAQMD's internal offsets will not deplete what would otherwise be available for their future needs. The request includes clear rule language for their priority use and periodic program review on offset usage.

Environmental Community: The environmental community does not agree with the Task Force report that there is a power reliability issue in the SCAQMD. Therefore, a contingency plan for permitting additional natural gas-fired power plants is not needed. However, they do recognize the need for grid reliability and believe the CPUC procurement proceedings are a more transparent and fair process in determining the capacity needs. The environmental community recommends that the power plant issue be deferred till the 2016 AQMP to see how the NOx 182(e)(5) commitment is addressed before allowing more NOx emissions. Furthermore, they are concerned that if offset accessibility is given too early or cheaply, it may send a wrong market signal for building preferred resources.

During the public comment period at the January 24, 2014 Board Stationary Source Committee meeting, the business community reiterated their support to proceed, and the need to assure that small businesses and essential public services have priority to access the account should there be insufficient offsets to meet everyone's need. The environmental community voiced their objection, noting the adequacy of power supply for this region, the potential for the staff proposal to result in the building of power plants in EJ areas, and the SCAQMD's role in protecting public health, not grid reliability.

Resource Impacts

Existing resources will be used to develop the proposed regulation.

Attachment

Stationary Source Committee January 24, 2014 Staff Presentation

Initial Concepts for Power Plant Offsets Proposed Rule 1304.2

Stationary Source Committee Meeting
January 24, 2014



Background

- Staff Oct 2013 presentation on Governor's Grid Reliability Task Force Report
 - Takes 7+ years to permit and build new or repower Generation projects
 - New Conventional Generation requires:
 - Expedited Licensing by CEC
 - Actions by Air Agencies to provide path for emission offsets
 - Least cost options for ratepayers
- Seeking further Board direction

Proposal

- Facilitate permitting of additional generation capacity beyond Utility Boiler Replacement - Rule 1304(a)(2)
 - Make offsets available from SCAQMD's Internal Bank
 - Regardless of location (at New or Existing sites)

Program Design Principles

- Promote preferred resources consistent with CPUC loading order, CARB AB32 Scoping Plan and SCAQMD Energy Policy
- Capped by CPUC Long Term Procurement Proceeding
- Facilitate Grid Reliability
- Level playing field to increase competition, thereby lowering electricity rates

Eligibility Criteria

- Greenfield/New plants
- Increased capacity at existing plants
- MUNI for native load with safeguard to prevent capacity transfer
- Others?

Initial Concepts

- Set aside equivalent offsets capped by total capacity authorized by CPUC procurement agreement for IOUs
- No cap for MUNI serving native loads
- All emission rates are at BACT
- Obtain offsets in 3 steps
 - Earmark project-specific offsets when permit applications deemed complete
 - Conditional approval when permits issued
 - Full approval when utility contracts granted
 - Alternative suggestions?

Initial Concepts (cont.)

- Obtained offsets not tradable, but refundable if not built
- Returned offsets re-deposited back to the set aside account
- Annual report to be part of Rule 1315 report

SB 288 Compliance

- Existing offset requirements satisfied through SCAQMD Internal Bank tracked by Rule 1315
- Amendments to SB288 not needed

Benefits

- Greater support to preferred resources by reducing the lead time needed to build NG plants
 - Maximize time frame allowed for the development and implementation of preferred resources
- Fees to mitigate emissions where being impacted
 - Existing ERCs banked and generated in two trading zones
 - Reinvestment of ERC revenues not required

Benefits (cont)

- More complete market competition between project proponents creating opportunities to benefit rate payers

Safeguards

- Total capacity allowed subject to CPUC authorization following its loading order to maximize preferred resources
- Offsets accessed only by plants with long term contracts with utilities or serving native loads

Initial Response Business Community

- Supportive of staff recommendations to proceed
- Existing District internal offset users (small sources and essential public services) need assurance for their future needs

Initial Response

Environmental Community

- Questioned the shortage of power supply in Southern California
- Contingency plan hurts preferred resource development
 - Need plan to ensure success, not if it fails
- CPUC long term procurement proceedings – more reliable process to determine needs
 - No similar process for MUNIs

Staff Recommendation

- Direct staff to work with all stakeholders to develop a rule proposal for board consideration
 - To safeguard maximum development of preferred resources
 - To ensure up-to-date BACT applied
 - To maximize emission reduction mitigations within impacted communities