

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA**

In the Matter of:

Informational Proceeding and Preparation of the 2007 Integrated
Energy Policy Report

Docket 06-IEP-1

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COMMENTS OF SEMPRA GLOBAL ENTERPRISES
IN RESPONSE TO
COMMITTEE HEARING ON SCOPE OF THE PROCEEDING

Alvin S. Pak,
Director, State Regulatory Affairs
Semptra Global Enterprises
101 Ash Street, HQ 8C
San Diego, CA 92101-3017
Telephone: 619.696.4022
Facsimile: 619.696.2500
Electronic-mail: apak@sempraglobal.com

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I. INTRODUCTION

Pursuant to the Notice of Committee Hearing ("Notice") issued on May 12, 2006, Sempra Global Enterprises¹ hereby files its comments regarding the proposed scope of the proceedings. In these comments, Sempra Global will recommend that the Committee and Commission entertain specific issues related to the appropriate regulatory approach used for the purpose of assuring the efficient and effective delivery of certain products, services and attributes commonly known as "public goods."² The issues raised by Sempra Global are wholly consistent with the issues identified by the Committee's Notice, notably those

¹ Sempra Global is the parent company of the nonutility business units of its parent, Sempra Energy. Sempra Global has five principal business units, several of which have participated in various proceedings before this Commission: Sempra Generation (a developer-operator of electric generating facilities); Sempra Solutions (a licensed retail energy service provider); Sempra LNG (a developer-operator of LNG receiving and regasification terminals); Sempra Pipelines & Storage (a developer-operator of interstate gas pipelines and storage facilities); and Sempra Commodities (a commodities trading and warehousing firm). Sempra Global and its business units are separate and distinct from the California utilities owned by Sempra Energy. These comments do not represent the opinions of those utilities and may not necessarily represent their positions on any of the issues raised in these comments.

² "Public goods" includes, for the purposes of these comments, societal benefits from the following programs and rules: (a) reductions in carbon-dioxide and other greenhouse-gas emissions; (b) energy from renewable resources; (c) demand reductions from energy efficiency and demand response; and, (d) reliability. In this context, the public good of "reliability" is distinguished from the ability of a seller to meet its private contractual obligations (e.g., owning assets or holding contractual rights to energy supplies sufficient to meet its obligations to a counterparty-buyer). "Reliability" as a public good encompasses products and services whose attributes would prevent system failures related to breakdowns in the delivery system or that would prevent the propagation of the contractual defaults of a single party into a systemwide failure. Reliability in this context is physically and contractually captured by the reliability must-run product or the contingency reserves necessary to backstop the shared and common operating system.

referenced under the topic of “Reliability, Availability and Security through Diversity,” and may be encompassed within the subtopic described as, “Identify needed actions to assure resource diversity, adequacy, reliability and deliverability.” In order to assure that alternative regulatory approaches related to the delivery of public goods will be considered in this proceeding, Sempra Global describes one such approach and its advantages. In addition to participating in this proceeding with respect to several of the issues enumerated in the Notice, Sempra Global intends to participate in this proceeding to assist the Committee and Commission in evaluating its proposal and, hopefully and ultimately, in its implementation.

Sempra Global has for several months been evaluating the growing number of regulatory requirements being placed upon its operating companies related to the delivery of public goods in the California gas and electricity markets. In evaluating the range of impacts these requirements are having and may in the future have on its businesses, Sempra Global believes that these regulations will be an increasingly important determinant between winners and losers among all market participants as these requirements become, in turn, increasingly burdensome and continue to evolve. More problematic is that it is unclear whether these regulations, both those that have already been adopted and those now in development, will result in the best balance between the delivery of the underlying public goods on the one hand and costs to consumers and prudent resource planning on the other. Therefore, Sempra Global strongly recommends that the Committee consider, as part of its development of the 2007 Integrated Energy Policy Report, an evaluation of whether the current reliance on a scheme of command-and-control regulation³ can be expected to result in the effective delivery of public goods and, if not, whether an alternative approach would be more effective and prudent.

As the Committee and the Commission evaluate whether the targets, goals and objectives of public-goods programs are being met, it should be considered that provision of these goods by and through competitive markets is, at best, an awkward paradigm. Programs built on command-and-control regulation take market participants, notably the nonutilities, “off their game” and divert their attention from the competencies and value propositions that support their competitiveness and, ultimately, their survival and success. Serving public-goods programs ultimately create conflicts between profit- and share-oriented goals, a disservice to both the public and shareholders. In addition, the current approach taken with

³ “Command and control” references the regulatory model under which specific market participants are required to procure and deliver specified levels of public goods in the ordinary course of business, and where failures to meet the targets will result in penalties or other enforcement actions.

respect to the delivery of most public goods parses out relative advantages and disadvantages between different market participants. The present emphasis on penalties and enforcement mechanisms, in the end, serves primarily to create winners and losers in the marketplace to the harm of consumers, diverting attention from assuring the delivery of the underlying public goods and promoting litigation as parties attempt to position themselves to “win” (or at least avoid “losing”) in regulatory proceedings rather than in the marketplace.

In the comments that follow, Sempra Global will describe an alternative regulatory paradigm for consideration by the Committee and Commission. Under this alternative, the State would rely upon central procurement agents to manage the procurement and delivery of public goods using funding provided through usage-based public-goods charges. Sempra Global supports the use of a central procurement agent for the delivery of at least three public goods: reliability-oriented electric-generation capacity; energy from renewable resources; and greenhouse-gas emission reductions. Sempra Global has long supported the use of the California ISO as a “backstop” procurement agent with respect to the procurement of reliability products and, more recently, the use of a private nonprofit organization for the procurement and delivery of renewable resources and greenhouse-gas emission reductions. With respect to the latter, the central procurement agent would be organized and managed by a consortium of affected market participants, i.e., entities in the market segments that would be held responsible for the delivery of public goods, subject to the advice and oversight of appropriate public agencies. In Sempra Global's view, the use of a central procurement agent would emphasize collaboration, rather than penalties, in achieving program objectives and further emphasize market-based, cost-effective solutions, resulting in administrative and compliance cost savings, and simplified State oversight. The important feature Sempra Global finds attractive in this paradigm is that the focus would be on delivering public goods, rather than command-and-control regulations that prompts endless litigation that, in turn, stalls progress.

II. THE COMING PUBLIC-GOODS “STORM”

A. Incompatibility of Command-and-Control Regulation with Competitive Market Structures

Sempra Global strongly believes that the nature of command-and-control regulation undermines competitive market structures. The growing burdens of public-goods programs, whether individually from a single program or collectively from the array of public-goods programs, are likely to be fatal to some, if not all, nonutility competitors. As noted earlier, programs built on command-and-control regulation divert the

limited resources of nonutilities to matters outside their core activities and inevitably conflict with their business operations and models. Relative to the utilities that may rely on rate regulation to reimburse their compliance activities, nonutilities must rely on overcoming scale and regulatory disadvantages to comply at a competitive cost and hope that the market will support their compliance activities.

Every day, Sempra Global's businesses attempt to build better mousetraps. They worry about whether anyone cares to buy what they sell, whether they do what they do well as they possibly can, and whether anyone (in most cases, the incumbent utility) can do it better. About a decade into competitive energy markets, Sempra Global is finding that consumers by and large are treating energy products and services as undifferentiated commodities – price is the key discriminator from the consumer standpoint. In response, the Sempra Global companies have built businesses based on practices and principles designed to create pricing and product advantages differentiating their projects, products and services from those available from other providers. This has involved astute decisionmaking, risk-taking, early action, innovation, and incorporating lessons learned from every initiative into every next offer and venture. Thus far, we have only managed to create extremely narrow advantages and these advantages operate to create selection biases in relatively small market segments, but the advantages we have created have been sufficient to make us competitive and, thus far, successful. Sempra Global believes this same story is true of our successful brethren.

As nonutilities are increasingly forced to procure, and in part compete on the basis of the delivery of, public goods, the advantages these companies have managed to create are being obscured. These companies are now being judged on the basis of factors extraneous to the market fundamentals upon which they are built: product, price and placement. Imposing a regulatory paradigm where they must incorporate the delivery of a host of public goods into their business models results in their being judged in the markets, maybe in large part, by how well they meet regulatory requirements or litigate enforcement actions. Apart from the fact that the metrics are wrong, regulators rather than consumers are deciding who wins and who loses. While some competitors may relish the "sport" of all this, Sempra Global believes that there are at least three reasons public goods should not be used to determine winners and losers in the market.

B. Delivery of Public Goods: Inappropriate Determinant of Competitive Outcomes

1. The Role of Legacy Advantages

Legacies play a disproportionately large role in determining the ability of specific market participants to meet their public-goods obligations. How well any single competitor is able to meet its public-goods obligations is significantly affected by that competitor's starting point relative to the obligations it is assigned. As an example, with respect to greenhouse-gas emissions reductions and the procurement of renewable resources, the ability of a market participant to meet regulatory requirements at a competitive cost will be entirely based on its resource mix relative to any baselines or endpoints set by the regulators *and the coincident resource mix of every other competitor in the market*. This is why the setting of baselines and targets as well as the means by which competitors may meet their obligations are litigated at great length. The outcome of litigation parses advantages and disadvantages, and parties have a vested interest in assuring that they are not adversely affected in that process. "Fairness" is in the eye of the beholder and rarely achieved but there is one certainty: no matter the bases used to do the spreading of advantages and disadvantages, there will be a lot less precision than anyone would like.

2. Arbitrary Goals and Objectives

The targets, goals and objectives of public-goods programs tend to involve more judgment than precision. Those setting the standards tend not to be certain as to how much is enough when it comes to public goods. A few examples of the variations in the standards Sempra Global faces are instructive.

With respect to climate change and the regulation of greenhouse-gas emissions, the Kyoto Protocols call for Annex 1 countries to reduce their greenhouse-gas emissions to 5.2 percent below 1990 levels by 2012. As the developed nations in the international community struggle to meet this goal, California has taken a "leadership role" among the states and set a standard of returning to 2000 greenhouse-gas emission levels by 2010 and to 1990 levels by 2020, with the ultimate goal of achieving greenhouse-gas emissions eighty percent (80%) below 1990 levels by 2050. The State of Washington requires power plant developers to offset twenty percent (20%) of their carbon-dioxide emissions while Oregon requires power plant developers to meet an efficiency standard for carbon dioxide set at a net seventeen percent (17%) below best available technology.

With respect to the delivery of energy from renewable resources, Arizona requires load-serving entities to include renewable energy in their total deliveries at a rate no less than fifteen percent (15%) by 2025, while California's rules call for no less than twenty percent (20%) by 2010 (and perhaps 33 percent

by 2020) and New York's for no less than twenty-five percent (25%) by 2013 and Massachusetts' for no less than four percent (4%) by 2009. The differences between all of these objectives would be less confounding if the states could at least agree on what energy qualifies as a renewable resource, but there is as much disagreement on the counting rules as there are in the standards themselves.⁴

Consensus and clarity are clearly lacking in the setting of targets, goals and objectives for the delivery of public goods. Regulators have little guidance from consumers since, although some consumers care about these goals, it is hardly the case that any sizable minority of consumers base buying decisions on them. Under these circumstances, discriminating between competitive winners and losers on the basis of their ability to deliver public goods makes little sense. A company achieving the same levels of performance with respect to the delivery of renewable energy could be successful by the thinnest of margins in California while failing New York's standard and setting a Ruthian record for overachievement in Massachusetts. This simply defies logic and reason.

3. Litigation, Litigation Everywhere

Command-and-control regulation is a poor method by which to achieve important goals and objectives. As the Committee and Commission are well aware, little actual progress has been made toward achieving the State's renewable portfolio standard. Over the past few years, renewable energy has not increased its share in the California market despite all the regulations that have been adopted and all the contracting that has been done. Goals are not self-fulfilling – effort and oversight may be trumped by practical realities, but in sorting out whether the effort was sufficient, the oversight was effective, or there were unanticipated reasons for failures, command-and-control regulations necessarily result in defensive claims and posturing which, because of the private interests motivating those defenses, namely, the evasion or avoidance of penalties, suffer from a lack of credibility no matter how legitimate. At the end of the litigation day, the result achieved is some hard, uneasy peace that will be broken at the next provocation. This is no process by which to achieve the delivery of public goods and serve the public interests they represent and serve.

⁴ As an example of the differences, California does not permit load-serving entities subject to the state renewable portfolio standard to count energy from certain hydroelectric facilities larger than thirty megawatts, while New York counts all energy from any hydroelectric unit.

III. ALTERNATIVE APPROACH: COLLABORATIVE MANAGEMENT AND PROCUREMENT

Sempra Global believes that the Committee and Commission should investigate whether there may be a more appropriate regulatory paradigm by which to deliver public goods than continuing down the command-and-control path. In that regard, Sempra Global recommends that the Committee and Commission evaluate the efficacy of command-and-control regulation as the means by which to deliver public goods and to consider whether other regulatory schemes might produce superior results. With respect to alternatives, Sempra Global proposes that the Committee and Commission consider one such alternative, an approach relying on central procurement agents built on principles of collaborative management and procurement.⁵

A. Shared Objectives Versus Enforcement Against Individual Companies

As Sempra Global notes above, the most important objective in the public-goods arena is their actual and efficient delivery, taking into consideration the need to assure the availability and affordability of energy services. Thus, the starting point for any public-goods program should be the setting of the standards related to goals and objectives and how achievement will be measured.

In setting goals, however, Sempra Global urges that the State consider setting them in aggregate for the energy sector as a whole, rather than by adopting individual targets for each individual market participant. This avoids the need to design any complicated and arbitrary scheme for assigning specific obligations to individual entities and measuring their individual achievements.⁶ Sector-wide targets, as opposed to individual targets, will also avoid the need for administratively burdensome measurement and enforcement mechanisms and, as Sempra Global recommends below, will facilitate sector-wide compliance programs that are more focused on the efficient delivery of public goods than on penalties.

⁵ Sempra Global has suggested this approach in its filings to the California Public Utilities Commission in that agency's rulemaking related to achieving reductions in greenhouse-gas emissions. (See California PUC Docket 06-04-009.)

⁶ As noted below, distributing emissions and allowances on an individual load-serving-entity basis will be confounded by the imprecision of the data available for 1990. This will necessitate the imposition of arbitrary protocols and inherently unfair results as between load-serving entities, which can only invite further litigation.

B. Program Design: An Alternative to Command-and-Control Regulation – Collaborative Management and Procurement

Once targets are established, the State can proceed to program design issues. In considering the various public-goods programs to which its businesses are subject and particularly in light of the coming burdens associated with meeting the renewable portfolio standard and reducing greenhouse-gas emissions, Sempra Global was struck by the potential for its affected businesses to be significantly harmed or advantaged relative to other market participants, depending on the Commission's resolution of implementation issues. Sempra Global is not disputing the ability of the State to impose these burdens or regulations nor are we disputing their service of the public interest. Rather, Sempra Global's concerns are here focused on the competitive discriminations that will occur as a result of the design of the rules and regulations and as compliance strategies are approved or foreclosed.⁷ In particular, Sempra Global is concerned that the State is poised to adopt a greenhouse-gas emissions program in the tradition of command-and-control regulation, with a panoply of penalties and enforcement mechanisms. Sempra Global submits that such a paradigm will surely result in the separation of market participants into winners and losers, without any assurance that the program will ultimately result in the most efficient and effective balance between prudent energy-resource procurement and delivery on the one hand and the achievement of emission reductions on the other. So that this critical balance is maintained, Sempra Global has requested that the California Public Utilities Commission consider the following approach to "procuring" emission reductions during its upcoming workshops, and submits that the Committee and Commission consider whether the same approach should be embraced with respect to the renewable-energy and resource-adequacy programs as well.

In its proposal to the California Public Utilities Commission, Sempra Global recommended that the rules not be designed so as to assign responsibility for specific levels of emissions to individual load-serving entities and measuring the emission reductions achieved by each load-serving entity against its share of emissions. Instead, Sempra Global recommended that the state's energy sector be permitted to organize itself to achieve the sector targets collectively. Thus, rather than making each load-serving entity individually responsible for accumulating offsets or reducing its direct or indirect greenhouse-gas

⁷ As examples, there is little certainty as to how nonutility load-serving entities will procure products meeting "local resource-adequacy" standards, or whether these same entities will be permitted to use renewable energy credits or greenhouse-gas emissions offsets as a means of complying with the renewable portfolio standard and greenhouse-gas emissions limits, respectively.

emissions,⁸ each load-serving entity should be charged with participating in the collection of public-goods charges and contributing to the management of an emissions-reduction program. The funds from this public-goods charge would be pooled and invested in a portfolio of projects, initiatives and technologies calculated to result in the greatest reductions in greenhouse-gas emissions at the least cost. If properly designed and administered, such a program should produce superior levels of emission reductions compared to the aggregated reductions that might result from a dozen programs individually administered by load-serving entities -- and do so by several orders of magnitude.

The fund and program would be administered by a central procurement agent, organized and managed by the load-serving entities and subject to the advice and oversight by appropriate state agencies. Funds would be generated through a usage-based wires or pipes surcharge, using assessments protocols approved by the California Public Utilities Commission. This institutional structure is based on several examples already in practice, one of which is intimately familiar to the Commission.

Under the State's industry-restructuring legislation, this Commission has taken a portion of the public-goods charge imposed as a wires charge and managed a public-interest research and development program. This was done so that the state and consumers would not lose the benefits of such investments as the utilities entered the competitive era and eliminated such research and development in the interest of cost-cutting. The Commission's program has assured the continuity of California's participation in those areas of research and development serving public, if not competitive, interests. Similarly, the Electric Power Research Institute and Gas Research Institute, nonprofit organizations providing consortium-based research and development for the nation's electric and gas utilities, have initiated and managed projects on behalf of their respective industries at costs below what any single member-company might have spent to achieve the same results. Importantly, the benefits and results of these projects have been broadly shared throughout the sector to the advantage of the public interest and consumers. These organizations are funded and supervised by the contributing members and managed by a professional staff responsible to its members for results. The contributions of member companies to these organizations are typically reviewed by rate-setting commissions as to amount and effect.

As another example, the New York State Energy Research and Development Authority (NYSERDA) administers a portion of that state's retail renewable-energy program. NYSERDA takes funds collected through a public-benefits charge and procures renewable energy on behalf of the State, with the

⁸ Any such program elevates the rules regarding "counting" and "measuring" to primary importance and risks obfuscating the public interests in cost management and assuring reliability.

resulting energy credited against the State's renewable energy goals to the benefit of all load-serving entities and consumers. Sempra Global suggests that this approach should be considered under the California renewable portfolio standard as well.⁹

As yet another example, Oregon power plant developers have funded the Oregon Energy Trust, a nonprofit organization that has successfully invested in projects allowing the developers to meet the offset requirements imposed under Oregon law for new power plants. The Trust has been able to pool funds for joint-action programs benefiting multiple developers, and has proven to be credible in measuring and reporting actual emission reductions achieved under its supervision.

For the purposes of any greenhouse-gas emissions program, under such an approach a board of directors representing the funding market participants¹⁰ would select a professional management team whose responsibilities it would be to invest the accumulated funds in a manner so as to achieve the sector-wide, collective targets for greenhouse-gas emissions. The spending and achievements of the central procurement agent would be subject to the active oversight of its board of directors and periodic review by the appropriate state agencies and any other appropriate scientific or public institutions as might be specified.

Over the long run, the central procurement approach could provide a programmatic option for non-energy and non-California participants as they become subject to any regulations adopted in the future. Sempra Global envisions that any emission reductions achieved by the central procurement agent will be transferable to and credited in any future national, regional, statewide and/or multi-sector approach. This would permit the long-run integration of the Commission's efforts into any future national, regional, statewide and/or national approach aimed at reducing greenhouse-gas emissions.

C. Program Design: Central Procurement of Reliability-Oriented Capacity

In the context of reliability qua public good, Sempra Global has been advocating that the California ISO act as the backstop procurement agent with respect to resource-adequacy capacity requirements.

⁹ The Utility Reform Network (TURN) has made this very suggestion, at least for nonutility load-serving entities subject to the California renewable portfolio standard. (See Direct Testimony of Matthew Freedman on the implications of short-term contracting within the Renewables Portfolio Standard Program, California PUC Docket R.06-02-012, at p.22 and in Appendix E [Proposal for the Creation of an RPS Procurement Entity].)

¹⁰ There are many methods by which to determine the proportional representation individual load-serving entities should receive on the board. For example, load-serving entities could be accorded representation based on their relative total emissions or based on their relative funding levels. This would be an appropriate subject for discussions among market participants or in workshops supervised by the State.

Under this proposal, the ISO would conduct annual auctions for resource-adequacy capacity. Market participants could “hedge” their exposure to the results of these auctions by procuring or providing their own resource-adequacy capacity. Even if market participants were to hedge, on an aggregated basis, 100 percent of the resource-adequacy requirements imposed under the rules adopted by the California Public Utilities Commission and bid these positions into the auction, the ISO has indicated that there would be residual capacity requirements it would procure in any event, whether or not the Sempra Global proposal were not implemented. This procurement represents the “gap” between the long-term planning reserves being crafted by the California Public Utilities Commission and the needs of the ISO in the operating hour. The ISO has suggested that this gap must be filled in order to accommodate and resolve system contingencies, emergencies and transmission congestion or failures. In Sempra Global’s opinion, using the California ISO to resolve these gaps is entirely appropriate, taking advantage of the ISO’s unique expertise regarding the precise nature of the needs that must be resolved. This approach also eliminates the complications associated with requiring individual load-serving entities, many of which are ill-equipped to do so, to procure “reliability” in a market where that “good” is undefined or unavailable in the sometimes small quantities otherwise required under the resource-adequacy regulations, thus minimizing the impacts of those regulations on competitive markets and individual competitors.

D. Advantages of the Central Procurement Model

Based on its initial evaluation, Sempra Global finds at least eleven distinct comparative advantages to collaboration- or expert-based central procurement as compared to command-and-control regulation.

First and foremost, this approach focuses the program on the achievement of the public-goods targets, rather than on command-and-control regulations aimed at determining and enforcing the responsibilities and liabilities of individual competitors, responsibilities and liabilities that will be arbitrary at best and specious at worst. The energy of the parties would be aimed at designing cost-effective solutions to the delivery of public goods rather than the design of the measurement and enforcement policies that dominate and preoccupy regulatory proceedings. The failure of the central procurement agent to achieve the State’s objectives could also provide early and telling information about the practicality of the objectives as well as the difficulty of the task.

Second, this paradigm readily facilitates the study of the economic impacts public-goods programs have on the energy sector and California economy. Because the explicit costs of these programs would be captured in the public-goods charge, the State and the public would be able to determine the costs of these

programs in relation to their benefits and contributions. In the area of greenhouse-gas emissions, this would also facilitate a comparison between the costs of the California Public Utilities Commission's greenhouse-gas emissions program and the costs of the broader programs likely to be adopted by the California Climate Action Team or any future program that might be adopted nationally.

Third, this approach avoids litigation over the setting of compliance responsibilities – litigation has repeatedly dogged public-goods programs as individual market participants struggle to avoid the most onerous (and potentially fatal) public-goods burdens and meet their individually established requirements. In the context of the greenhouse-gas emissions program being designed by the California Public Utilities Commission, every ton of emission and allowance matters to each market participant, making counting protocols critical to the load-serving entities since they face penalties for each and every emission-ton they remain above their prescribed goals. Setting emission baselines and allocating emissions and allowances will be a messy and contentious business, one Sempra Global believes is doomed to be arbitrary and unjust given the imprecision or absence of the fundamental data needed to perform these tasks in any fair or objective manner. It was the daunting prospect of having to litigate and fight to avoid undue emission allocations, receive as many allowances as possible and assure that any reductions it financed would receive its fullest value in offsets that prompted Sempra Global to rethink its approach to the delivery of public goods and make its recommendations as to the consideration of an alternative approach.

Fourth, this approach would permit the energy sector to adopt a multi-solution, diversified-investments approach to meeting public-goods objectives, particularly in the area of greenhouse-gas emissions. Emerging but unproven technologies or approaches with high potential, e.g., sequestration technologies, could never be funded by an individual load-serving entity, which would face penalties if its attempt at innovation, no matter how worthy, failed. Such innovations could be more favorably viewed by a sector-wide consortium with long-run goals and a portfolio of diverse investments, and not facing enforcement actions or penalties (other than its possible dissolution) for any failures, including good ones. Increasing risk tolerance within compliance strategies can only be beneficial to the service of the public interests embodied in the programs.

Fifth, the use of the central procurement agent would promote transparency. If left to its own devices, each load-serving entity will implement a proprietary strategy for meeting its public-goods obligations. The nature of those strategies and the costs associated with implementation would represent trade secrets and have competitive value for each market participant. As the Commission is well aware, the lack of transparency in the resource-procurement activities of the investor-owned utilities is an issue

that dogs the State's attempts to implement competitive procurement and integrated resource planning. Similar issues abound with respect to the procurement of renewable energy and the administration by this Commission of the supplemental energy payments provided to renewable-energy producers. The public-interest nature of the objectives of public-goods programs augurs for successes to be shared and replicated to the advantage of meeting those objectives to the maximum extent possible. There should be no cloaking of successes behind assertions of private competitive advantages.

Sixth, there have been any number of public-goods programs adopted recently in service of the State Energy Action Plan. The centralized approach could be used to coordinate these various programs and regulatory requirements so as to achieve all of the State's purposes in the most efficient manner. Sempra Global believes it is absolutely possible to coordinate achieving the various standards related to environmental adders, resource performance goals, renewable portfolio standards, energy-efficiency spending goals and other regulations. All of these programs could be integrated and, if effectively coordinated with the long-term procurement activities of the utilities and the dispatch protocols of the California ISO, would meet all of the public policies now being served individually by each regulation in a more effective and more competitively benign manner. Sempra Global notes that the implementation of the series of public-goods programs we are facing, while well intended, are having disproportionate impacts on individual market participants. As these programs are layered one on top of the other, the mounting burdens are becoming oppressive. Coordination and integration of the many programs, to the extent possible, would relieve these competitive stresses.

Seventh, the centralized approach simplifies State oversight. Rather than requiring oversight and enforcement actions against individual market participants, the Commission could review the activities and results of a single entity representing the entire sector. That review could be conducted on the basis of any standards the State chose: fiscal responsibility; level of achievement; appropriate diversity; innovation; and/or, above all, effectiveness in serving the State's public-goods objectives. As mentioned previously, such reviews could be held in the public domain, where it belongs, unfettered by the need to respect the confidentiality requirements associated with the compliance strategies of individual market participants.

Eighth, a pooled approach should improve administrative efficiencies. In New York, renewables developers complained about the potential costs of preparing proposals for multiple buyers; consolidating renewable procurement in a single agency reduced their costs as well as buyer costs. Since ratepayers ultimately fund all procurements, reducing compliance costs is a benefit to the consumer.

Ninth, in the area of greenhouse-gas emissions reductions, the portfolio can be structured and managed so as to be compatible with future programs. This is particularly important in the greenhouse-gas emissions arena. There is a growing consensus that there will be a federal greenhouse-gas emissions reductions goal and that it will involve a cross-sector program. Creating greenhouse-gas emissions reductions through a single agency can facilitate the recognition of California's achievements into any broader future program, including the other program elements now under consideration by the California Climate Action Team. This alternative approach might even provide a model any future programs might follow.

Tenth, the procurement and selection of projects and initiatives by the central procurement agent can be conducted using any number of protocols, including market-based ones – standard offers, requests for proposals, auctions, or some blend of all of the above. This approach can also avoid some of the issues associated with individual market participants attempting to comply on their own. The Committee has already scheduled a workshop to discuss issues related to credit and security requirements imposed on renewable-resource developers. These issues result from the legitimate but competing interests of the parties to bilateral contracts. Under a central procurement approach, the procurement agent and portfolio can be structured to accept some risks of default due to nonperformance or technology failures, risks that individual companies subject to command-and-control regulations cannot assume. In the example of creditworthiness issues, the central procurement agent can resolve these using less onerous contractual remedies, such as time-and-material payments, and imposing milestone and reporting requirements.

Eleventh, the use of a central procurement agent will not preclude some future transition to a sustainable market model where the market can deliver public goods on its own. The New York renewables model is intended to facilitate large-scale market entry by renewable resource technologies, and will eventually be retired. The same can happen here. The use of a central procurement agent may temporarily decrease market liquidity for potential sellers of public goods (i.e., there will be only one buyer as compared to there being several), but the sale of public goods or public-interest attributes is an awkward context in which to raise issues of liquidity since buyers enter the market only under legal requirements in the first instance.¹¹ That awkwardness is evidenced by the phenomenon of vertical price elasticity experienced in these markets -- public goods have a high value until the goal is met, then the price collapses to near zero once the goal is achieved. Thus, first-in sellers find "highly liquid markets," while latecomers find none. In any event, the use of a central procurement agent can at the very least stimulate

¹¹ In the TURN testimony noted previously, the witness expresses concerns over the possible price

the market and over the long-run can be retired as markets become capable of providing products endowed with public-goods attributes.

IV. SUGGESTED NEXT STEPS

The paradigmatic alternatives Sempra Global has presented will require the early and continued collaboration of the affected parties. Sempra Global therefore requests that its approach be considered during the early stages of this proceeding. If there is insufficient support for this approach, the Committee can abandon it and conduct its study of the issues enumerated in the Notice in the absence of alternatives. If, on the other hand, there is widespread interest in pursuing the concept of central procurement agents for specific public-goods programs and the rules under which such agents will be funded, resourced, managed, operated and supervised, that work can take place concurrently with the rest of the Integrated Energy Policy Report. In turn, this could lead to an earlier launch of the actual work of meeting the State's public-goods objectives, a prospect Sempra Global hopes the Commission finds attractive.

V. CONCLUSION

Sempra Global respectfully submits that the achievement of the goals of public-goods programs is too important to be left to command-and-control regulations. Command-and-control regulation calls for the design of each program to be revisited over and over again, as new information related to the programs and compliance strategies or as unintended consequences emerge from the prevailing rules. These ends can be avoided through the approach being recommended by Sempra Global. We urge the Committee at the very least to consider this alternative paradigm during the upcoming proceeding.

Respectfully submitted,

/s/ Alvin S. Pak

Alvin S. Pak

Director, State Regulatory Affairs

Sempra Global Enterprises

101 Ash Street, HQ 8C

San Diego, CA 92101-3017

Telephone: 619.696.4022

Facsimile: 619.696.2500

E-mail: apak@sempraglobal.com

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