

<b>DOCKET</b>	
07-OIIP-01	
DATE	JUL 0 2 2007
RECD	JUL 0 2 2007

BEFORE THE ENERGY COMMISSION  
OF THE STATE OF CALIFORNIA

AB 32 Implementation – Joint Meetings of the Energy  
Commission and CPUC on Greenhouse Gas Emissions

Docket 07-OIIP-01

COMMENTS OF ENVIRONMENTAL DEFENSE

July 2, 2007

Virgil Welch  
Environmental Defense  
1107 9<sup>th</sup> Street, Suite 540  
Sacramento, CA 95814  
916.492.7078  
[vwelch@ed.org](mailto:vwelch@ed.org)

BEFORE THE ENERGY COMMISSION  
OF THE STATE OF CALIFORNIA

AB 32 Implementation – Joint Meetings of the Energy  
Commission and CPUC on Greenhouse Gas Emissions

Docket 07-OIIP-01

COMMENTS OF ENVIRONMENTAL DEFENSE

**Introduction and Summary**

Environmental Defense respectfully submits these comments in accordance with the “Joint Administrative Law Judges’ Ruling Regarding Comments on Staff Reporting Proposal” (ALJ Ruling), dated June 12, 2007.

Environmental Defense is a leading national nonprofit organization representing more than 500,000 members. Since 1967, we have linked science, economics and law to create innovative, equitable and cost-effective solutions to society's most urgent environmental problems.

We commend the Commissions for their leadership in addressing the threats to California associated with global warming through its decisions over the past several years. With the passage and signing of Assembly Bill (AB) 32, the Legislature and Governor strongly reaffirmed the Commissions’ leadership in addressing global warming.

In summary, our comments elaborate on the following points parties were asked to address:

- *Whether the criteria for assessing reporting protocols identified in the report are appropriate, and whether the staff report adequately complies with what you view as appropriate criteria.*

The criteria staff has identified for assessing the protocols are appropriate. These criteria and any others used should be aimed at enhancing the overall environmental integrity of the system.

- *Whether the intent should be to design a reporting protocol that could be adopted directly by other states in the region and, if so, whether modifications would be needed for this purpose.*

The protocol should be designed in a manner that facilitates integration or expansion into a regional system.

- *How the proposed reporting requirements including, in particular, the use of estimates, could affect the integrity of greenhouse gas emission allowances and whether the requirements may have implications on the ability to trade GHG emission allowances with other regimes.*

It is possible that the use of estimates could compromise the integrity of emission allowances. This could have implications for California's ability to trade with other systems.

- *Whether modifications to the Staff proposal would be needed to support implementation of the recommendations in the Market Advisory Committee's draft report, in particular the "first seller" structure.*
- The staff proposal may need modification in order to be compatible with the "first seller" approach outlined in the Market Advisory Committee draft report.

1. **Environmental Defense believes the criteria staff has identified for assessing the protocols are appropriate. However, tradeoffs among these criteria will be necessary and when they do occur they should point in the direction of increasing the overall environmental integrity of the system.**

The staff proposal identifies seven criteria to be considered in evaluating the reporting protocol. They are accuracy, consistency, simplicity, transparency, minimization of unintended consequences, setting appropriate policy signals, and expandability. In general, we believe these criteria are appropriate. We further believe that because the goal of AB 32 is to significantly reduce greenhouse gas emissions in California, these criteria and any others used to develop and assess the protocols should have the effect of enhancing the overall "environmental integrity" of a program designed for this purpose.

As the staff proposal notes, tradeoffs between the identified criteria will occur. For instance, while simplicity is a desirable aspect of the protocol, it should not come at the

expense of overall environmental integrity. Overall, we believe that the protocol should be designed to yield “source to sink” emission data that is as precise as possible, and where exact values are impossible or prohibitively difficult to obtain, errs on the side of the environment.

2. **The protocol should be designed in a manner that facilitates integration or expansion into a regional system.**

As noted above, we believe that a comprehensive “source to sink” generation attribute tracking system similar to those operational in the northeastern states will ultimately be the best approach. Such a system will eliminate or minimize the need to rely on estimates for emissions from electricity generated outside of California. A regional system will also help reduce the potential for contract shuffling or leakage. We appreciate the efforts that the Energy Commission and the Public Utilities Commission have already devoted to exploring such a system and urge these efforts to proceed in coordination with the Air Resources Board, the Independent System Operator, and other interested entities. At the same time, until such a system is operational, we believe it is important that reporting protocol currently under consideration be designed in a manner that at the very least does not make it incompatible with the eventual adoption of a regional tracking system and preferably lays the groundwork for the emergence of one. We appreciate and support the recognition of this in the staff proposal.

3. **It is possible that the use of estimates could compromise the integrity of emission allowances. This could have implications for California’s ability to trade with other systems.**

The staff proposal recommends the use of emissions estimates for generation outside the state serving California load. We fully understand that current realities necessitate such an approach. Where estimation of emissions data is required, the estimation methods should be designed first and foremost to provide the most accurate information possible. We also believe that in accord with the assessment criteria laid out in the staff proposal,

the protocol should “set appropriate policy signals” by using conservative emission estimates to incentivize the generation or importation of electricity with low or zero emissions. In instances where producers can adequately verify the power they are providing has lower emissions than the estimate, they should be allowed to do so.

In order to minimize the need for estimating emissions data, we believe that when feasible, power purchase agreements should be required to reflect the emissions factors associated with the power being transacted. Especially under a load-based approach, this will provide greater certainty for load serving entities about the emissions attributes of the power they are receiving.

Further, as the staff proposal notes, there are basically two approaches to determining *when* emission factors will be calculated – ex post and ex ante. While the ex ante approach provides parties greater certainty in terms of total power costs, it is not as accurate as the ex post approach in assessing emissions. While we agree that the need for greater price certainty may justify the ex ante approach, we believe it is worth considering whether setting the emissions factors at a date as close as possible to the beginning of each reporting period may increase the accuracy of the emissions estimate.

Environmental Defense believes that a cap and trade system will be a key component of AB 32 implementation. For both in-state trading and trading with other regimes, it is crucial that emissions data be accurate. This is a fundamental feature that will directly impact the overall environmental integrity of the program.

4. **The staff proposal may need modification in order to be compatible with the “first seller” approach outlined in the Market Advisory Committee draft report.**

The Market Advisory Committee to the California Air Resources Board recommended in its June 1, 2007 draft report that California pursue a “first seller” approach to regulating emissions associated with all electricity delivered in the state. Up to this point,

the CPUC and the CEC have been proceeding with design issues focused on a load-based approach.

The Market Advisory Committee report posits a load-based approach and first seller approach are roughly equivalent in regard to their ability to facilitate accurate tracking and reporting of emissions from imported electricity. However, the Market Advisory Committee points out that a first seller approach is likely to result in greater accuracy (and thus enhance overall environmental integrity) for tracking and reporting emissions generated from electricity within California. In light of our belief that precise emissions data is a crucial component to an effective reporting protocol, we are currently reviewing whether a first seller approach could better facilitate this goal. We further note that it is worth considering whether a first seller approach could more effectively facilitate any future integration of a California-based reporting system into a regional or national system.

**5. The protocol should contain a strong compliance mechanism.**

Environmental Defense believes that a strong compliance mechanism is crucial to the success of a greenhouse gas emission reporting protocol. We support the Air Resources Board proposal to develop and use a training and certification program for third-party auditors which would also be used for electric sector compliance purposes.

Dated: July 2, 2007

Respectfully submitted,



---

Virgil Welch  
Environmental Defense  
1107 9<sup>th</sup> Street, Suite 540  
Sacramento, CA 95814  
916.492.7078  
[vwelch@ed.org](mailto:vwelch@ed.org)

