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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Implement the
Commission's Procurement Incentive Framework and to
Examine the Integration of Greenhouse Gas Emissions
Standards into Procurement Policies.

Rulemaking 06-04-009
(Filed April 13, 2006)

California Energy Commission Docket #07-OIIP-01

**JOINT REPLY COMMENTS OF ENVIRONMENTAL DEFENSE (ED), THE
NATURAL RESOURCES DEFENSE COUNCIL (NRDC), AND THE UNION OF
CONCERNED SCIENTISTS (UCS) ON THE PROPOSED "INTERIM OPINION
ON REPORTING AND TRACKING OF GREENHOUSE GAS EMISSIONS IN
THE ELECTRICITY SECTOR"**

August 30, 2007

Virgil Welch
Environmental Defense
1107 9th Street, Suite 540
Sacramento, CA 95814
916-492-7078
vwelch@environmentaldefense.org

Audrey Chang
Natural Resources Defense Council
111 Sutter St., 20th Floor
San Francisco, CA 94104
415-875-6100
achang@nrdc.org

Cliff Chen
Union of Concerned Scientists
2397 Shattuck Avenue, Suite 203
Berkeley, CA 94704
510-843-1872
cchen@ucsusa.org

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I. Introduction and Summary

Environmental Defense (ED), the Natural Resources Defense Council (NRDC), and the Union of Concerned Scientists (UCS) respectfully submit these joint reply comments, in accordance with Rules 14.3, 1.9, and 1.10 of the California Public Utilities Commission's (CPUC) Rules of Practice and Procedure, on President Peevey's proposed "Interim Opinion on Reporting and Tracking of Greenhouse Gas Emissions in the Electricity Sector" (Proposed Decision or PD). We also concurrently submit these comments to the California Energy Commission (CEC) in Docket 07-OIIP-01, the CEC's sister proceeding to this CPUC proceeding.

ED is a leading national nonprofit organization representing more than 500,000 members. Since 1967, ED has linked science, economics and law to create innovative, equitable and cost-effective solutions to society's most urgent environmental problems. NRDC is a non-profit membership organization with a long-standing interest in minimizing the societal costs of the reliable energy services that a healthy California economy needs. In this proceeding, we focus on representing our more than 124,000 California members' interest in receiving affordable energy services and reducing the

environmental impact of California's energy consumption. UCS is a leading science-based non-profit working for a healthy environment and a safer world. Its Clean Energy Program examines the benefits and costs of the country's energy use and promotes energy solutions that are sustainable both environmentally and economically.

We commend the two Commissions for their leadership in addressing global warming and reducing greenhouse gas (GHG) emissions through their decisions and actions over the past several years. As we noted in our initial comments on the PD submitted on August 24, 2007, we generally support the recommendations contained in that decision. After reviewing the comments submitted by various parties to the proceeding, we offer the following comments in reply. In summary, our comments elaborate on the following points:

- While a number of parties express concern about the PD's recommendation that emission factors be assigned to new contracts with existing specified resources, we believe that the approach outlined in the PD is on balance the preferred approach to ensure "real" reductions of greenhouse gas emissions as required by AB 32.
- Several parties (SMUD, SCE, AReM) comment on the proposed treatment of null power. We continue to agree with the PD and SMUD that an emissions factor should be established for null power based on the region in which the power is generated.
- Several parties (IEP, CALPINE, PG&E, DRA) comment on the proposal that default emission factors be used for purchases from CAISO and other unspecified sources. We agree with comments that the factors should be conservatively established.
- We agree with several parties who comment on the need to revise and update the protocol prior to 2012.

II. While a number of parties express concern about the PD's recommendation that emission factors be assigned to new contracts with existing specified resources, we believe that the approach outlined in the PD is on balance the preferred approach to ensure "real" reductions of greenhouse gas emissions as required by AB 32.

A number of parties comment on the PD recommendations to ensure the emission reductions are "real." We agree with Division of Ratepayer Advocates that emission calculations should be designed to ensure "real" reductions (p. 2). AB 32 clearly requires greenhouse gas reductions to be real, as the PD already notes. Further, SMUD's assertion that "real" only applies to sections 4 and 5 of the legislation, which deal with emission reduction measures and market-based compliance mechanisms, is off the mark (p. 4). Interpreting the legislation in this manner would lead one to the conclusion that AB 32 is a collection of various independent provisions as opposed to an integrated policy aimed at reducing overall GHG emissions in California, of which reporting and tracking of GHG emissions is an integral part. The state has the duty to ensure that these reporting protocols will result in "real" reductions.

A number of parties (Southern California Edison (SCE), Pacific Gas and Electric Company (PG&E)) also assert that the PD should be revised to eliminate the provision that ARB attribute emissions for purchases from specified sources based on default factors, unless the purchase is made through a PPA in effect prior to January 1, 2008 and is still in effect, or unless the purchase is made through a PPA from a source that become operational after that date (PD p. 21). This treatment is intended to remove the incentives for parties to simply shuffle their contracts from dirty to cleaner sources, which would merely result in a "paper" reduction of greenhouse gas emissions, while in fact not affecting overall emissions. While we are mindful of the concerns raised by many of the parties on this issue, we continue to believe that attaining the fundamental purpose of AB 32 – ensuring real and sustained emission reductions over time – is best served by the approach laid out in the PD.

III. Several parties (SMUD, SCE, AReM) comment on the proposed treatment of null power. We continue to agree with the PD and SMUD that an emissions

factor should be established for null power based on the region in which the power is generated.

Several parties comment on the treatment of null power under the PD. As the PD notes (p. 21), null power “refers to electricity generated from a renewable resource for which the renewable and environmental attributes have been sold to another party. The null power *no longer* has the emission attribute of a renewable resource.” The Alliance for Retail Energy Markets (AReM) suggests that regional emissions should be attributed to null power only in instances where the associated renewable energy credits (RECs) could be used for GHG compliance. (p. 8) We disagree. As the PD notes, null power refers to power that *no longer possesses* the emissions attributes of the renewable resource. Whether the RECs associated with the power are used for GHG compliance purposes is not relevant. As SMUD points out in its comments (p. 9), “to maintain the low carbon attributes of the original energy source... would reduce and undermine the value of the credits.”

Southern California Edison (SCE) also comments on the treatment of null power in the PD. SCE suggests that the treatment of null power differs depending upon whether a load-based approach or a first-seller approach is adopted and urges the Commissions to continue to evaluate the treatment of the null power issue as decisions about the point of regulation are made (p. 14). We are not convinced that the treatment of null power would necessarily be different under either approach, and even assuming this to be the case, we agree with the PD’s recommendation that null power be assigned the corresponding default emission factor so as to avoid potential double-counting issues and maintain the integrity of any RECs sold by power generator.

We continue to support the PD’s recommendation that an emissions factor should be established for null power based on the region in which the power is generated.

- IV. Several parties (IEP, CALPINE, PG&E, DRA) comment on the proposal that default emission factors be used for purchases from CAISO and other unspecified sources. We agree with comments that the factors should be conservatively established.**

A number of parties commented on the use of emission factors for unspecified sources as suggested in the PD. PG&E and Green Power Institute (GPI) suggest the PD should be revised to defer the adoption of default emission factors until further technical workshops are held (PG&E p. 7; GPI p. 4). As noted in the PD, the emissions factors that have been recommended are based upon input from a number of parties to reflect the emissions associated with unspecified sources of power (pp. 23 – 31). We again urge the Commission to consider using conservative default factors (in accord with the comments of IEP, p. 3; Calpine, p. 2; and DRA, p. 2). Further, the PD notes that the Commissions will recommend to ARB that default emission factors be updated on an annual basis (p. 32). This should give all interested parties ample opportunity to present alternative proposals or different values as they see fit.

V. We agree with several parties who comment on the need to revise and update the protocol prior to 2012.

SCE and PG&E urge the Commission to clarify that the reporting rules are “interim” (SCE p. 6; PG&E p. 5). We generally agree and support a comprehensive review to be undertaken in 2010. However, it cannot be ignored that AB 32 requires the ARB to adopt, on or before January 1, 2008, regulations for the reporting and verification of statewide greenhouse gas emissions. Until these regulations are updated, they require that all entities subject to them comply with any and all applicable reporting requirements. Refinements to the methodology may be warranted over time.

VI. Conclusion

We commend the staff, Commissions, and parties for the effort that has been put into devising the protocol. We look forward to continuing our work with all the stakeholders involved in the process and again urge the Commission to adopt the PD at its September 6, 2007 meeting, and we also urge the CEC to adopt the same set of recommendations at their September 12, 2007 business meeting.

Dated: August 30, 2007

Respectfully submitted,



Audrey Chang
Staff Scientist
Natural Resources Defense Council
111 Sutter St., 20th Floor
San Francisco, CA 94104
415-875-6100
achang@nrdc.org



Virgil Welch
Staff Attorney
Environmental Defense
1107 9th Street, Suite 540
Sacramento, CA 95814
916-492-7078
vwelch@environmentaldefense.org



Cliff Chen
Energy Analyst
Union of Concerned Scientists
2397 Shattuck Avenue, Suite 203
Berkeley, CA 94704
510-843-1872
cchen@ucsusa.org

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the **“Joint Reply Comments of Environmental Defense (ED), the Natural Resources Defense Council (NRDC), and the Union of Concerned Scientists (UCS) on the Proposed ‘Interim Opinion on Reporting and Tracking of Greenhouse Gas Emissions in the Electricity Sector’”** in the matter of **R.06-04-009** to all known parties of record in this proceeding by delivering a copy via email or by mailing a copy properly addressed with first class postage prepaid.

Executed on August 30, 2007 at San Francisco, California.



Shari Walker
Natural Resources Defense Council
111 Sutter St., 20th Floor
San Francisco, CA 94104
415-875-6100
Swalker@nrdc.org