

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 Integrations of  
Greenhouse Gas Emissions Standards into  
Procurement Policies.

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Rule making R.06-04-009  
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CEC Docket No. D.07-OIIP-01

**COMMENTS OF COVANTA ENERGY CORPORATION  
ON ALLOWANCE ALLOCATION ISSUES**

October 30, 2007

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## **COMMENTS OF COVANTA ENERGY CORPORATION ON ALLOWANCE ALLOCATION ISSUES**

### **Introduction**

Pursuant to the October 15, 2007 Administrative Law Judge's Ruling Requesting Comments and Noticing Workshop on Allowance Allocation Issues on the Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies, Covanta Energy Corporation ("Covanta") respectfully submits these Comments of Covanta Energy Corporation on the Allowance Allocation Issues. Covanta Energy hereby submits its comments to the California Public Utilities Commission as referenced above. We thank you in advance for your consideration of our submittal, and any additional information we may submit, during your deliberations over what you and the California Energy Commission will recommend to the Air Resources Board relative to the implementation of AB 32.

We will start by first addressing our overall recommendation to you (our response to Question 28). When considering the various alternatives with regard to allowances under a proposed cap and trade system, we feel that it is paramount that renewable energy sources should not be included as points of regulation. All renewable electric generators should be excluded and not subject to a cap, especially an electric sector cap, and should not be subject to having to obtain allowances whether under a first-seller or LSE approach, whichever is finally adopted. Renewable energy sources should

be encouraged and fostered under the state's RPS. They are by nature zero carbon or carbon neutral energy sources, consistent with your approach to the Emission Performance Standard ("EPS") established under SB 1368 (Public Utilities Code Division 4.1, Section 8341, (d) (e)). Accordingly, as the development of GHG offset credits is being completed under CCAR, and then CARB, all renewable energy sources – including Energy-from-Waste ("EfW"), landfill gas and biomass – should be considered for their GHG offsets credits.

The approach that we recommend would place the primary responsibility for meeting the GHG compliance measures on the load serving entities ("LSE"), which then would be responsible for obtaining the necessary allowances for emissions associated with the product they sell to their customer. Whether allowances are allocated, auctioned, or a combination of both, the LSEs, as the point of regulation, would receive and/or purchase the necessary allowances. This approach is the most appropriate as LSEs have the ability to recover the cost of acquiring allowances or pass any benefits associated with free allowance allocation to their customers. Indeed, the regulations should require LSEs to pass-through any benefits of free allowance allocation to the end-user.

Question 24 asks whether administrative allocation of emissions allowances should be made to retail providers for subsequent auctioning to deliverers/first sellers. We do not see the logic in pursuing such an approach. Under the scenario outlined in the questions, the point of regulation is the deliverer/first seller. It makes no sense to

involve retail providers in the process under this scenario. Further, this scenario opens the door for retail providers to discriminate against (or favor) various generators or various generation technologies, rather than permitting market factors to define the most economical approach to meeting their customer needs.

If this situation is permitted, the CEC/CPUC would be enabling one sector to control the auction of allowances and benefit from the proceeds of such auction for their own generation interests. As a sub-class of first sellers, renewable energy sources are zero or low carbon emitting generators, and their low emissions result in market advantages to the LSE's in the procurement of their energy portfolio, consistent with the state's RPS.

Question 21 asks whether a first seller point of regulation would necessitate auctioning of emission allowances to the first sellers. We do not believe that allowances need to be auctioned to first sellers whether they are the point of regulation or not. Allowances can be administratively determined and allocated to first sellers. At the very least, allowances should be freely allocated to defined renewable electric generators in furtherance of supporting renewable energy sources in CA. Renewable electric generators offer essential public services that would falter if they were not able to generate due to onerous costs of allowances that could not be recovered because of fixed-price power purchase agreements ("PPAs") or PPAs that do not have a recovery mechanism that enables renewable generators to recover the cost of acquiring GHG allowances. Additionally, renewable sources such as EfW operate under "change in

law” provisions with the communities that they serve and passing on costs such as allowance procurement, if forced to do so, could severely impact the communities being served by the EfW facility.

In summary, Covanta Energy respectfully submits that as the CPUC endeavors to determine its regulatory approach to allowance allocation, it should work to create incentives rather than disincentives for renewable generation.

### **Conclusion**

Covanta appreciates the opportunity to comment and looks forward to participating further in this proceeding. Please do not hesitate to contact me at 973-822-4144 should you have any questions or comments. Furthermore, Covanta would welcome the opportunity to meet with you to further explain this letter and demonstrate our position.

Dated October 30, 2007, at Fairfield, New Jersey

Respectfully Submitted,

A handwritten signature in cursive script that reads "Cindy Adams". The signature is written in black ink and is positioned above a horizontal line.

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**Proof of Service**

I hereby certify that on October 30, 2007, I have served a copy of the  
COMMENTS OF COVANTA ENERGY CORPORATION ON ALLOWANCE  
ALLOCATION ISSUES upon all parties listed on the Service List for this  
proceeding, R-06-04-009. All parties have been served by email or first class  
mail, in accordance with Commission Rules.

/s/Lisa C. Rodriguez

Lisa C. Rodriguez