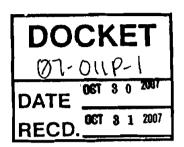
BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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



Rule making R.06-04-009 (Filed April 13, 2006)

CEC Docket No. D.07-OIIP-01

COMMENTS OF COVANTA ENERGY CORPORATION ON ALLOWANCE ALLOCATION ISSUES

October 30, 2007

Cindy Adams, Manager Government Relations Covanta Energy Corporation 40 Lane Road Fairfield, NJ 07004 ph: (973) 882-4144

fax: (973) 882-4119

CAdams@CovantaEnergy.com

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 Comments of Covanta Energy Corporation on Allowance Allocation Issues, R.06-04-009, page 2

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

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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

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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,

Cindy Adams, Manager

Government Relations

Covanta Energy Corporation

Cindy adams

40 Lane Road

Fairfield, NJ 07004

Phone: (973) 882-4144

e-mail: cadams@covantaenergy.com

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