

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

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

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

BEFORE THE CALIFORNIA ENERGY COMMISSION

In the Matter Of,)
)
AB 32 Implementation – Greenhouse Gas)
Emissions.)

Docket 07-OIIP-01

REPLY COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)
ON ALLOWANCE ALLOCATION ISSUES

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Dated: November 14, 2007

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I.

INTRODUCTION

On October 31, 2007, in response to the Administrative Law Judge's Ruling Requesting Comments and Noticing Workshop on Allowance Allocation Issues (Ruling), dated October 15, 2007, Southern California Edison Company (SCE) and other parties filed opening comments on issues related to the distribution of greenhouse gas (GHG) emissions allowances. Subsequently, the joint staffs of the California Public Utilities Commission (CPUC) and the California Energy Commission (CEC) conducted a workshop on November 5, 2007 (Workshop). SCE now submits Reply Comments in response to other parties' opening comments and oral comments at the Workshop.

II. DISCUSSION

A. The CPUC and CEC Should Reject The Suggestion That Command-And-Control Regulations Are Preferred To A Market-Based Approach

Several parties suggest that command-and-control regulations are preferred to a market-based approach.¹ SCE disagrees and urges the CPUC and CEC to reject such arguments. Adoption of a market-based approach for California will provide the least-cost pathway to reducing GHG emissions. Allocating allowances is an important and challenging component to the design and implementation of a cap-and-trade program. Nevertheless, the CPUC and CEC should reject some parties' suggestions that it would be easier simply to abandon a market-based solution in favor of command-and-control regulation. Instead, the CPUC and CEC should make an educated choice of a system that will provide the most cost-effective results for California.

While command-and-control regulation may serve individual parties best, California can achieve its overall Assembly Bill (AB) 32 emissions reduction goals at the lowest possible cost and will optimally promote technological development by implementing a properly designed market-based program. A well-designed cap-and-trade approach can result in significantly lower long-term, emission-reduction costs when compared to traditional command-and-control regulation. In order to most efficiently reduce emissions, regulated entities must be able to select, at any given time, the most efficient means to reduce emissions. GHG emissions reduction lends itself to a cap-and-trade mechanism due to the diversity of emission-reduction opportunities available over a wide sectoral and geographic space. The emissions price mechanism in a cap-and-trade structure incents regulated entities to select the most efficient of the available options to reduce emissions. The incorporation of this "efficiency signal" into the trading process promotes the use of the most efficient technology available to reduce emissions.

¹ Verbal comments of Los Angeles Department of Water and Power (LADWP) and Southern California Public Power Authority (SCPPA) at Workshop.

These options may include funding emission reductions within the regulated sectors through allowance trading or funding emission reductions outside the regulated sectors by purchasing offsets. Alternatively, command-and-control regulations adopt rules that indiscriminately designate certain required compliance options without a means to select the most efficient emission reduction options. As a result, traditional regulation does not provide an appropriate signal to the investment community and unnecessarily increases the overall cost of compliance.

In its 2007 economic analysis of the California Climate Initiative, the Electric Power Research Institute (EPRI) stated:

As an indication of the stakes involved, specific regulatory approaches analyzed could increase costs by over 60% compared to comprehensive marketbased approaches that preserve environmental gains and allow flexible choices to reduce costs.²

In developing an allowance allocation program for California, the CPUC and CEC should apply lessons learned from previous programs and avoid the establishment of command-and-control rules that will likely increase compliance costs unnecessarily above those that would be incurred under a least-cost, market-based approach.

B. Allowances Should Not Be Administratively Allocated to Entities Based Solely on Load Served or Solely on Emissions

Several parties have suggested that allowances be administratively allocated to entities based solely on load served (MWh).³ Other parties suggest that allowances be allocated solely based on emissions levels (*i.e.*, mton of CO₂e).⁴ SCE disagrees with such recommendations.

² *Program on Technology Innovation: Economic Analysis of California Climate Initiatives: An Integrated Approach*, Electric Power Research Institute, v1, Summary for Policymakers Final Report, June 2007. The cost differential of market- versus rule-based approaches could be 60%. *Id.*, Executive Summary at 1-7.

³ Pacific Gas and Electric Company (PG&E) Opening Comments, p. 4; Alliance Retail Energy Markets (AREM) Opening Comments, p. 6-7; Kenneth C. Johnson Opening Comments, p. 2-3; El Paso Natural Gas Company/Mojave Pipeline Company (EPNG/Mojave) Opening Comments, p. 2; San Diego Gas and Electric Company/Southern California Gas Company (SDG&E/SoCalGas) Opening Comments, p. 6-7; Caithness Energy LLC (Caithness) Opening Comments, p. 1-2; Northern California Power Agency (NCPA) Opening Comments, p. 7-8.

⁴ LADWP Opening Comments, p. 2; PacificCorp Opening Comments, p. 5-6; Sierra Pacific Power Company (Sierra Pacific) Opening Comments, p. 3; Wild Goose Storage, LLC (Wild Goose) Opening Comments, p. 2-3; Continued on the next page

The CPUC and CEC should adopt an allocation program that disburses the financial value⁵ of any allowances to those entities that suffer economic harm that has accrued to an entity because of the imposition of GHG regulations under AB 32.

Allocating allowances to entities that have suffered economic harm is the most equitable method of minimizing California's financial hardship resulting from GHG regulations. If allowances are allocated based solely on either the load served or on emissions, then wealth is transferred unnecessarily without an eye to the harm that certain entities have faced because of the imposition of GHG regulation.

Under GHG regulations, three types of economic harm will result. First, economic harm will befall *consumers* who must pay higher prices for electricity. Second, economic harm will befall *generators* that have relatively high emissions and must pay a portion of the compliance cost for their emissions.⁶ Third, economic harm will befall *utilities* that own generation. The harm to the vertically integrated utility will be the full cost of compliance for the respective generation and would be passed on to ratepayers in the form of higher retail energy prices. All three types of entities will suffer economic harm to varying degrees, based on their relative emissions rate or size of load served. To allocate allowances based solely on either load served or an emissions profile will disproportionately increase economic harm for certain of these identified entities.

Pacific Gas & Electric Company (PG&E) proposes to allocate all allowances to load serving entities (LSEs) according to the load served.⁷ PG&E's proposal will provide an excess of allowances to LSEs with relatively low emitting resources at the expense of LSEs with

Continued from the previous page

Modesto Irrigation District (MID) Opening Comments, p. 2; SCPPE Opening Comments, p. 2; AES Southland L.L.C. (AES) Opening Comments, p. 3.

⁵ The allowances can be auctioned and the revenue generated from the auction can be allocated. This will eliminate concerns of market manipulation and will increase liquidity.

⁶ Economic harm will befall high emitting generators regardless of the point of regulation. If a source-based cap is implemented, then the economic harm to the generator would be the difference between the costs of emissions less the increased revenue from a higher market-clearing price. If a load-based cap is implemented, then load serving entities will likely try to negotiate a lower price with the generator to recoup their cost of emissions, which will reduce the generator's profit.

⁷ PG&E Opening Comments, p. 4-5.

relatively high emitting resources. Because such an allocation scheme will provide LSEs with lower emitting resources with more allowances than needed to mitigate their economic harm fully, ratepayers from these LSEs could realize a windfall.

The Los Angeles Department of Water and Power (LADWP) advocates a proposal to allocate allowances based on emission levels.⁸ Because some generators may realize a higher price in either bilateral contracts or the spot market, a pure emissions-based allocation approach may compensate some generators beyond their cost of compliance. Furthermore, some LSE's such as ESPs that do not have generation portfolios, would suffer economic harm without any opportunity to receive allowances.

Notably, both PG&E and LADWP fare best under their own proposals. PG&E has relatively low emissions resources and a relatively large load and seeks an allocation based on load. LADWP has relatively large historical emissions and a relatively small load and seeks an allocation based on historical emissions.

SCE's Proposal suggests an approach that acknowledges the practical effect of imposing GHG regulations on entities. As such, SCE's Proposal does not single out a single type of entity for receipt of free allowances. Instead, it examines the manner in which all market participants will be affected by the new GHG rules. Under SCE's proposal, the allocation of allowances ensures that those who made investments in infrastructure assets and customers who face higher electricity prices receive allowances to mitigate their harm. As discussed below, this does not reward high-emissions behavior, rather it recognizes the reality of economic harm that has resulted from the imposition of GHG regulations.

C. SCE's Proposal Retains the Incentive to Reduce Emissions

Some parties suggest that SCE's proposal to grant allowances to high-emitting entities would create the wrong incentive or reward high emission entities. A cap-and-trade structure,

⁸ LADWP Opening Comments, p. 2.

however, introduces an emissions cost that will incent regulated entities to reduce emissions. In addition, under the SCE proposal, the number of allowances allocated will “ramp-down” between 2012 and 2020 in order to meet the AB 32 goals, providing additional incentive for regulated entities to reduce emissions.

SCE’s Proposal retains the incentive to reduce emissions by allocating allowances to entities with emissions rates above the marginal unit. Because entities must gradually reduce their emissions to reach 1990 levels by 2020, allocated allowances will always be insufficient to mitigate all of the economic harm of relatively high emitting entities. Therefore, despite receiving allowances, high-emitting entities will incur increased operating costs that will not be offset by increased revenues. This disparity will increase over time as California approaches the AB 32 cap level.

D. SCE’s Allocation Proposal Supports Investment in New Technology and Generation in California

The CPUC, CEC, and California Air Resources Board (CARB) must evaluate the impact of any proposed allocation proposal on technological development and investment in new generation in California. Under a cap-and-trade program, SCE’s proposal to allocate allowances to mitigate economic harm does two things: first, it causes regulated entities to make fundamental GHG-emissions-reducing changes; second, it recognizes the substantial investment in generating resources that regulated entities have already made. High emitting generators made long-term capital investments in plants at a time when restrictions on CO₂ emissions neither existed nor were pending. A policy that would require an auction of allowances, without any value being returned to the entity suffering economic harm would abruptly reduce economic benefit to existing generating investments serving load in California. Such an abrupt regulatory change would result in the unintended consequence of reducing the incentive to invest in new technology and new generating resources in California. Such a drastic action will give California the reputation of disregarding investors, and will send a very strong signal to potential

investors to stay out of California. California's environment and economy would suffer from such a reputation.

E. SCE's Proposal Allocates the Value of Allowances to Mitigate Economic Harm

Various parties have expressed concern about the possibility that a State auction may be used to distribute emissions allowances. LADWP further commented that an auction creates an additional expense to California.² Another party stated that an auction does not satisfy the intent of AB 32.¹⁰ SCE's proposal avoids the use of a State auction, which avoids the potential for the funds from such an auction to be diverted from the allowance allocation to some other government use.

SCE proposes that emission allowances be allocated in order to mitigate the economic harm to California entities. Such a process essentially allocates the value of the allowances in a manner that mitigates economic harm to entities that made investments in infrastructure assets and to customers. An auction mechanism could ensure that the allocation process makes the valuation of allowances transparent and the distribution of allowances to those that need them non-discriminatory. Since economic value of allocated allowances must be returned to regulated entities according to the administrative allocation, SCE's Proposal will not create an additional expense to regulated entities. SCE's Proposal provides a means to achieve the AB 32 emission reduction goals at the lowest possible cost.

F. SCE's Proposal Does Not Provide Any Wealth Transfer Between Lower Emitting Utilities And Those With Higher Emitting Portfolios As Some Suggest

PG&E and NCPA support allocating allowances to LSE's based on electricity sales.¹¹ Such an allocation scheme could provide lower emitting entities an excess supply of allowances, while burdening higher emitting utilities with a significant shortage. Although SCE is among the

² Verbal comments of LADWP and SCPPA at the Workshop.

¹⁰ Verbal comments of SCPPA at the Workshop.

¹¹ PG&E Opening Comments, p. 4-5; NCPA Opening Comments, p. 7-8.

lower emitting utilities in the State of California, SCE does not support the PG&E allocation scheme.

SCE and other regulated utilities have made significant investments on behalf of their ratepayers in energy efficiency, renewable generation, and clean nuclear power. Under SCE's Proposal, entities who suffer greater initial economic harm, and thus receive a greater initial allocation of allowances, will also realize a greater reduction in overall allowance allocation when the number of allowances decreases as the State proceeds towards the 2020 emission goals. SCE's Proposal does not provide any wealth transfer between lower emitting utilities and entities with higher emitting portfolios. Under a cap-and-trade program, higher emitting entities will be compelled to reduce their emissions to a greater degree in order to reduce the financial cost of holding or acquiring emission allowances, and lower emitting utilities will not be forced to "pay twice" for clean resources. Thus, on balance, the GHG program, with the allocation of allowances under SCE's Proposal, recognizes the economic harm caused by such a program and provides the needed incentive for all regulated entities to achieve mandated emission reductions in the most efficient and effective manner possible.

G. SCE Disagrees With Parties That Advocate A Load-Based Cap As A Means To Allocate Allowances To Load-Serving Entities

The point of regulation is an important issue that is independent of the method of allocating allowances. SCE understands that some stakeholders have supported a load-based cap simply because they expect such a regulatory approach will more readily lead to an allowance allocation scheme that is consistent with their self-interests. The point of regulation is a critically important issue, which will greatly impact the successful implementation of AB 32. SCE is concerned that advocating a particular point of regulation as a calculated strategy to achieve a desirable allowance allocation outcome is tantamount to "letting the tail wag the dog."

SCE supports the First Seller approach presented in the MAC report. The First Seller approach places the point of regulation for in-state generation at the generating facility and

eliminates the need for arbitrary emission factors for in-state generation. This approach facilitates more transparent and straightforward emissions measurements and, therefore, it offers a greater degree of environmental integrity than does the load-based approach. However, ALJs TerKeurst and Lakritz recently issued a ruling calling for comments on the type and point of regulation.¹² In order to establish the most effective and efficient regulatory structure under AB 32, the CPUC, CEC, and CARB should evaluate these two important issues independently.

H. SCE's Equations Used to Calculate Economic Harm

Some parties asked for the equations that SCE used to calculate economic harm. SCE is providing this information in the attached Appendix.

¹² ALJ Ruling dated November 9, 2007.

III.

CONCLUSION

For all of the foregoing reasons, SCE urges the CPUC and CEC to adopt its proposal to provide allowances to those who suffer economic harm as a result of the imposition of AB 32.

Respectfully submitted,

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November 14, 2007

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commissioner's Rules of Practice and Procedure, I have this day served a true copy of Reply Comments of Southern California Edison Company (U 339-E) on Allowance Allocation Issues on all parties identified in the attached service list(s).

Transmitting the copies via e-mail to all parties who have provided an e-mail address.

First class mail will be used if electronic service cannot be effectuated.

Executed this 14th day of November, 2007, at Rosemead, California.

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