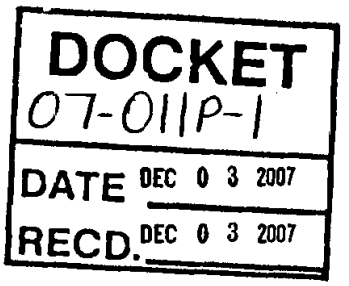

BEFORE THE PUBLIC UTILITIES COMMISSION

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 Practices	Rulemaking 06-04-009 (Filed April 13, 2006)
And	And
[Also filed at California Energy Commission]	*CEC Docket 07-OIIP-01*

COMMENTS OF THE INDEPENDENT ENERGY PRODUCERS ASSOCIATION IN RESPONSE TO ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS ON TYPE AND POINT OF REGULATION ISSUES

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Date: December 3, 2007

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Pursuant to the schedule established in the Administrative Law Judge's Ruling Requesting Comments on Type and Point of Regulation Issues, dated November 9, 2007, the Independent Energy Producers Association ("IEP") submits its Comments on the questions posed in that ruling. IEP's responses to the individual questions posed in the Ruling are contained in Attachment A.

Respectfully submitted this 3rd day of December, 2007, at San Francisco, California.

/s/ Steven Kelly

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ATTACHMENT A:
Questions Posed By ALJ Ruling
And
IEP Responses

[Questions in boldface]

3. Questions to be Addressed in Comments
3.1. General

Q1. What do you view as the incremental benefits of a market-based system for GHG compliance, in the current California context?
A market-based system provides a tool for the points of regulation in any regulatory scheme to achieve compliance in an efficient, timely, and effective manner. In general, the purpose of any sort of emission regulation is to internalize the externalities associated with the act of emitting. In this way, the emitters and/or the demanders of the products that are derived from the acts associated with emitting properly bear the costs associated with the emission being regulated. Market-based mechanisms are the most economically efficient way to internalize externalities.

The market becomes a tool by which the points of regulation can reasonably acquire the allowances (or certificates) necessary for compliance at the lowest, market-based cost and/or use these market signals to prompt innovation of, and investment in, lower emitting technologies. In this sense, a market is particularly useful in that it provides an economically efficient, transparent means by which the commodity sought (an allowance or certificate) may be valued and exchanged. In addition, the presence of a transparent, market-based system provides the structure within which innovation may incubate and be fostered. Thus, the incremental benefits are (a) price transparency and revelation, (b) efficient exchange of product between buyer and seller, and (c) effective implementation to ensure timely compliance.

Q2. Can a market-based system provide additional emissions reductions beyond existing policies and/or programs? If so, at what level? How much of such additional emission reductions could be achieved through expansion of existing policies and/or programs?
A market-based system is a tool to achieve an end. If policymakers seek additional emission reductions beyond existing policies and programs, then a market serves as an efficient and effective tool to achieve that end. The market itself is not the goal, per se.

What a market does, however, is provide a transparent and economically efficient means to determine what the expected cost may be to achieve additional emission reductions (e.g. transparency in the cost of CO2 reduction). To the extent that innovation (e.g. in the

form of offsets) or efficiencies (e.g. technology improvements and/or operational improvements) are realized, the additional reductions associated with these outcomes are more likely to come to the fore more quickly and in a more cost effective manner than would occur absent a market-based system.

3.2. Principles or Objectives to be Considered in Evaluating Design Options

Public Utilities Commission Staff proposes that the following principles or objectives be used to evaluate GHG program design options and to develop recommendations regarding a GHG regulatory approach. The objectives are not presented in any particular order.

- **Goal attainment: Does the approach being considered have any particular advantages in terms of meeting overall emission reduction goals? For example, does the approach have any advantages to promoting energy efficiency, combined heat and power, or renewable energy?**

Existing California law and regulation prescribes GHG, RPS, EE mandates. We assume that these will be met, and the GHG program need not be seen necessarily as the vehicle to replace other, non-GHG mandates. However, to the extent that markets are allowed to signal the relative benefits of these preferred technologies, the mandates associated with these programs may have an increased probability of being attained.

- **Cost minimization: Is the approach likely to minimize the total cost to end users of achieving a given GHG reduction target?**

The issue of cost minimization needs to be considered in terms of short-term versus long-term costs. Often, a strategy that embarks on realizing short-term cost reduction has the effect of increasing long-term costs. As the GHG emission reduction program is a long-term policy (e.g. 2050), then IEP recommends that the issue of cost minimization be considered from a long-term cost minimization approach (vs. short-term cost minimization). A long-term cost minimization approach will ensure that final policy objectives/goals will be attained at least cost to consumers and will avoid the traps on taking less costly, but perhaps less effective, policy steps at the outset. Moreover, IEP believes that cost-effectiveness and economic efficiency are inextricably linked.

- **Compatibility with wholesale markets and the Market Redesign and Technology Upgrade: What are the implications of the approach on efficient functioning of wholesale markets generally and the Independent System Operator day-ahead and real-time markets?**

If generators are identified as the "point of regulation," they must have a reasonable means to recover the costs of GHG compliance. Otherwise, grid reliability (see below) becomes an issue. Under this scenario, IEP assumes that the wholesale markets will become a reasonable means to recover the variable costs of operating, including those costs associated with GHG compliance. For example, long-term contract holders, including but not limited to qualifying facilities (QFs) and certain DWR contracts, have contracts (power purchase agreements or PPAs) that presently have no mechanism to manage these potentially sizable new CO2 associated costs. The CPUC/CEC must be mindful that long established generators in such circumstances must either have a reasonable means to recover the costs of GHG compliance or to transition into the new regulatory scheme after their current commitments expire.

• Legal risk: Is the approach at greater relative risk of being delayed or overturned in court?

Any approach has legal risk and it's likely that either direction the Commission pursues in the matter of GHG emission reduction raises potential legal hurdles. However, if a particular path raises the specter of constitutional and/or legal barriers (i.e. such barriers are highly likely to thwart the Commission's goals), and such concerns are based on a consensus within the informed legal community, then the Commission should pause and consider its preferred path.

• Environmental Integrity: Does the approach mitigate or allow contract shuffling and the leakage of emissions occurring outside of California as a result of efforts to reduce emissions in California?

IEP has been clear from the beginning about its concern over the potential for contract leakage (and/or contract shuffling, if that practice leads to leakage). However, the Commission should reframe this principle in the context of scope/scale. As it may be impossible to mitigate in advance all potential leakage, it would be better to frame the issue of Environmental Integrity in terms of whether one approach (vs. another) is more likely to result in a significant amount of leakage (e.g. 10% or more). If any program successfully and accurately captures a substantial portion of the GHG emissions associated with California's consumption (e.g. 90% or more), then that should be considered having passed a suitable threshold for environmental integrity.

• **Expandability: Would the approach integrate easily into a broader regional or national program? A related consideration is the suitability of the approach as a model for a national or regional program.**
IEP has been clear from the beginning about the desirability of being able to link to broader regional programs (west-wide, federal, and/or international). However, this feature of California's program need not be to the exclusion of interim transitional programs until broader regional programs are in place. A major argument for a source based (first seller) approach is its ability to integrate with other programs. Currently, there is no national program. Speculation on what a national program, if one materializes, may look like should not be the primary driver for the most effective structure implementing California law. Rather, the most effective near term program for California should be the priority. If a load-based approach is implemented, care should be given to the ability to convert a load-based approach to a source based approach at a point in the future, should that be required (e.g. if a national source-based program is adopted).

• **Accuracy: Does the approach support accuracy in reporting and, therefore, ensure that reported emission reductions are real?**
Accuracy in reporting of emissions is critical. CARB will have imposed stringent reporting requirements on in-state sources. These mandatory reporting requirements will come into play regardless of the ultimate determination of the point of regulation. To the extent practical, accuracy in reporting should be critical to the program. Recognizing, however, accurate reporting from out-of-state generation resources serving California load may be difficult to achieve pending a broader regional effort. In these limited instances, IEP recommends using estimation techniques for undifferentiated power such that the undifferentiated and/or out-of-state resources have an incentive to report emissions data to California regulators. Using marginal emission rates rather than average emissions rates creates the proper incentives to best achieve this end.

• **Administrative Simplicity: Does the approach promote greater simplicity for reporting entities, verifiers, and state agency staff? How easy will the program design be to administer?**

Q3. Do you agree with this set of objectives? Are there other objectives or principles that you wish to see included? If so, please include your recommendations and reasoning. Finally, please rank the objectives above, and any additional factors you propose, in order of importance.

IEP's comments on the staff's proposed set of objectives are provided beneath each objective above. Regarding additional objectives or principles that should be included in the assessment of which GHG emission reduction paradigm should be employed, IEP recommends consideration of the following:

- ***Grid Reliability***: To what extent will the proposed approach support (or alternatively undermine) grid reliability and electricity service? AB 32 Section 38501(h) states directly that the emission reduction measures be designed in a manner that, among other things, "maintains electric system reliability." IEP believes that if this design objective is not realized, as a threshold matter, then the other objectives will, in hindsight, look pale in comparison.

In term of ranking the objectives above, IEP believes that all are important. Accordingly, IEP ranks the program design objectives *relative to each other* based on the following scale:

1=Very Important
2= Somewhat Important
3= Less Important
4=Not Important

IEP offers the following ranking:

Principal/Criteria:	Ranking:
Goal attainment	3 *
Cost minimization	2
Compatibility with wholesale markets and the Market Redesign and Technology Upgrade	2
Legal risk	2
Environmental Integrity	2
Expandability	1
Accuracy	2
Administrative Simplicity	3
Grid Reliability	1

* IEP believes goal attainment is of high importance. However, we rank goal attainment relatively lower than the other design criteria due to the presumption that, if late in program implementation it appears the 2020 emission reduction goals are not achievable, then we believe ramping up regulatory obligations in order to meet the 2020 obligations (i.e. goal attainment) should be considered as relatively less important at that time than other criteria such as cost minimization, legal risk, environmental integrity, accuracy, expandability, administrative simplicity, etc.

3.3. Load-Based Cap-and-Trade System Design

Under a load-based approach, the regulated entities would be the retail providers of

electricity to California consumers. Retail providers would be required to surrender allowances for the GHG emissions associated with all power sold to end users in California. Generators would not have a compliance obligation under this system, except possibly for exported power, as discussed in more detail below.

Q4. With a load-based cap-and-trade system, should exports from in-state generation sources be included and accounted for under the cap? Why or why not? If so, how? For example, exports could be captured in a cap-and-trade system by regulating in-state sources that export, or by counting the emissions associated with exported power, without any compliance obligation on the exporter. There may be other options as well.

The emissions associated with exports should not be imputed to any in-state LSE. However, as CARB implements its statewide cap, it can use the emissions associated with exports derived from in-state generations in its calculations. Power which is imported and then exported ("wheeling through") need not be attributed in either an LSE-based cap or a statewide cap.

Q5. How extensive do you view the threat of contract shuffling under a load-based program, given the accessibility of clean resources within the western interconnect? What mechanisms do you propose to combat this possibility? On what basis do you support your position? Under a load-based system, three basic options may be used to match a retail provider's load to the sources of electricity used to serve the load: (1) the use of contracts and settlements data, (2) the development of a tracking system to facilitate matching sources to loads, with unclaimed sources pooled and assigned to all retail providers for any electricity that cannot be accounted for on a specified basis, and (3) the use of a tracking system and tradable emission attribute certificates (TEAC) to ensure that all electricity is assigned.

IEP's understanding is that the amount of power that is not differentiated is relatively low. IEP has argued in the past that it would probably be less costly and administratively simpler to impute emissions associated with undifferentiated power based on the marginal emitting unit. This would create the incentives for parties to differentiate power more clearly so as to avoid having that undifferentiated power linked to an imputed number based on the marginal emitting unit. This method serves as a sufficient transitional mechanism until broader, regional generator information (GIS) or TEAC system gets developed. Upon implementation of a regional and/or national program, the concerns over contract shuffling become moot.

Q6. Which of these systems best accounts for all imports? What are the advantages and disadvantages of each potential tracking system in terms of accuracy, cost of development and administration of tracking systems, costs of administration to the parties, and overall costs to ratepayers? Are there alternative tracking approaches that you would recommend, and for what reasons?

The best means for accounting for all imports is a regional GIS or TEAC system. Both

require some additional administrative costs. Perhaps more importantly, both require a sufficient amount of regional cooperation to make it efficient and effective. In the interim, neither this approach nor an alternative tracking mechanism match the simplicity of imputing marginal emissions for undifferentiated power.

Q7. If a load-based approach is pursued, would the potential benefits of a full TEAC system be great enough to warrant the start-up and administrative costs?
IEP understands a TEAC system to have the following characteristics: (a) generators receive unique certificates for MWs produced that represent an emissions level/value; (b) LSEs purchase the unique certificates either directly from generators (e.g. via a PPA) or via a market (e.g. secondary trading market); and (c) LSEs use TEACs for regulatory compliance.

If a load-based system is pursued, a TEAC approach provides sufficient benefits to warrant the start-up and administrative costs. A developed TEAC system would provide the following benefits:

- A unique serial number for each MWh produced.
- Transparency and accounting simplicity.
- Liquidity in a commodity market.
- Incentives for cleaner generation.
- Avoids "economic dislocation" on generators.
- Minimizes cost of compliance.
- Potential for (a) adoption regionally and/or (b) serving as transitional approach until broader regional/federal system gets defined.

3.4. Source-based Cap-and-trade System Design Options

3.4.1. Pure Source-based (GHG Regulation of In-state Generation Only)

Under an in-state-only source-based approach, the regulated entities would be the power plants located in California that generate electricity and emit GHGs. Under such a system, electricity use associated with imports would not be directly regulated under the cap-and-trade system. Instead, other policies and programs such as energy efficiency and the Renewable Portfolio Standard (RPS) would be utilized to decrease reliance on imported GHG-intensive power sources.

Q8. Do you view this approach as compliant with Assembly Bill (AB) 32? Please support your answer. The threat of leakage can be viewed over two time horizons: short-term and long-term.
IEP does not view a program that disregards imports as compliant with AB 32. Nothing in AB32 prescribes treating imports differently than in-state generation. Quite the opposite, AB32 specifically includes the consideration of imports simultaneously with

the consideration of in-state generation. For example:

- Section 3855(m) defines "Statewide greenhouse gas emissions" as "the total annual emissions of greenhouse gases in the state, including all emissions of greenhouse gases from the generation of electricity delivered to and consumed in California, ... whether the electricity is generated in state or imported." This provision directs the CARB to include the consideration of imports simultaneously with the consideration of in-state generation.

- Section 38530(2), related to the reporting and verification of statewide greenhouse gas emissions, directs CARB to "Account for greenhouse gas emissions from all electricity consumed in the state ..." This provision directs the CARB to include the consideration of imports simultaneously with the consideration of in-state generation.

- Section 38570(b)(2) directs the CARB in the consideration of market-based compliance mechanisms to "Design any market-based compliance mechanism to prevent any increase in the emissions to toxic air contaminants or criteria air pollutants." This provision directs the CARB to consider impacts on out-of-state generation. This includes imports.

Moreover, roughly half of the electric sector's GHG emissions are associated with power imports. Thus, ignoring imports would place an unjust burden on relatively cleaner in-state generation.

Q9. In light of the relatively high capacity factors of carbon-intensive facilities outside the state, how extensive do you expect the short-term threat of substituting higher-carbon imports for in-state generation to be? Might this possibility be dealt with through specific program design (e.g., allocations, limiting conditions, etc.)?
This threat can be mitigated if undifferentiated power imports are imputed the emissions of the marginal emitting unit. If this were the case, then the threat of substitution would likely be small and of small duration.

Q10. Given existing procurement oversight and the prospect for a regional or federal GHG program in the foreseeable future, how extensive do you expect the threat to be of a longer-term shift of production to regions beyond the reach of a California source-based cap-and-trade regime?
The prospect of shifting energy production out of state is limited by (a) time to development new projects, (b) transmission infrastructure investment and timing of new investment, and (c) consumer demand in other states. The threat of a long-term shift of production to regions beyond the reach of the California source-based cap and trade program is limited most importantly by the procurement practices of the LSEs in-state.

Given the adopted EPS standard, and more importantly the CPUC/CEC/Local Governing Board's control over the procurement practices of their regulated entities, IEP views the long-term threat of shifting production to higher emitting resources located out-of-state as de-minimis.

Q11. If emissions associated with imported power are excluded from a cap-and-trade program, what policies beyond the existing suite of program including energy efficiency, California Solar Initiative, RPS, and Emission Performance Standard (EPS) do you recommend that California employ to achieve the necessary reductions from the electricity sector?
These policies probably will be sufficient. IEP reminds the Commission, however, that while the Commission is seeking to achieve "the necessary reductions from the electricity sector," the Commission (and other policymakers) are considering increasing the demand for electricity (all things being equal) due to the electrification of the transportation sector. It is quite conceivable that, while attaining the statewide cap prescribed in AB 32, the emissions from the electricity may increase as (all things being equal) due to increased electrical demand driven by the state's GHG emission reduction policy. This needs to be taken into account in the Scoping Plan and when establishing reduction goals for the electricity sector.

Q12. As the Public Utilities Commission does not currently have authority to oversee all energy efficiency and renewable procurement programs for all kinds of retail providers (investor owned utilities (IOUs), community choice aggregators (CCAs), electric service providers (ESPs), and publicly owned utilities (POUs)), which agency(ies) should fill in any gaps? Which agency should be responsible for overseeing energy efficiency and renewable procurement for POUs? Would the California Air Resources Board (ARB) have the authority to require certain energy efficiency and renewable targets be met by POUs?
ARB has the authority to require the POUs to comply with AB 32. It is hard to understand how the POUs will accomplish this without significant investment in energy efficiency and renewables.

Q13. What sources would a source-based system cover? Could it cover California utility-owned facilities located outside of California?
California regulates its utilities and most importantly controls behavior through rate recovery. IEP would have to understand more about how the state would attempt to cover California-owned facilities located outside of California to comment more.

Q14. Would a strengthened EPS assist in reducing emissions due to California imports? What recommended changes would you make to the EPS?
None at present. Regulatory stability and predictability is important for investing in new infrastructure. The EPS is less than one year old. There is no reason to change it.

3.4.2. Deliverer/First Seller

The term "deliverer/first seller" generally refers to the entity that first delivers or sells electricity into the electricity grid in California. For generation within California, the deliverer/first seller (the regulated entity) would be the generator, similar to a source-based system. For imported power, the deliverer/first seller would be the entity that delivers the electricity into the California grid (the first sale within California), which could be a retail provider (an IOU, POU, ESP, or CCA) or wholesale marketer.

Q15. Please comment on the "First Seller Design Description" paper, which is Attachment A to this ruling. Does the paper accurately describe the deliverer/first seller program? If not, describe your concerns and include an accurate description from your perspective.

3.4.3. Source-based for In-state Generation, Loadbased for Imports

Under this approach, the point of regulation would be the electricity generators for in-state generation and the retail providers for imported power.

Q16. Please describe in detail your view of how this option would work.
The presumption is that, if the pure "1st Seller Approach" has legal barriers, then this approach may avoid any such barriers. Under this approach, electric generators would report direct emissions to CARB. Presumably, retail providers (LSEs) would report directly to CARB the emissions associated with their imports. To the extent the emissions were unknown (e.g. due to purchases from undifferentiated power), then the LSEs would impute an emissions factors based on an approved methodology. This appears to be implementable. However, while perhaps implementable, this approach creates anti-competitive impacts under any scenario in which the LSE (in this scenario needing allowances for imports) is allowed to control the auctioning and/or distribution of allowances to sources such as electric generators that may also need them.

Q17. Do you support such an approach? Why or why not?
IEP would have to understand more about the details of this approach.

Q18. Does this approach have legal issues associated with it? Provide a detailed analysis and legal citations.
IEP would have to understand more about the details of this approach.

Q19. If retail providers are responsible for internalizing the cost of carbon for imported power, all power generated in-state may need to be tracked to load to

avoid double regulation of in-state power. Do you agree?
IEP would have to understand more about the details of this approach.

Q20. If that is the case, does a mixed source-based/load-based approach offer any advantages compared to a load-based approach in terms of simplifying reporting and tracking? What if the load-based system uses TEACs? How could imports be differentiated from in-state generation in a way that reduces the complexity of reporting and tracking compared to a load-based approach?
On its face, tracking and accounting would be more complicated. It is not clear how a hybrid approach, entailing reporting from two separate layers of the paradigm, would be administratively simpler than requiring reporting from a single layer of the paradigm.

3.5. Deferral of a Market-based Cap-and-Trade System

In this scenario, a California-only cap-and-trade system would not be implemented for the electricity sector at this time. Instead, California would work with other eastern states to develop a Western Climate Initiative cap-and trade system and/or work toward a national cap-and-trade program. In the meantime, existing policies and programs in the electricity sector may need to be ramped up to meet the AB 32 goals. Several variations of this option may be possible. For example, a load-based cap could still be developed for retail providers, with assignment of individual entity obligations and trading available within the California electricity sector only, but not with other sectors. A second alternative would be to develop individual entity caps (or carbon budgets) which entities could not exceed without facing penalties or fees, but not allow for any trading of allowances at this time. Another option would be to ramp up the mandatory levels of existing programs such as the energy efficiency and RPS programs to higher goals, and make all retail providers obligated to meet these additional goals, without assigning specific cap levels to individual entities.

Q21. How important is it that a cap-and-trade system be included in the near-term as part of the electricity sector's AB 32 compliance strategy?
As a general observation: while the existing EPS, RPS and energy efficiency polices are all relevant in meeting AB 32, there is a great deal of uncertainty as to what the value of further CO2 reduction may be in making investment decisions. A cap and trade system would create transparent prices which could drive further investment. A properly design cap/trade program delivers efficiency, innovation, and relatively-lower cost of compliance. Given the likely costs of compliance overall, delaying a cap/trade regime will result in higher overall costs.

Q22. Would your answer to Q12 be different if there is no market-based cap-and-trade system? If so, please explain.
IEP would have to understand more about the details of this approach. IEP assumes that

generators will have to comply with AB32 with or without a cap and trade policy.

Q23. Address the following:

• How emission reduction obligations could be met if there is no cap-and-trade system for the electricity sector,

Under a 1st Seller approach, it is not clear how emission reduction obligations could be met absent significant technology advancement. On the other hand, under a 1st Seller approach, regulatory requirements to force compliance without options/innovations available through an effective cap-and-trade program risk undermining grid reliability, if generators have no effective and efficient means to recover the costs of compliance.

Under a LSE-based approach, acceleration and expansion of various low-emitting mandates (e.g. RPS, EE) would be a necessity although it would remain uncertain whether sufficient, measurable new renewable and new EE opportunities could be brought online in a timely manner.

• How increased programmatic goals would impact rates, and

As the biggest driver in achieving the GHG emission reduction goals will be consumer behavior, it would be a mistake to attempt to shield consumers from the cost impacts as this will undermine the incentives needed to alter consumer behavior.

• How deferral of a cap-and-trade program for the electricity sector would facilitate or hinder California's integration into a subsequent regional or federal program.

See answer to Q24.

Q24. How deferral of a cap-and-trade program for the electricity sector would facilitate or hinder California's integration into a subsequent regional or federal program.

There is no federal program. Whether there will be one, or what form it will actually take, is a matter of speculation. California DOES have a law, which DOES need to be implemented. The real question is whether a cap and trade policy is an effective tool in implementing California law. If California develops a cap and trade policy then care should be taken that it can be integrated in to larger markets in the future. Moreover, California risks losing its leadership role in the design and implementation of regional/federal program(s) if it defers to broader discussions. Also, importantly, if a well designed cap-and-trade program results in efficient outcomes as expected, then the deferral of the implementation of the cap-and-trade program will have the effect of increasing costs and/or decreasing benefits to consumers.

Q25. If neither a regional system nor a national system is implemented within a reasonable timeframe, should California proceed with implementing its own cap-and-trade system for the electricity sector? If so, how long should California wait for other systems to develop before acting alone?

2012 is the implementation date for AB 32. If the cap-and-trade approach is determined to be a component for compliance, then it need to be in place by 2011. California risks losing its leadership role in the design and implementation of regional/federal program(s) if it defers to broader discussions. If California can develop an efficient and effective cap-and-trade program, it should do so.

Q26. What flexible compliance mechanisms could be integrated into a non-market based GHG emission reduction approach?

IEP would have to understand more about the details of this approach.

Q27. If a market-based cap-and-trade system is not implemented for the electricity sector in 2012, how would you recommend addressing early actions that entities may have undertaken in anticipation of a market?

Early actions should be credited against compliance obligations. For entities taking early action that are not "points of regulation," then a means should be considered by which the "points of regulation" can obtain, procure, etc., credits associated with the "early action" identified via the Climate Action Registry. This would provide a means to value the early actions taken by others, thereby rewarding this behavior and incenting more. In this manner, the "early action" credits represent another commodity bought/sold in the marketplace (similar to an RPS certificate).

3.6. Recommendation and Comparison of Alternatives

Q28. Submit your comprehensive proposal for the approach California should utilize regarding the point of regulation and whether California should implement a cap-and-trade program at this time for the electricity sector. If you recommend that another approach be considered besides those detailed above, propose it here. If you recommend one of the above options, give as detailed a discussion as possible of how the approach would work.

IEP does not have a recommended approach. However, we offer the following observations:

If a LSE-based approach is employed, the use of emission credits as proposed by the Western Resources Advocates warrants strong consideration. As IEP understands this approach, emission credits would be treated much akin to "renewable energy credits" or RECs. In effect, they are a product required to be obtained by the LSEs to measure against compliance goals. The emission credits are assigned to generators based on their relative emissions against a baseline. The cleaner the resource, the more the emissions awarded/granted to the generator. As noted previously, this type of approach has the following nuances:

- Incents cleaner generation which is the ultimate goal of the program.
- Does not impose an additional burden on higher emitting resources (i.e. the burden to acquire allowances), but rather rewards relatively cleaner resources.

- Does not raise issues regarding "where the revenues go" associated with the allocation of allowances. Under this approach, the dollars derived from ratepayers are funneled through the LSE and allocated via various procurement processes to cleaner generation. In return, the LSE receives the emission credit which it applies toward GHG compliance.

If a 1st Seller Approach (or any hybrid approach in which generators are the point of regulation), it is imperative that LSEs that compete in the marketplace for the development of new generation NOT BE PLACED in a position where they acquire allowances and sell them to their competitors. This raises obvious anti-competitive concerns.

Q29. Address and compare how each of the alternatives identified in the above questions, and the proposal you submit in response to relative to each of the principles or objectives listed above and any other principles or objectives you propose. For each alternative, address important tradeoffs among the principles.

CERTIFICATE OF SERVICE

I, Melinda LaJaunie, certify that I have on this 3rd day of December 2007 caused a copy of the foregoing

COMMENTS OF THE INDEPENDENT ENERGY PRODUCERS ASSOCIATION IN RESPONSE TO ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING COMMENTS ON TYPE AND POINT OF REGULATION ISSUES

to be served on all known parties to R.06-04-009 listed on the most recently updated service list available on the California Public Utilities Commission website, via email to those listed with email and via U.S. mail to those without email service. I also caused courtesy copies to be hand-delivered as follows:

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I declare under penalty of perjury that the foregoing is true and correct. Executed this 3rd day of December 2007 at San Francisco, California.

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