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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.

R. 06-04-009

BEFORE THE CALIFORNIA ENERGY COMMISSION

AB 32 Implementation – Greenhouse Gas
Emissions.

Docket 07-OIIP-01

**REPLY COMMENTS
OF THE ALLIANCE FOR RETAIL ENERGY MARKETS
ON TYPE AND POINT OF REGULATION ISSUES**

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In response to the *Administrative Law Judges' Ruling Requesting Comments on Type and Point of Regulation Issues* dated November 9, 2007 ("ALJ Ruling"), the Alliance for Retail Energy Markets ("AReM") respectfully submits these reply comments.¹

I. THERE IS BROAD SUPPORT FOR IMPLEMENTATION OF A MULTI-SECTOR MARKET-BASED SYSTEM AND ADOPTION OF EITHER A DELIVERER/FIRST SELLER SYSTEM OR A SOURCE-BASED/FIRST SELLER SYSTEM FOR THE ELECTRICITY SECTOR.

In our opening comments, AReM recommended implementation of a multi-sector market-based (i.e., economy-wide cap-and-trade) system and adoption of the deliverer/first seller approach for the point of regulation of greenhouse gas ("GHG")

¹ AReM is a California non-profit mutual benefit corporation formed by electric service providers that are active in California's direct access market. The positions taken in this filing represent the views of AReM but not necessarily those of individual members or affiliates of its members with respect to the issues addressed herein.

emissions in the electricity sector. Other parties that made the same or similar recommendations² included Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Constellation NewEnergy, Inc. and Constellation Energy Commodities Group, Inc., the Western Power Trading Forum, Calpine Corporation, Morgan Stanley Capital Group, Inc., Powerex Corp., and Environmental Defense.

The aforesaid parties, which include California's largest investor-owned utilities ("IOUs"), electric service providers, generators, marketers, and environmentalists, all agree that California's GHG goals would be best served by adoption of either a deliverer/first seller approach or a source-based system for in-state generation and a first seller approach for imports. They also agree that these systems would be readily expandable into a regional or national cap-and-trade system. And they further agree that a load-based system would be more complex to administer and costly to consumers than other approaches. These views are supported by a series of studies submitted by Van Horn Consulting, in which the authors concluded:

- (1) California would be best served by adopting a source-based system or first seller approach;
- (2) A load-based system would undermine an economy-wide market-based emissions trading program;
- (3) A load-based system would be more complex, costly and inaccurate than either a source-based system or first-seller approach; and

² Some of the listed parties recommended adoption of a source-based system for in-state generation and a first-seller approach for imports, which in practice would work very much the same as a deliverer/first seller approach.

- (4) New GHG technologies would realize higher values under source-based and first seller/deliverer market designs than under a load-based system.

II. THERE IS ONLY NARROW SUPPORT FOR A LOAD-BASED SYSTEM.

The main proponents of a load-based system are certain publicly-owned utilities (“POUs”) and parties that represent the interests of such entities. In their opening comments, these parties made a Herculean effort to portray a load-based system as better fitted to California’s needs than the other proposed approaches to regulating GHG emissions in the electricity sector. Reading between the lines, however, it is clear that their primary motivation for supporting a load-based system is the desire to maintain local control over their operations and minimize the role of the California Air Resources Board in terms of oversight of their GHG compliance efforts and enforcement of the State’s emissions reduction goals. Also, when read in the context of comments on emission allowance allocation issues submitted by some of the same parties, it is clear that their support for a load-based system is also motivated by the desire to avoid the additional costs that, due to the composition of their existing resource portfolios, they could potentially incur under other GHG regulatory systems. While these are valid concerns, they are particular to the POUs and do not outweigh the many disadvantages of a load-based system identified by AReM and other parties.

III. A DELIVERER/FIRST SELLER SYSTEM WOULD CAPTURE EMISSIONS FROM IMPORTS WITHOUT THE ADDED COMPLEXITY OF A HYBRID SOURCE-BASED/LOAD-BASED SYSTEM.

The Cogeneration Association of California (“CAC”) and the Energy Producers and Users Coalition (“EPUC”) believe that a “pure” source-based system would be best, but argue that since California cannot directly regulate out-of-state generators, the State should adopt a source-based system for in-state generation and a load-based system for

imports. As AReM and other parties have pointed out, however, the hybrid source-based/load-based system advocated by CAC and EPUC would create unnecessary complexity for regulators and GHG-regulated entities alike, and the same goal of capturing emissions from imports that underlies CAC/EPUC's recommendation would be equally served by adopting a deliverer/first seller approach.

IV. CONCLUSION

For the foregoing reasons and the reasons discussed in our opening comments, AReM urges the Commission and the California Energy Commission to issue a joint decision recommending implementation of a multi-sector market-based system and adoption of a deliverer/first seller system for the regulation of GHG emissions in the electricity sector.

Respectfully submitted,


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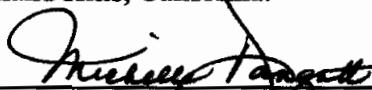
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Date: December 17, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this Reply Comments Of The Alliance For Retail Energy Markets On Type And Point Of Regulation Issues on all parties of record in proceeding R.06-04-009 by serving an electronic copy on their email addresses of record and by mailing a properly addressed copy by first-class mail with postage prepaid to each party for whom an email address is not available.

Executed on December 17, 2007, at Woodland Hills, California.



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R.06-04-009

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