BEFORE THE
ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of:	)	
Order Instituting Informational Proceeding on a Greenhouse Gas Emissions Cap	)	Docket 07-OIIP-01

COMMENTS OF THE NORTHERN CALIFORNIA POWER AGENCY ON THE FEBRUARY 8 PROPOSED DECISION OF PRESIDENT PEEVEY, "INTERIM OPINION ON GREENHOUSE GAS REGULATORY STRATEGIES"

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February 28, 2008

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

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In accordance with Rules of Practice and Procedure of the California Public Utilities Commission (CPUC), and the instructions set forth in the CPUC's February 8, 2008 Cover Letter issuing the proposed *Interim Opinion on Greenhouse Gas Regulatory Strategies* (Proposed Decision or PD), the Northern California Power Agency[1] (NCPA) submits these comments for the CPUC's consideration. These comments are also submitted to the California Energy Commission (CEC) in Docket 07-OIIP-01, in accordance with the practice established in this proceeding. The CPUC and CEC are collectively referred to as either the "Joint Agencies" or the "Commissions" in these comments.

[1] NCPA is a Joint Powers Agency whose members include the cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, as well as the Bay Area Rapid Transit District, Port of Oakland, the Truckee Donner Public Utility District, and the Turlock Irrigation District, and whose Associate Members are the Plumas-Sierra Rural Electric Cooperative, and the Placer County Water Agency.

The Proposed Decision sets forth recommendations to the California Air Resources Board (CARB or Board) on policies and requirements for the electricity and natural gas sectors for reductions of greenhouse gas (GHG) emissions. NCPA recognizes the importance of a statewide program that will reduce GHG emissions across all sectors of the economy. As NCPA has noted in previous filings in this proceeding, NCPA has demonstrated leadership and responsible environmental stewardship in its resource decisions to maximize the use of low-GHG emitting electric generation resources, and supports the efforts of both Commissions to develop comprehensive recommendations to CARB for implementation of Assembly Bill (AB) 32 for the electricity sector. For the electricity sector, the Proposed Decision recommends that CARB:

1. Utilize existing mandatory regulatory policies and apply uniform energy efficiency and renewable portfolio standards to all retail providers.

2. Adopt a multi-sector cap-and-trade program that includes the electricity sector, and implement the cap-and-trade program right away.

3. Establish the "deliverer" as the point of regulation.

4. Distribute "some" allowances through an auction, and distribute "at least a portion" of the proceeds from the sale of the allowances for the benefit of electricity customers.

5. Proceed with additional review and consideration necessary to make complete recommendations regarding (a) distribution of allowances, (b) manner of distributing auction proceeds, (c) utilization of banking and/or borrowing of allowances, (d) adoption of price floors and/or ceilings, and (e) use of offsets.

As discussed more fully herein, the Proposed Decision must be modified in several respects: the deliverer point of regulation must be more fully explained and clarified in order to ensure that there are no ambiguities in identifying the entity with the compliance obligation, especially for purposes of imported power; a record supporting the implementation of a cap-and-trade program and utilization of an auction must be fully and thoroughly developed in order to support such a significant change in the current market; the record regarding the energy efficiency programs and renewable portfolio standards of the state's consumer owned utilities does not support the conclusions regarding the need for further

legislation on these issues, and the Proposed Decision must be revised to accurately reflect this.

I. THE DELIVERER AS THE POINT OF REGULATION MUST BE MORE FULLY DEFINED FOR PURPOSES OF AB 32 IMPLEMENTATION

As more fully set forth herein, unless the Proposed Decision is revised, there is not a basis in the record upon which to recommend the deliverer as the point of regulation. There is currently insufficient information regarding how the deliverer meets AB 32's mandates that the state's emissions reductions be achieved in the most cost-effective manner, nor is there sufficient information in the Proposed Decision to unambiguously identify the entity with the compliance obligation, especially for electricity that is imported into California.

A. The Point of Regulation Should Provide the Entity with the Compliance Obligation with the Least Onerous Regulatory Burden.

Based on an analysis of four separate criteria ((i) environmental integrity, (ii) compatibility/ability to expand into a regional or federal program, (iii) accuracy of reporting, tracking, and verifying GHG emissions reductions, and (iv) compatibility with ongoing market reforms), the Proposed Decision recommends that the point of regulation be the "deliverer." (PD, p. 65) The Proposed Decision defines the deliverer as the "entity that is responsible for the electricity when it is delivered onto the electricity grid in California," (PD, p. 35), finding that the "entity that first delivers the power to the electricity grid in California is held responsible for its emissions." (PD, p. 55)

The point of regulation is a crucial element of any recommendation regarding the implementation of AB 32 since it defines the entity with the compliance obligation for delivering GHG emissions reductions within the electricity sector. (PD, p. 53) NCPA had advocated for the retail provider to be the point of regulation for a California-only GHG emissions reduction program; NCPA does not believe that a successful program can be based around the deliverer as the point of regulation unless there is clarification of the ambiguities surrounding identification of the entity with the ultimate compliance obligation. A crucial issue (and one that remains unresolved in light of the lack of absolute clarity regarding the definition of the deliverer for purposes of imported power) is the ability of any program to

provide the entity designated with the compliance obligation with the least onerous regulatory burden. Compliance costs will entail far more than purchasing emissions allowances and reducing overall GHG emissions, and there can be no questions surrounding the identification of the entity with the obligation to effect emissions reductions.

The Proposed Decision concludes that none of the various points of regulation discussed in this proceeding best meets each of the evaluation criteria (PD, p. 54), but that the deliverer point of regulation is the best overall option that presents the greatest environmental integrity (PD, p. 54), is most likely to be compatible with a broader geographic scope (PD, p. 56), would provide the greatest accuracy for reporting, tracking, and verification (PD, p. 59), and would minimize the impacts of AB 32 compliance on the state's electricity markets (PD, p. 61).

The Proposed Decision also notes that despite the importance of environmental integrity, the goal is not to interfere with the functioning of the wholesale electricity market, but "to produce the environmental results required under AB 32 with the least possible impact on wholesale electricity markets." (PD, p. 60) NCPA believes this is a critically important issue that must remain at the forefront of any point of regulation discussion. At the end of the day, retail providers are responsible for providing safe and reliable electricity to consumers; a mandate that is not ignored in AB 32.[2] Retail providers must also be able to do this, even with the implementation of AB 32, in the most cost-effective manner.[3] Accordingly, it is imperative that all retail providers with compliance obligations not be unduly constrained from being able to provide customers with reliable electricity.

B. The Deliverer Must be Fully Defined.

In defining the deliverer, the Proposed Decision lacks sufficient clarity to consistently determine the entity charged with the actual compliance obligation. Despite some attempts to clarify exactly who the deliverer is, the Proposed Decision must be amended, or at a minimum provide additional guidance, to more thoroughly address this question. While the Proposed Decision places a great deal of weight on the use of E-tags to determine the deliverer, the

[2] Health & Safety Code §§ 38501(h), 38561(a).

[3] See, for example, Health & Safety Code §§ 38562(a) and (b) and 38501(h)

actual utilization of E-tags does not comport with the discussion in the Proposed Decision.

The Proposed Decision notes that "the most useful formulation of the deliverer point of regulation is that the point of regulation would be the entity that is responsible for the electricity either (1) on the portion of the physical scheduling path where is its first delivered to a point of delivery on the transmission grid within California, or (2) where the generator's facilities are interconnected to the distribution system in California." (PD, pp. 65-66) The entity responsible for the power at the point where it is delivered to the California grid is deemed to be the owner/deliverer of the electricity for purposes of establishing GHG responsibility, and for the surrendering of allowances associated with the GHG emissions. (PD, p. 66) However, as a practical matter, some E-tags will not be completed within California, which could leave some question as to who actually owns imported power at the time it crosses into the state. NCPA supports the proper conclusion that power wheeled through the state, but not used anywhere in California, not be included within the program.

The Proposed Decision also errs in failing to provide any substantive discussion regarding the conclusion that "alternative documentation may need to be used to identify the owner of imports that do not have E-tags at the point of delivery to the California grid" (PD, p. 67), and should be revised to more fully address the type and form of such documentation.

Finally, the Proposed Decision does not address how its recommended point of regulation will be documented, in light of the current version of CARB's Mandatory Reporting and Verification Regulations. Again, it is imperative that implementation of AB 32 be done in a manner that minimizes the administrative burden on the entity with the compliance obligation. To the extent that there are duplicative or contradictory reporting obligations, retail providers will be forced to expend additional resources that would be better spent on achieving actual and permanent emissions reductions.

C. Treatment of Resources Assumed to be "GHG Neutral" Must be Clarified.

While the deliverer of renewable power that is considered to have a zero emissions profile would not be required to obtain or retire emissions allowances, the Proposed Decision notes that all renewable generation that has GHG emissions would be treated like any other generation and that the deliverer would have a GHG compliance obligation. (PD, p. 68) The

Proposed Decision, however, lacks substantive discussion regarding the utilization of biomass, or other renewable resources assumed to be GHG neutral. The Proposed Decision should be revised to address this issue. The Proposed Decision should also provide clarity regarding how the ongoing development of renewable energy credit trading markets will impact the compliance and reporting obligations of the retail provider.

II. FURTHER DEBATE IS CLEARLY NEEDED BEFORE ANY CAP-AND-TRADE PROGRAM PROVISIONS ARE ADOPTED

A. A Cap-and-Trade Program Must be Well Developed Before It is Implemented by CARB.

While the Proposed Decision supports the use of existing policies and programs to accomplish the majority of the initial emissions reductions mandated by AB 32 (PD, pp. 32-33) it also recommends that CARB implement a cap-and-trade program right away, and that the electricity sector be included in that program, to "complement" the existing reduction measures. (Id.) Accordingly, the Proposed Decision recommends that CARB "proceed now to design a multi-sector cap-and-trade system for California that includes the electricity sector." (PD, p. 31)

The CPUC believes that CARB should immediately implement a cap-and-trade program citing that the upcoming Scoping Plan needs to include all "major mechanisms" that would be in place by 2012. (PD, p. 32) The CPUC contends that such a program is the best means to achieve the lowest cost GHG reductions since emissions trading maximizes flexibility by allowing 'least-cost' options economy wide. (PD, p. 32) NCPA, on the other hand, notes that a rush to implement a program that has not been more fully developed is certainly not in the best interest of California consumers. The lessons of the California energy crisis should provide a strong reminder about the perils of hastily implementing a market-based program.

The PD accurately notes that the majority of the emissions reductions that will be achieved, especially in the nascent years of AB 32 implementation, will be affected through robust energy efficiency and renewables programs uniquely crafted to meet the specific demographics of the communities in which they are employed. However, it is also probable that a secondary trading market will emerge, where emissions allowances will be bought and

sold. To the extent that this market can be controlled in order to avoid potential abuses that arise out of the existence of any scarce resource, NCPA supports the development of a carefully crafted cap-and-trade program. In order to avoid cross-sector subsidization, it is likely necessary for that cap-and-trade program to be a multi-sector program, and ensure that such a program be limited to only those entities with a compliance obligation. That discussion will be an important element of the CARB Scoping Plan process, a key element not considered in the CPUC proposal.

B. Use of Auctions Must be Both Limited and Restricted in Order to Avoid Market Abuse.

Based on the limited information currently in the record, a cap-and-trade program that includes an auction as the primary basis for distributing emissions allowances cannot be fully justified by the record in this proceeding. Indeed, the Proposed Decision mistakenly concludes that at least some of the emissions allowances should be distributed through an auction by advancing the notion of an auction as a viable solution without first considering the implications of the auction structure and governance – including whether or not the electricity sector should have its own allowance auction. The Proposed Decision is devoid of any discussion regarding the actual structure of an auction, how the auction will be administered, what kinds of costs will be associated with administration of the auction, who will be able to participate in the auction, and what kinds of consumer protections – especially for electricity customers – will be developed in advance of launching an auction, to guard against the kinds of market abuses that have arisen in the past. Auctioning allowances without a more thorough vetting of the myriad of issues surrounding the role that market abuses and manipulation could play in an auction environment effectively moves the state forward with a policy decision to use auctions irrespective of the potential impacts that such a structure would have on California consumers.[4]

[4] Concerns regarding the potential impacts of an auction on consumers (and electricity customers) are broadly acknowledged; on December 7, 2007, Senator Diane Feinstein (D-CA) introduced S.2423, titled "The Emissions Allowance Market Transparency Act," which would require greater oversight and visibility for emission trading functions, as well as provide penalties for false reporting, manipulative or deceptive practices, or attempts to cheat or defraud other market participants. Since its introduction, S.2423 has garnered wide-based support, and has been endorsed by groups representing more than 50 million consumers across the nation, including, NCPA, PG&E, the Consumer Federation of America, and the National Association of State Consumer Advocates.

Discussions to date regarding auctioning of allowances have centered primarily around such issues as the initial allocation of emissions allowances and distribution of auction proceeds. However, while these issues are extremely important, that debate must be preceded by resolution of the fundamental questions regarding the ultimate structure of an auction, including consideration of the administrative costs (which past experience has shown can be quite extensive) that entities with the emissions reduction obligations will have to face, which costs will be in addition to the real and not insignificant costs associated with the actual purchase of emissions credits, and, for retail providers, the costs associated with actually achieving real and permanent GHG reductions.

The record is devoid of sufficient information to base a determination regarding the best means of distributing allowances, and because the majority of the record developed on distribution of allowances has focused on a retail provider point of regulation, there has been little opportunity to develop a record regarding free allocations for a deliverer point of regulation. As discussed earlier, the Proposed Decision must be corrected and clarified to address all outstanding issues regarding the "deliverer" point of regulation in order to ensure that future deliberations regarding the allocation of emissions allowances are on point.

As the Proposed Decision properly notes, this proceeding needs to review more information regarding the scope of free allocations, if any, and a transition to auction (PD, pp. 85-87); there is not sufficient information in the current record to determine whether "a portion of allowances should be allocated administratively, and if so, what the initial mix should be and what kind of transition to make to auction and over what time period." (PD, p. 86) While any free distribution of allowances will require the CPUC to adopt a recommended allocation methodology for CARB's consideration, this is a *crucial issue* that cannot be summarily dismissed. As the Proposed Decision recognizes, there is a broad range of options that have varying impacts on retail providers. (PD, p. 87) However, as that record is developed, NCPA reiterates its concern that any allocation methodology not result in a shift of costs to utilities that have already expended considerable resources in procuring low-GHG emitting resources.

C. Distribution of Any Auction Proceeds Must Benefit Electricity Customers.

The Proposed Decision properly notes that a more robust record needs to be developed with regard to the distribution of emissions allowances, as well as the distribution of the proceeds of an auction. In supporting its conclusion for some level of allowance auctioning, the Proposed Decision notes a significant difference between auctioning and free distribution of allowances: "auction proceeds could be used to benefit consumers directly by rate mitigation or indirectly by providing funds for investments that would reduce GHG emissions and avoid the need for future allowances." (PD, p. 84) This conclusion, however, is factually and legally incorrect. The free distribution of allowances would relieve entities with the compliance obligation from the need to expend unknown sums on the purchase of emissions allowances; instead allowing those entities to utilize all of their existing resources on rate mitigation and "providing funds for investments that would reduce GHG emissions and avoid the need for future allowances." The Proposed Decision commits further error by concluding that "free allocations could result in windfall profits to deliverers," (PD, pp. 84-85), without addressing the very real likelihood that third parties could game the auction market and create windfall profits at the direct expense of electricity consumers. The ultimate allocation methodology for emissions allowances needs to be fully developed and discussed before generalizations regarding windfall profits can be legally substantiated.

NCPA concurs with Finding of Fact No. 27, which provides that "all" of the proceeds derived from the electricity sector that are borne by the electricity sector consumers should be returned to those consumers. While it is generally acknowledged that bill reductions and rate subsidies may be legitimate uses for such auction proceeds, such a narrow interpretation of customer benefits should not be adopted. Low income and other special-needs customers will likely be severely impacted by the economic impacts of AB 32 implementation, and those customers must be protected. However, distribution of auction proceeds back to the impacted customers – via their retail provider – can and should take many other forms, and a discussion of those uses should be fully addressed before a final recommendation is made regarding the distribution of any potential auction revenues.

D. Any Cap-And-Trade Program Must Consider Integration With a Regional Program as Well as California-Only Program Integrity.

The Proposed Decision notes that the Western Climate Initiative (WCI) and the state are on the same basic schedule to develop respective cap-and-trade programs, and that the collaborative effort will allow adequate time between now and 2012 to ensure that there is consistency with the ultimate WCI-adopted program. (PD, p. 33) By its very definition, reduction of GHG emissions is not something that can be accomplished by California alone. Accordingly, it is imperative that a cap-and-trade program not only be smoothly integrated economy-wide in California, but that it also be adaptable to integration with a broader regional or national program. To that end, the recommendations to CARB and the Scoping Plan must consider such integration while at the same time providing California stakeholders with a sufficient level of certainty to ensure that valuable resources are not expended on the implementation of a program that will become "obsolete." The Proposed Decision should be amended to recognize this issue and provide a basis for addressing it as the development of California's program proceeds.

III. UNIFORM ENERGY EFFICIENCY AND RENEWABLES PROGRAMS FOR ALL RETAIL PROVIDERS WILL NOT MOVE THE STATE CLOSER TO MEETING AB 32 GOALS

The Proposed Decision accurately notes that retail provider energy efficiency programs and renewable portfolio programs will play a key role in the GHG reduction solution, and in fact notes that these programs are the "foundation upon which our other additional AB 32 policies should be built." (PD, p. 30) That said, however, the Proposed Decision commits both legal and factual error throughout its analysis that leads to its recommendation to CARB that changes must be made to existing laws regarding public power energy efficiency and renewables programs. NCPA strongly objects to the rhetorical suggestion that public power programs need to be on a "level playing field" with programs authorized for the investor owned utilities (IOUs) by the CPUC. In fact, the proactive direction of elected officials in local municipalities throughout NCPA's membership continue to produce program results that often exceed statewide mandates required of the IOUs.

A. AB 32 is But One Part of Existing Legislative Scheme.

The Proposed Decision discusses existing regulatory programs that impact both publicly owned utilities (POUs) and IOUs, but errs in its summation of the cumulative impacts and requirements of that legislative scheme that leads to the legally and factually unsupportable conclusion that it is the POUs that must be subject to some form of regulatory change in order to meet the mandated objectives of the state and these programs. As more fully set forth below, the existing programs, especially as they pertain to the POUs, are not only working, but are working very well. While AB 32 will have a profound impact on the electricity sector, AB 32 is based on the establishment of an economy-wide emissions reduction program. Accordingly, the legislative intent of AB 32 was not to disrupt or alter existing energy efficiency and renewable program legislation.

The Proposed Decision makes broad-based and factually unsupportable recommendations that CARB implement regulations that would directly alter the existing legislative authority over programs that allow POUs to effect direct emissions reductions. The Proposed Decision notes that the CPUC has not conducted any legal analysis of whether CARB has the authority to implement these proposed regulations, but recommends that if CARB does not have such authority, that the Board seek such authority from the Legislature. (PD, p. 29) In light of the amount of work that all stakeholders – not just those in the electricity sector – have to do to develop a well-reasoned and successful Scoping Plan, and ultimately implement AB 32, NCPA does not believe that CARB should needlessly expend additional resources in an attempt to expand or hinder current energy efficiency and renewable portfolio standards (RPS) legislation for the POUs or IOUs alike. Instead, those resources should be focused on development of additional GHG reduction measures in areas that have not demonstrated direct and meaningful benefits in the past.

B. POU Energy Efficiency Programs Have Lawfully Established Binding Targets.

The Proposed Decision commits both legal and factual error in its analysis that leads to its recommendations that changes must be made to existing laws regarding POU energy efficiency programs. The Proposed Decision shows a blatant disregard for the statutory provisions of Assembly Bill 2021 (Levine, Statutes of 2006), which requires all POUs to establish energy efficiency targets. The Proposed Decision incorrectly asserts that POUs

"may choose not to establish targets at all." (PD, p. 28) In fact, POUs are required to establish 10-year energy efficiency goals on a triennial basis, and the public power community is working closely with the CEC to convert these targets to real savings. Senate Bill 1037 (Kehoe, Statutes of 2005) already codified the POUs' long-standing commitments toward developing cost-effective energy efficiency programs. Through an extensive series of workshops and hearings at the CEC and the state legislature, public power accomplishments are widely acknowledged, including public acknowledgement by Assembly Leader Lloyd Levine[5] and National Resources Defense Council in a variety of forums.

The Proposed Decision recommends that CARB adopt mandatory levels of energy efficiency savings required from POUs based on the erroneous conclusion that energy efficiency goals lawfully adopted by the local regulatory authorities governing POUs are "not binding on POUs the way the [CPUC's] are binding on the IOUs" (PD, p. 28) Notwithstanding the fact that AB 2021 and SB 1037 "bind" public power to promoting cost-effective energy efficiency programs, even the "binding" energy efficiency levels mandated by the CPUC are not consistently achieved by the IOUs. This point is highlighted by the fact that financial incentives are provided to the IOUs if they achieve only 85% of their objective.

In essence, suggesting that CARB seek the authority to regulate POUs in this regard is not redundant, but counterproductive, since local municipalities understand the needs of their constituents far better than any state agency possibly could.

C. POUs Have Demonstrated Success with Delivery of Renewable Resources.

The Proposed Decision commits both legal and factual error in its analysis that leads to the recommendation to CARB that POUs be required to achieve RPS targets identical to those required of the IOUs. (PD, p. 29) Indeed, it is important to note that even the IOUs, which are charged with achieving CPUC mandated RPS levels, have consistently failed to meet targeted levels of renewable deliveries. In fact, even without prescriptive requirements of the kind recommended by the Proposed Decision, POUs in most instances are already

[5] In an October 10, 2007, letter to NCPA's General Manger, Levine recognized and thanked NCPA for its leadership during the first year of implementation AB 2021, and specifically noted his confidence that "with NCPA's help and continued leadership in the coming years, California can meet the goals set in this historic legislation."

exceeding the state average RPS numbers. Collectively, NCPA members are already above the 20% RPS threshold, despite voiced concerns that public power does not have the same statutory requirements as the IOUs. In actuality, many NCPA member utilities already have California-eligible RPS levels that exceed the 33% threshold being considered as a *new* threshold value, and one NCPA member has a California-eligible RPS above 50%.[6] These decisions were made under the guidance of locally elected officials, who were provided legislative flexibility to implement an RPS program that best fit the needs of the local communities these officials represent. Each POU utility is unique; this great diversity and individuality is an asset to both the POUs and the state in this effort to maximize the use of renewable energy to help achieve the state's overall goal of reducing GHG emissions. This asset both requires and allows each community to target its efforts to create innovative and effective programs and resource decisions that are best tailored to meet the needs of the community, thus maximizing the program's effectiveness. The ability of pubic power utilities, such as NCPA's members, to create community-tailored programs has resulted in POUs making greater progress toward achieving the state's renewable energy and GHG reduction goals – at lower cost to electricity consumers –than would be possible with an autocratic or "one-size-fits-all" mandate.

The PD appears to take issue with the legislative mandates set forth in both SB 1068 (2001) and SB 107 (2006), and notes that while POUs are required to provide a minimum of

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[6] The following programs exemplify how this approach has lead to such successful RPS programs: The City of Roseville's "BEST Homes program", which to date has facilitated the construction of more than 200 zero energy homes with integrated solar panels, resulting in more than 1 million megawatt hours of electricity produced annually. The City of Roseville's "Green Roseville" program, which provides a renewable energy alternative to its consumers that is 98% powered by California-based wind energy, and has been Green-e certified for meeting strict standards for environmental protection. The Turlock Irrigation District is collaborating with the City of Turlock to install a 1.2 MW fuel cell to convert methane gas from the city's Water Quality Control Facility into electricity. The City of Palo Alto's City Council has made climate protection one of its top priorities, and Palo Alto's electric utility boasts the #1 voluntary green energy program in the country, with more than 16% of customers receiving 100% green energy from California wind and solar facilities. The cities of Alameda and Santa Clara have purchased a landfill gas project in Santa Cruz County. Plumas-Sierra Rural Electric Cooperative recently received the largest Clean Renewable Energy Bond allocation in the first distribution of this federal program, and is making significant investments in a new 22 megawatt Black Mountain Wind Energy Project. The City of Redding, in the past year alone, had entered into a 15-year Power Purchase Agreement for 10 megawatts of biomass energy, and a 20-year power purchase agreement, in partnership with the Modesto Irrigation District and the City of Santa Clara, for wind energy supplied from a new 200 MW wind project in the Pacific Northwest. These efforts have raised Redding's current renewable energy content to 34% from eligible sources by 2009 - 62% if large hydro is factored in.

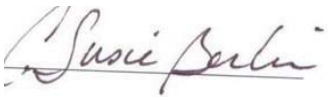
20% delivered energy from renewable sources by 2010, and set specific RPS targets, it "does not specify minimum delivery requirements or the types of renewables that should qualify" and that "as with energy efficiency, POUs may set RPS goals that are different than IOU requirements." (PD, p. 28) What the Proposed Decision fails to address is the fact that it is within these legislative mandates that AB 32 was adopted; the Legislature has acknowledged that the specific program requirements for POUs are to be set by their lawful and constitutionally established governing bodies – these regulatory bodies are the legal equivalent of the CPUC. Accordingly, while the RPS goals of POUs may be different than those set by the CPUC for the IOUs, they are in no way lesser goals, as described above.

IV. CONCLUSION

NCPA commends the efforts of the CPUC and the CEC to develop a comprehensive recommendation to CARB on regulation of the electricity sector as part of the statewide implementation of AB 32, and appreciates the opportunity to provide these comments to the Joint Agencies in furtherance of developing the most well-reasoned recommendation to CARB. While NCPA clearly has concerns about the use of auctions in a cap-and-trade market design and suggestions that public power energy efficiency and renewables programs need improvement vis-à-vis the programs offered by the IOUs, NCPA looks forward to a continuing collaboration with the Joint Agencies to produce a greenhouse gas reduction solution that best serves the interests of California consumers.

February 28, 2008

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rule of Practice and Procedure, I have this day served a true copy of the **COMMENTS OF THE NORTHERN CALIFORNIA POWER AGENCY ON THE FEBRUARY 8 PROPOSED DECISION OF PRESIDENT PEEVEY, "INTERIM OPINION ON GREENHOUSE GAS REGULATORY STRATEGIES"** on all parties on the Service Lists for R.06-04-009, as last revised on the Commission's website on February 22, 2008, by electronic mail, and by U.S. mail with first class postage prepaid on those Appearances that did not provide an electronic mail address.

Executed at San Jose, California this 28th day of February, 2008.

Katie McCarthy