

07-OIP-1

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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.

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

**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-OIP-01

**COMMENTS OF THE
CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION
ON THE INTERIM OPINION ON GHG REGULATORY STRATEGIES**

February 28, 2008

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**COMMENTS OF THE
CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION
ON THE INTERIM OPINION ON GHG REGULATORY STRATEGIES**

In accordance with the Rules of Practice and Procedure of the Public Utilities Commission (“CPUC”) of the State of California, the California Municipal Utilities Association (“CMUA”) hereby files these Comments on the *Interim Opinion on Greenhouse Gas Regulatory Strategies* (“Interim Opinion”) mailed on February 8, 2008, in the R.06-04-009. CMUA also files these Comments with the California Energy Commission (“CEC”) in Docket 07-OIIP-01. In these Comments, the CPUC and CEC will collectively be called the “Joint Agencies” and the California Air Resources Board will be called the “CARB.”

I. CMUA’S SPECIFIC COMMENTS ON THE INTERIM OPINION

CMUA unequivocally states here that it supports the goals and the effective implementation of Assembly Bill (“AB”) 32. CMUA, however, disagrees with several determinations made by the Joint Agencies in the Interim Opinion. The following Comments are offered as principles that would be essential components for a regulatory regime to, in fact, achieve the greenhouse gas (“GHG”) emission reductions necessary to reach the AB 32 goals. Each of these principles listed below fulfills the Joint Agencies’ criteria of environmental integrity, compatibility and expandability to a regional / national market-based system, accuracy, and compatibility with the CAISO MRTU.¹ CMUA’s principles also meet the mandatory statutory criterion of cost-effectiveness.²

A. AB 32’s implementation must not result in any cost shifts.

The AB 32 goal is a statewide GHG emission reduction target that, as stated by the Legislature, responds to a serious threat to *all* Californians.³ AB 32 must not result in cost shifts: (1) between the different retail providers; (2) between their respective ratepayers; or (3) between the

¹ Interim Opinion at 53.

² Health & Safety Code §§ 38501(h), 38560, 38560.5(c), 38561(a), 38561(b), 38561(h), 38562(a), 38562(b)(5), 38564.

³ *Id.* at § 38501. The Legislature states that “[g]lobal warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California” and “the potential adverse impacts . . . include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems.” *Id.* at § 38501(a).

different sectors of the economy that have quantified GHG emissions.⁴

B. Funds spent by retail providers and consumers in connection with achieving the AB 32 goals should go directly to pay for GHG emission reductions.

CMUA believes that the CARB's overarching policy should give maximum discretion to *all* retail providers to decide on the best tools for their specific portfolios. The CARB's regulatory program should rely primarily upon robust and enforceable performance goals whereby each retail provider is empowered to utilize every available lawful option for maximizing its cost-effective implementation of reduction measures. Similar to California's disastrous foray into electricity market restructuring, CMUA believes that a regulatory program design that requires retail providers to participate in a California-only cap and trade program with an auction will shift moneys to various participants such as hedge funds and market traders. Such a program would result in economic rents to some entities, but not in real GHG emission reductions.

C. California is not a large enough market to support a viable cap and trade program for achieving GHG emission reductions.

CMUA disagrees with the Interim Opinion in its conclusion that a California-only cap and trade program will necessarily reduce the costs of compliance.⁵ A mandatory cap and trade program must be deferred unless and until a market-based system is implemented regionally and preferably nationally.⁶ As noted by the Interim Opinion, this position supporting a deferral is held by parties representing a majority of the load and customers served in California.⁷ Furthermore, CMUA believes that the eventual market-based program should encompass all GHG-emitting sectors of the economy.

D. The regulatory program should include a specific emissions cap for each retail provider.

In the short term, until a regional or national cap and trade program is developed, CMUA supports the implementation of a specific emissions cap for each retail provider. These caps will

⁴ *Id.* at § 38562(b)(1) (requiring the regulations to be designed in a manner that is equitable, minimizes costs, and maximizes the total benefits to *California*). The Air Resources Board approved the total statewide greenhouse gas 2020 limit on December 6, 2007. See *California 1990 Greenhouse Gas Emissions Level and 2020 Emissions Limit*, November 16, 2007. http://www.arb.ca.gov/cc/inventory/pubs/reports/staff_report_1990_level.pdf.

⁵ Interim Opinion at 32. Interestingly, the Interim Opinion states that a cap and trade program will increase wholesale power costs. *Id.* at 61.

⁶ AB 32 requires the CARB to “consult with other states, and the federal government, and other nations to identify the most effective strategies and methods to reduce greenhouse gases, manage greenhouse gas control programs, and to facilitate the development of integrated and cost-effective regional, national, and international greenhouse gas reduction programs.” Health & Safety Code § 38564.

⁷ Interim Opinion at 22, 31 (the parties listed include CMUA, PG&E, SDG&E, CAISO, TURN, and DRA).

provide milestones for retail providers on the amount of GHG emissions reductions each must achieve to meet the AB 32 requirements without resulting in cost shifts. Each retail provider will be authorized to make prudent judgments for achieving its compliance obligation through the most cost-effective means. As guided by the particulars of its specific compliance obligation, a retail provider's judgments may include making substantial investments for energy efficiency and/or additional renewable resources.⁸

CMUA strongly agrees with the Joint Agencies that the regulatory program should create a "level playing field."² Yet, CMUA does not agree with the Joint Agencies' position that a "level playing field" is measured by having all retail providers using the same percentage of certain tools or even using the same tools. The regulatory program will ensure a "level playing field" for all retail providers by virtue of setting the appropriate individual caps. Then, in compliance with AB 32's core principles, all retail providers will exercise discretion to determine the most cost-effective means to meet their respective emissions cap.

II. CONCLUSION

CMUA requests the Joint Agencies to consider these comments and make the appropriate amendments to the Interim Opinion.

Dated: February 28, 2008

Respectfully submitted,



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⁸ The AB 32 goal is an overriding performance target and the regulatory program should not restrict the means of compliance, so far as the "greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the state board." Health & Safety Code § 38562(d)(1). CMUA also believes that small utilities should be allowed to pool their resources and work collectively to meet their emission reduction goals.

² Interim Opinion at 16, 29.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the attached:

COMMENTS OF THE CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION ON THE INTERIM OPINION ON GHG REGULATORY STRATEGIES

on all known parties to R.06-04-009 by transmitting an e-mail message with the document attached to each party named in the official service list. I served a copy of the document on those without e-mail addresses by mailing the document by first-class mail addressed as follows:

See attached service list

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



Vicki Ferguson

CALIFORNIA PUBLIC UTILITIES COMMISSION
Service Lists

Proceeding: R0604009 - CPUC - PG&E, SDG&E,
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