

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)

**REPLY COMMENTS OF SIERRA PACIFIC POWER COMPANY (U 903 E) ON THE
PROPOSED INTERIM OPINION ON GREENHOUSE GAS REGULATORY
STRATEGIES**

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Pursuant to Rule 14.3(d) of the California Public Utilities Commission ("CPUC" or "Commission") Rules of Practice and Procedure, Sierra Pacific Power Company ("Sierra") respectfully submits these reply comments on the proposed *Interim Decision* ("PD") of President Peevey, and instructions of the Assigned Commissioner and Administrative Law Judges.

In its opening comments (February 28, 2008), Sierra and numerous other parties speak in generally approving terms of the PD's fashioning of the "deliverer" point of regulation element of a proposed cap and trade program. Sierra's principal criticism of the PD was and remains that the PD abandons the deliverer approach for multi-jurisdictional utilities ("MJUs"), a class of two of which Sierra is half of the population, in favor of a retail provider point of regulation that by the PD's own reckoning is the *least* desirable approach to meet the PD's decision criteria; for among other reasons promising the highest degree of administrative difficulty and expense.¹ For reasons pointed out in its comments, this disparate treatment of Sierra is both unnecessary and discriminatory to the point of legal peril.

Implicit in this general approval of the deliverer approach, and a recurring theme in opening comments of several parties, is the view imposed and taken as a virtual premise by the

¹ PD at 67-68 and Section 3.3.2.8 at 78-80.

PD, that California regulation *will*, if it is not required to, precede the development of a cap and trade program at the broader, probably national level.² The deliverer approach, in other words, is clearly better than, for example, the retail provider approach in large part *precisely because* among options that can be implemented in regulatory isolation, it figures to be easier to transform later to what by general consensus opinion will be a source-based point of regulation in the ultimate broader cap and trade program.

Sierra thinks the PD is absolutely correct to emphasize the importance of compatibility with the inevitability of a broader national program. The source-based foundation of that broader program recurs as the likely option for meeting program objectives at low cost and high administrative efficiency. More importantly, no one can reasonably fail to appreciate that in the absence of such a broader program, nothing California accomplishes by itself will matter much, other than to the customers that bear the ultimate cost of compliance. Based on the strength of the PD and parties' comments, Sierra, accordingly, is recommending that the Commission allow the other shoe to drop and commit now to what ultimately promises to be the unified, broad cap and trade program.

Sierra recognizes the Commission's sense of urgency and the complexities involved with AB32 implementation; there is, however, a sometimes fine distinction between the mantle of leadership and the needless donning of a yoke. The perception of need that California put a program in place faster than a broader program is of California's own design and, as the PD articulately shows, can be satisfied only by means of a compromised program. Situated as Sierra is, the most profound example of this, as stated in opening comments, is that the deliverer

² PD at 5 and *Morgan Stanley Capitol Group, Inc.* February 28, 2008 PD Comments at page 3; "With respect to the Commission's recommended point of regulation for in-state resources, MSCG continues to believe that a source-based approach would best ensure that dispatch decisions reflect the price signal for GHG emissions."

approach, itself a compromise, is perceived not to work well for MJUs. The result of that is imposition of a retail based system with concomitant administrative and reporting burdens that are wildly disproportionate to Sierra's California presence. Also as stated in its opening comments, Sierra disagrees with the severity of the "problem" of applying a deliverer approach to it, and has explained how it is manageable.³ To the extent that the Commission is determined to proceed now with an interim program, which Sierra does not recommend, it is important that it abandon the discriminatory treatment of MJUs. More fundamentally, however, Sierra disagrees that careening headlong into *what by the Commission's own admission is a temporary program design* for the sake of being first is worth the contortions required to earn that distinction.

Sierra does not suggest by its recommendation that the Commission, or for that matter CARB that will run with the CPUC's design, brake the momentum it has with regard to cap and trade program design. To the contrary, Sierra is suggesting that the PD is illuminating of the opportunity to fully exercise leadership by designing the end-program from the outset.

Dated: March 4, 2008

Respectfully submitted,

/s/

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³ PD at 57 and *The Natural Resources Defense Council and The Union of Concerned Scientists*' February 28, 2008 PD Comments at page 8 regarding the need for some sort of tracking mechanism for Deliverers who are not themselves the generation source.

Certificate of Service

I hereby certify that I have this day served a copy of “Reply Comments Of Sierra Pacific Power Company (U 903 E) On The Proposed Interim Opinion On Greenhouse Gas 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. Parties without e-mail addresses were mailed a properly addressed copy by first-class mail with postage prepaid.

Executed on March 4, 2008 at Sacramento, California.

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R.06-04-009
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