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 Emission Standards into Procurement Policies.	)	Rulemaking 06-04-009 (Filed April 13, 2006)

BEFORE THE CALIFORNIA ENERGY COMMISSION

In The Matter Of, AB 32 Implementation – Greenhouse Gas Emissions.	)	Docket 07-OIIP-01

REPLY COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) ON PROPOSED DECISION OF PRESIDENT PEEVEY ON GREENHOUSE GAS REGULATORY STRATEGIES

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REPLY COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) ON PROPOSED DECISION OF PRESIDENT PEEVEY ON GREENHOUSE GAS REGULATORY STRATEGIES

Pursuant to Rule 14.3 of the California Public Utilities Commission's ("CPUC") Rules of Practice and Procedure, Southern California Edison Company ("SCE") respectfully submits these reply comments on the Proposed Decision of President Peevey on Greenhouse Gas ("GHG") Regulatory Strategies ("PD") to the CPUC and California Energy Commission ("CEC").

I.

THE PD APPROPRIATELY RECOMMENDS A MULTI-SECTOR CAP-AND-TRADE SYSTEM AND A DELIVERER POINT OF REGULATION

With the exception of the publicly-owned utilities ("POUs"), most stakeholders support the PD's recommendation of a multi-sector cap-and-trade system and a "Deliverer" point of regulation for the electricity sector.[1] Like SCE, many parties also advocate that the cap-and-trade system should be broad-based and comprehensive, covering the natural gas sector and other high emitting sectors. As discussed in SCE's opening comments and below, the PD appropriately recommends a multi-sector cap-and-trade system and a Deliverer point of regulation. The PD should only be modified to recommend that the natural gas sector and other high emitting sectors be included in the cap-and-trade program.

In opposition to the Deliverer approach, the Southern California Public Power Authority ("SCPPA") argues that by recommending a GHG regulatory program including both programmatic measures (*i.e.*, energy efficiency and Renewables Portfolio Standard ("RPS")) for retail providers and a multi-sector cap-and-trade system with a Deliverer point of regulation, the PD imposes a "double burden" on retail providers who are also Deliverers, particularly POUs. SCPPA asserts that the Deliverer point of regulation is unfair because this double burden would require POUs, who SCPPA claims face the greatest costs in meeting GHG reduction goals, to transfer wealth to others.[2]

The argument that the Deliverer point of regulation is unfair to POUs is without merit. The complementary GHG regulatory strategies recommended by the PD apply equally to POUs, investor-

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[1] *See* Opening Comments of SCE, Pacific Gas and Electric Company ("PG&E"), San Diego Gas & Electric Company/Southern California Gas Company, Solar Alliance, Community Environmental Council, Western Power Trading Forum/Alliance for Retail Energy Markets, FPL Energy Project Management, Inc, Morgan Stanley Capital Group Inc., Calpine Corporation, Sierra Pacific Power Company, Constellation NewEnergy, Inc./Constellation Energy Commodities Group, Inc., Environmental Defense, Energy Producers and Users Coalition/Cogeneration Association of California (supporting cap-and-trade and Deliverer); Division of Ratepayers Advocates ("DRA"), Green Power Institute, Natural Resources Defense Council/Union of Concerned Scientists, Independent Energy Producers Association ("IEP") (supporting cap-and-trade).

[2] The Los Angeles Department of Water and Power ("LADWP") makes similar arguments.

owned utilities ("IOUs"), and other retail providers that are also Deliverers; therefore, there is no basis for concluding that a Deliver-based cap-and-trade system burdens POUs more than other retail providers.[3] Moreover, there is no wealth transfer from POUs to other parties as a result of the Deliverer point of regulation. If POUs face greater costs in meeting their GHG reduction goals than IOUs it is because IOUs have already paid considerably more for energy than POUs over the years because of the IOUs' greater utilization of higher cost, lower emitting resources, greater energy efficiency penetrations, and higher renewable procurement obligations. The fact that higher GHG-emitting POUs may have to pay more to transition their systems to a lower emitting future is not a wealth transfer. It stems from the historic choices made by POUs and IOUs with respect to generation and energy efficiency investments.

Certain parties note that additional clarifications are needed regarding the details of the Deliverer point of regulation. SCE believes that the alleged uncertainties associated with the Deliverer approach are overstated. As the PD acknowledges, for specific situations where imports do not have E-tags, "alternative documentation may need to be used."[4] However, it will be much simpler to establish the Deliverer for all imports than it would be to track both in-state generation and imports under a retail provider-based approach. The details of this "alternative documentation" for specific imports and other elements of the implementation of the Deliverer point of regulation should be completed in future proceedings at the CPUC, CEC, and California Resources Board ("CARB"), just as they would be if a retail provider, in-state generator, or hybrid approach were recommended.

The CPUC and CEC should reject IEP's argument that utilities be the entities responsible for the GHG compliance of qualifying facilities ("QFs"). The PD recognizes that, for in-state generation, the Deliverer will usually be the owner or operator of the generating unit – in this case the QF.[5] QF contracts are also generally must-take contracts where the utility has no control over the QF's dispatch or GHG emissions, and should therefore not be held responsible for the QF's GHG compliance. Moreover, when GHG compliance costs are reflected in the market, they will also be reflected in QF short-run avoided cost payments. Thus, QFs will be compensated for their GHG compliance costs. If the purchasing utility were responsible for a QF's GHG compliance, the utility would be required to pay the QF's compliance costs twice – once through allowances for the QF's GHG compliance and once through the payment of short-run avoided cost to the QF.

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[3] SCPPA's preferred form of regulation – a retail provider point of regulation for programmatic measures and a cap-and-trade system – is no different with respect to the burden on retail providers who are also Deliverers.

[4] PD at 67.

[5] *Id.*

IEP's recommendation to broadly change the point of regulation (or Deliverer) for all tolling arrangements to the purchaser of the toll should also be rejected. While some contracts that were entered into prior to the passage of Assembly Bill ("AB") 32 may burden the generator with a cost which it cannot recover pursuant to the contract, the magnitude of this issue does not warrant the treatment proposed. When GHG regulation takes effect in 2012, many of these contracts will likely have expired. By placing the point of regulation on the toll purchaser, there will be an added element of complexity in reporting and compliance. For example, a tolling arrangement that expires during a compliance period may have one Deliverer during one part of the period and another Deliverer during the rest of the period. The PD should be modified to make the generator the Deliverer in all instances. If the Deliverer is always the generator, then contracting parties can specify which party will pay the costs of GHG compliance.[6] This approach is simpler in the long-run because the point of regulation is consistent regardless of the type of contract entered into by the generator.

II.

THE CPUC AND CEC SHOULD REJECT SCPPA'S AND LADWP'S "ALTERNATIVE COMPLIANCE OPTION"

SCPPA and LADWP argue that if their preferred methods of GHG regulation are not adopted, the PD should recommend an "alternative compliance option." Under their "alternative compliance option," a retail provider who is also a Deliverer could opt-out of the multi-sector cap-and-trade system and elect to be subject to an entity-specific cap of the electricity used to serve its native load. This entity-specific cap would be based on the retail provider's pre-AB 32 historical emissions and would decline over time. If the retail provider exceeded its cap, it "would be required to acquire allowances through an auction or through the cap-and-trade secondary market in order to avoid a penalty."[7]

The CPUC and CEC should reject the "alternative compliance option." The effectiveness of a cap-and-trade system is dependent on a broad and liquid market where there are many GHG emission reduction options that can be evaluated and ranked to identify the most cost-effective emission reduction measures. The "alternative compliance option" will allow the large majority of retail providers, measured by load, to opt-out of the cap-and-trade system, thus compromising the breadth and liquidity of the market. The "alternative compliance option" will also significantly complicate GHG regulation of the electricity sector. Maintaining a Deliverer-based cap-and-trade program and a retail provider-based "alternative compliance option" will substantially increase administrative costs and burdens. It will also

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[6] For those contracts that were entered into prior to AB 32, they may either be amended by the parties or, if necessary, can be treated individually by CARB.

[7] SCPPA Opening Comments at 13.

significantly complicate the reporting and tracking of emissions by including both the complexities of retail provider-based reporting that are avoided by Deliverer-based regulation and the additional complications inherent in having some entities under a Deliverer system and some entities under a retail provider system. Moreover, it unclear how the entities under the Deliverer approach would interact with the entities under the "alternative compliance option" for purposes of reporting, trading of allowances, and purchasing and selling into the wholesale energy markets. There is significant risk of double counting or under-counting of emissions. The complexities of the structure could also undermine the environmental integrity of the program, and would make it much more difficult to integrate California's program into a regional or national system. There is no record supporting the "alternative compliance option." It should not be included in the PD's recommendations to CARB.

III.

ALLOWANCE ALLOCATION ISSUES SHOULD BE ADDRESSED IN FUTURE PROCEEDINGS

The opening comments on the PD take a variety of positions on allocation of allowances. Based on the PD's conclusion that the record is not sufficient at this time to make detailed recommendations regarding allowance allocation, SCE has not offered detailed comments on the issue. As SCE has previously noted, the process by which allowances are distributed to regulated entities is independent of the point of regulation; accordingly, it is not necessary to determine the method of allowance allocation to determine the point of regulation. The PD should not be modified to make any further recommendations regarding allowance allocation.

IV.

THE PD SHOULD NOT RECOMMEND A 33% RPS REQUIREMENT

Some stakeholders argue that the PD should recommend a 33% RPS. SCE disagrees. Before higher renewable targets are considered, the economic and technical impacts of integrating higher levels of renewables onto the grid must be understood. A recent California Independent System Operator ("CAISO") study regarding the integration of renewables concluded that "[m]ajor new transmission facilities and upgrades of existing transmission will be required for the 20% RPS and especially to accommodate the 33% RPS goal," and that increasing the RPS to 33% could more than double integration problems and costs.[8] These and other challenges must be studied and considered before committing to a higher RPS goal. These issues are not properly considered in this proceeding. As DRA states in its opening comments, the feasibility and cost of a 33% RPS will be considered in R.08-02-007.

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[8] CAISO, Integration of Renewable Resources, Transmission and operating issues and recommendations for integrating renewable resources on the California ISO-controlled Grid at 14, 19-20 (Nov. 2007).

Moreover, as PG&E notes, a precise numerical RPS standard must be evaluated as part of the overall "umbrella" of GHG reduction strategies authorized by AB 32. The CPUC and CARB are still in the middle of their economic modeling of various GHG reduction strategies. It is premature to recommend a specific RPS standard before the benefits of such a requirement as a GHG reduction measure have even been modeled.

SCE also agrees with DRA and Sempra Global that a well-designed market-based system should optimize the amount of additional renewable energy that is needed to meet the State's GHG reduction goals. The market may determine that more renewables is the lowest cost option to reduce GHG emissions or it may determine that other options are more efficient to achieve reductions. The PD recognizes the benefits of a market system in recommending a cap-and-trade program. The CPUC and CEC should not interfere with the efficient operation of their recommended market by unilaterally determining what GHG reduction measures are best undertaken to reach the State's AB 32 goals.

Finally, SCE disagrees with the California Wind Energy Association et al. that an immediate 33% RPS is needed to retain private sector interest in the California renewable energy market. The 20% RPS has already caused a large demand for renewables in California that exceeds the supply since most California retail providers are short renewables. This market situation, among other factors, has caused renewable prices to increase dramatically in the past few years. If increased renewables are the most cost-effective solution to reduce GHG emissions, it is likely prices will continue to rise. There is no basis for concluding that a 33% RPS is needed to retain developer interest in the California renewable market.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of the **REPLY COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) ON PROPOSED DECISION OF PRESIDENT PEEVEY ON GREENHOUSE GAS REGULATORY STRATEGIES** on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

> Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **4th day of March 2008**, at Rosemead, California.

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