

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA AND THE CALIFORNIA ENERGY COMMISSION**

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 Commission Docket 07-OIIP-01

**REPLY COMMENTS OF PACIFICORP (U 901 E) ON ADMINISTRATIVE LAW
JUDGES' RULING REQUESTING COMMENTS ON EMISSION REDUCTION
MEASURES, MODELING RESULTS, AND OTHER ISSUES;
INCORPORATING MATERIALS INTO THE RECORD; AND
RECOMMENDING OUTLINE FOR COMMENTS**

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Date: June 16, 2008

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Pursuant to the *Administrative Law Judges' Ruling Requesting Comments on Emission Reduction Measures, Modeling Results, and Other Issues; Incorporating Materials Into the Record; and Recommending Outline for Comments*, dated May 13, 2008, PacifiCorp respectfully submits these reply comments relating to regulation to be used to reduce greenhouse gas ("GHG") emissions in the electricity sector. PacifiCorp appreciates the opportunity to provide further comments in this proceeding on these important issues.

I. INTRODUCTION

PacifiCorp is one of the West's leading utilities, serving more than 1.6 million customers in six western states (California, Idaho, Oregon, Utah, Washington, and Wyoming). In California, PacifiCorp serves approximately 46,500 customers in Del Norte, Modoc, Shasta and Siskiyou counties. PacifiCorp has more than 10,400 megawatts of generation capacity on a system-wide basis from coal, hydro, wind power, natural gas-fired combustion turbines, solar and geothermal. PacifiCorp also has

ownership interests in thermal generation units located in three additional western states (Arizona, Colorado, and Montana).

PacifiCorp has been an active participant in this proceeding, both before the California Public Utilities Commission (the “Commission”) and the California Energy Commission (“CEC”). PacifiCorp’s participation has included the submission of numerous written comments, attendance at countless Commission and CEC workshops, and continued work with both Commission and CEC staff to effectuate a workable approach to GHG emissions regulation for PacifiCorp.

PacifiCorp respectfully requests that the Commission and the CEC not perceive the absence of comments by PacifiCorp on any specific issue or other matter as a conclusive indication of PacifiCorp’s lack of interest with respect thereto. PacifiCorp acknowledges the ongoing nature of this proceeding and reserves the right to present additional comments at a future time, as necessary.

II. INTRODUCTION

A. The role the electricity sector plays within the California multi-sector cap-and-trade program in currently unknown, making it difficult to offer detailed recommendations.

Most parties were unable to offer specific recommendations or feedback on many of the issues raised because of the shared expectation that the electricity sector will be regulated within a larger, multi-sector cap-and-trade program. As such, the Commission and the CEC should endorse a modest initial approach, with goals for the electricity sector’s participation within a cap-and-trade program that focus on providing significant flexible compliance tools and cost containment mechanisms, while seeking to stabilize emissions and achieve modest reductions from current levels by 2020.

Parties concur that there are only three near-term options for reducing emissions from electricity generation: 1) redispatch existing generation; 2) add new generation to cover load growth and generation retirements; and 3) substitute new generation to cut existing generation emissions. While other programs target electricity consumption, there is consensus that in order to achieve significant emissions reductions, California sources for electricity will change dramatically. With this in mind, California's emissions reduction goals must reflect the lead times to develop new generation technologies, build new capacity and recognize other constraints on operations, transmission, and new investment.

B. There continues to be no consensus on the electricity sector point of regulation.

Opening comments continue to advocate for either the first deliverer point of regulation or traditional command and control regulation. During the proceedings, PacifiCorp supported a source-based point of regulation and nothing within the opening comments has changed our position. The source-based point of regulation still offers greater compatibility with and expandability to a national cap-and-trade market and provides greater accuracy and ease of reporting, tracking, and verifying emissions reductions. Concerns over leakage and/or contract shuffling are limited, can be addressed with other forms of regulation, and diminish over time.

C. Regulated entities' and retail providers' preferred allowance allocation approaches are driven by underlying generation portfolios or efforts to leverage the cap-and-trade program for economic gain.

PacifiCorp supports a free allocation of allowances based upon the joint staff's preferred emissions-based fuel-adjusted approach. As an owner of coal-fueled generation, it would create significant rate shock to force a dramatic turnover in our

generation stock within a short period of time. The allocation of free allowances, which several parties continue to ignore, declines as allowances are transitioned to another allocation approach (i.e., an auction) and as the annual cap (pool of allowances) declines over time. The free allocation of allowances based upon historic emissions is meant to provide owners of fossil-fueled generation the lead times necessary to avoid rate shock, develop new generation technologies, build new capacity and recognize other constraints on operations, transmission, and new investment. The transition to a low-carbon economy is a significant undertaking and the costs of doing so are, likewise, significant. An allocation based on historic emissions satisfies the prerequisite of AB 32 because it allows for such a transition while, at the same time, managing the cost impacts on such a transition in electricity rates and avoiding disproportionate impacts on customers based on an existing generation portfolio.

It must be reiterated that the decisions to build fossil fueled power plants, which were made over many decades and were intended to achieve a fuel mix, were economically rational and, in virtually all cases, approved as prudent by regulatory authorities. Retail providers and their customers should not be punished for past prudent decisions. PacifiCorp vigorously opposes providing allowances to non-emitters based on “benchmarking” or megawatt-hour “output-based” methodologies which would simply create large wealth transfers from utilities to merchant generators and among other utilities, when such expenditures are unrelated, and potentially contrary to, the overall goal of GHG emissions reduction. It is unclear what public purpose would be served by distributing allowances to non-emitters.

To Southern California Edison and the Sacramento Municipal Utility District’s credit, they acknowledge this potential inequity and have each offered their own unique approach to allowance allocations.^{1, 2} Both approaches deserve the

¹ See, Southern California Edison, pages 2-5; specifically an allowance allocation based upon the mitigation of economic harm.

Commission's and CEC's careful consideration. It is disappointing that other retail providers and some merchant generators continue to engage in backward-looking green washing, claiming past fossil-fueled generation divestitures or natural gas and renewables investments had anything to do with GHG reductions when clearly they were the result of electricity deregulation law, ambient air quality concerns, low natural gas prices in the past, and California's Renewable Portfolio Standard ("RPS"). Similarly, utilities that built hydroelectric dams many decades ago or nuclear plants in the sixties and seventies did not do so to avoid GHG emissions and there is no reason to provide them with a financial windfall. Utility investments in renewables or energy efficiency were largely required by regulatory mandates that included numerous public policy rationales, including avoiding new sources of greenhouse gas emissions. These zero-emitting resources do not bear the burden or the direct costs of effectuating GHG emissions reductions.

The Commission and CEC should reject calls for allocations principles that "[Ensure] that customers of lower emitting utilities pay less than higher emitting utilities to achieve the ultimate goals of [Assembly Bill] 32."³ Such a principle is without merit and misleading. It relies on a misleading premise that "incremental investment opportunities to avoid purchasing high emitting power are fewer and more expensive for low carbon utilities than those available to high carbon utilities that have more low-hanging fruit available" and thus "customers of lower emitting utilities should pay less than customers of higher emitting utilities to achieve the goals of AB 32."⁴ The Commission and the CEC should not look to the cost of incremental investment, but rather the cumulative and direct costs of effectuating GHG emissions reductions. Staff is on the right track in examining allowance allocation approaches that avoid windfall

² See, Sacramento Municipal Utility District, pages 13-16, specifically a fuel-differentiated output-based allocation in which existing hydro and nuclear generation facilities, as well as renewable energy facilities built prior to Assembly Bill 32 becoming law would not receive allowances.

³ See, Pacific Gas and Electric, page 7

⁴ See, Pacific Gas and Electric, page 4

profits to generators and wealth transfers among the customers of different retail providers.

D. Free allowances to retail providers may be necessary to prevent merchant generator windfall profits.

Many parties have commented on the potential risk of windfall profits to merchant generators with any free allowance allocation. With this concern in mind, we are open to the possibility of free allocation to customers, through their retail provider, in a manner that would mitigate rate shock and further the state's energy efficiency and GHG reduction goals.

E. Parties are unable to achieve consensus on a reasonable amount of allowances to be auctioned.

Most parties were unable to offer specific recommendations or feedback on an amount of allowances to be auctioned because of the shared expectation that the electricity sector will be regulated within a larger, multi-sector cap-and-trade program. As such, the Commission and the CEC should endorse a modest initial auction approach. PacifiCorp has expressed support for some nominal level of auction (≤ 5 percent) at the beginning of a cap-and-trade program to ensure market liquidity and an opportunity for trading. PacifiCorp also supports conducting at least two auctions a year. The amount of allowances to be auctioned each year should be the subject of future California Air Resources Board ("CARB") rulemakings with a goal of achieving the best combination of cost, fairness, and enforceability.

F. There is consensus that auction proceeds should be administered by retail providers.

Parties appear to agree that to the extent revenues are generated by

auction, the revenues would be recycled to retail providers to finance customer rate relief (particularly for low income customers) and GHG mitigation. PacifiCorp continues to support the recycle of auction proceeds to retail providers according to staff's preferred auction approach (on an emissions, fuel adjusted basis) in order to mitigate rate impacts and bring resources back to retail providers that have direct costs of effectuating GHG emissions reductions. Some revenue not recycled to retail providers could be invested through statewide programs that would also benefit customers throughout the state.

G. Parties agree that steps should be taken to protect against market manipulation and the exercise of market power.

Potential regulated entities are concerned about the creation of artificial scarcity. Where allowances are bought and sold, there is a risk of, and, indeed, an incentive for, non-generators to acquire allowances. Financial speculators could participate, hoping to acquire allowances cheaply and sell them to companies that need them to operate at a higher price. The risk alone could drive up prices. As the cost of acquiring allowances eventually will be passed on to electricity consumers, market manipulation that drives up the cost of allowances, the supply of which will be limited, should be prevented. Restricting market participation is the most direct way to address this risk. Restricting the amount of allowances to be purchased or the length of time they may be held by certain types of market participants may be another means of preventing arbitrage.

H. Parties agree on allowance banking, with regulated entities and retail providers supporting unlimited banking.

Most parties were unable to offer specific recommendations or feedback on an amount of allowances to be banked because of the shared expectation that the electricity sector will be regulated within a larger, multi-sector cap-and-trade program. As such, the Commission and the CEC should endorse unlimited banking. Parties

support unlimited allowance banking, whereby a regulated entity could “bank” any surplus allowance for use within a future compliance period. PacifiCorp concurs with Morgan Stanley’s suggestion that allowances and/or offsets be issued without expiration dates because doing so serves the same practical purpose as “banking,” while avoiding unnecessary administrative burdens required to track and monitor “banked” allowances.⁵

I. Parties agree on early action credit, but there is no consensus on what actions are eligible, how far back and what instrument to use.

PacifiCorp also supports additional allowances be allocated as recognition of early action (i.e., “early action” allowances). These allowances would be in addition to those issued in subsequent years as part of the cap. The purpose of this mechanism is to fully reward and encourage all legitimate early actions to reduce GHG emissions. PacifiCorp recommends the Commission and the CEC specifically solicit stakeholder input on projects creditable as early action and whether the instrument should be carbon offsets or allowances.

J. Regulated entities and retail providers agree on the use of verifiable offsets with broad geographic eligibility.

Comments submitted by carbon offsets providers⁶ were compelling and underscored the value of carbon offsets as a risk management and cost containment tool, as long as the offsets can be verified. Parties agreed the electricity sector should have the flexibility to pursue the lowest cost carbon reductions, even if they occur outside of the electricity sector, as long as their environmental integrity can be verified. Parties also agreed carbon offsets should be bankable (or perhaps not include an expiration date) and would be surrendered for compliance purposes in addition to any allowances.

⁵ See, Morgan Stanley Capital Group, page 11

⁶ Specifically The Climate Trust and EcoSecurities.

Most parties were unable to offer specific recommendations or feedback on potential limits on the use of carbon offsets because of the shared expectation that the electricity sector will be regulated within a larger, multi-sector cap-and-trade program. As such, the Commission and the CEC should endorse a generous use of carbon offsets, as long as they satisfy minimum verification standards set by the CARB, or preferably set by a national or international organization. Most parties support broad offset project eligibility criteria and international projects. Reducing GHG emissions, reliably, in some other part of the United States or the world will have just as significant a benefit as making an equivalent GHG emissions reduction within California.

K. Regulated entities and retail providers agree on the use of compliance cost control mechanisms: allowance/offset banking; multi-year compliance periods; and rolling and flexible compliance periods.

Most parties were unable to offer specific recommendations or feedback on the use of or combinations of different compliance cost control mechanisms because of the shared expectation that the electricity sector will be regulated within a larger, multi-sector cap-and-trade program. As such, the Commission and the CEC should endorse the inclusion of as many as possible. There appears to be broad consensus on the use of several compliance cost control mechanisms from the outset of the program: allowance/offset banking; multi-year compliance periods; and rolling and flexible compliance periods. PacifiCorp has previously articulated its support for all three mechanisms, but emphasizes its concurrence with the arguments put forward by Southern California Edison in support of “rolling and flexible compliance periods”.⁷ We support the recommendation to CARB that is supportive of a flexible compliance period, in which individual obligated entities have the option of choosing to end their current

⁷ See, Southern California Edison, page 12

compliance period early and agree such action might mitigate the tendency for manipulation of emissions markets.

While there was no consensus on the borrowing of allowances or the use of a safety valve that would offer additional allowances at a predetermined price, PacifiCorp continues to support the Commission and CEC recommending that CARB retain both options and consider further developing them within the context of a multi-sector cap-and-trade program; perhaps their use is only during the early years of the cap-and-trade program.

L. Results reported by E3.

PacifiCorp stated within its opening comments that the E3 modeling results “appear to support similar modeling performed by the Electric Power Research Institute that examined the affects of different [carbon dioxide (“CO₂”)] prices on the [Western Electricity Coordinating Council] power market.”⁸ The preliminary results, which were presented by the Electric Power Research Institute during a June 5, 2008 public webinar, have been posted on the Institute’s website.⁹ A second public webinar has been scheduled for June 24, 2008.

M. A flexible, national approach to regulating carbon is still preferred.

While parties differ on the mechanics, many emphasized that California’s design is meant to further the development of a federal program. No one should underestimate the challenge of de-carbonizing an economy that has relied on carbon-based fuels for two centuries. Technology development is the key to long-term, sustainable emissions reductions. At the national level, PacifiCorp and its parent

⁸ See, PacifiCorp, page. 47.

⁹ Please see: http://globalclimate.epri.com/PDF/EPRI-Western_Climate_Policy_Impacts_Collaborative_webcast_6-5-08.pdf.

company, MidAmerican Energy Holdings Company, have advocated for a phased-in, technology and policy-driven national approach to reduce long-term GHG emissions while minimizing the costs and risks to the economy.¹⁰ Transitioning to a low-carbon economy cannot take place overnight, but there are measures that should be undertaken now. In the first phase (2009-2017), we suggest focusing on technology development and sector-specific reductions from existing technologies that may have incremental costs that are slowing deployment. In the electricity sector, for example, we propose six priorities:

1. Adoption of flexible renewable and clean technology portfolio goals.
2. More stringent energy efficiency mandates.
3. Policies to encourage efficiency improvements at existing facilities.
4. A ten-year, multi-billion dollar research and development program for emission reduction, funded equally by the private sector and the government.
5. Removing the legal and regulatory barriers to the development of low-emissions technologies such as carbon sequestration and new nuclear development.
6. Tax policies to support these programs, such as a long-term extension of the renewable energy tax credit and clean coal initiatives.

Beginning around 2017, as new baseload zero and low-emissions technologies become available, we propose moving to the second phase (2017-2025) of an emissions reduction program. PacifiCorp has suggested a hybrid system of phased-in emissions reductions based on carbon intensity targets, together with trading and safety valve pricing mechanisms. By using this transitional glide path, the U.S. should be

¹⁰ See, “Testimony of David L. Sokol, Chairman and CEO MidAmerican Energy Holdings Company for the Subcommittee on Energy and Air Quality, Committee on Energy and Commerce U.S. House of Representatives, March 20, 2007 (available at: <http://www.pacificorp.com/File/File73583.pdf>). MidAmerican Energy Holdings Company’s position was recently updated. See Mr. Sokol’s testimony titled “Challenges to Climate Change Legislation” presented during the February 19, 2008 meeting of the National Association of Regulatory Utility Commissioners (available at: http://www.narucmeetings.org/Presentations/Challenges%20to%20Climate%20Change%20Legislation_DavidSokol.pdf)

poised for dramatic reductions in the third phase, beginning around 2025, with annual targets and ultimately achieving a stringent 2050 target.

Given the breadth of the challenge, PacifiCorp supports a national regulatory solution. To the extent a national program seeks to regulate power plant emissions by way of inclusion within a cap-and-trade program, we continue to prefer and support a “generator-based” (i.e., source-based) point of regulation.

N. For the electricity sector, technology advancement is the key.

PacifiCorp approaches key challenges through a multi-stage process whose primary components are – assess, plan, execute, measure and adjust. Applying these same tools to the challenge of dealing with carbon emissions and climate change, PacifiCorp recommends that California implement a multi-phased, economy-wide approach that matches electricity sector emissions reduction goals to reasonable expectations of technology development.

There will be a hierarchy of value in the dollars spent attempting to address climate change. It is critical to address technology research and development that will assist in long term solutions along with measures that offer immediate carbon benefits from investments in energy efficiency, renewable energy, and increasing the efficiency of existing fossil generation.

In sum, parties agree technology advancement is key to achieving GHG emissions reductions from the electricity sector. Imposing caps on carbon emissions prior to the availability of the technology needed to meet the caps simply turns cap-and-trade into a carbon tax. We must be aware that the cost of reducing carbon emissions will have a disproportionate impact on the poor, elderly, and those on fixed incomes. We need a glide slope that allows us time to develop the technologies that allow us to shift from a carbon-based economy. This would also allow time for renewable energy to advance and energy efficiency time to take effect, in order to ramp down use of

traditional energy sources. Early implementation of a cap-and-trade system with unreasonable reduction targets and timetables will cause immediate rate shock.

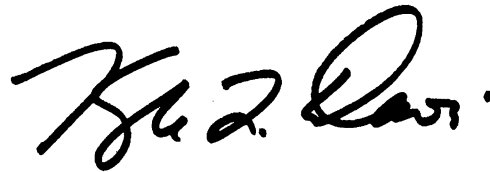
III. CONCLUSION

PacifiCorp appreciates the opportunity to provide reply comments on the regulation to be used to reduce GHG emissions in the electricity sector. PacifiCorp strongly supports the Commission and the CEC developing recommendations to the CARB on allowance allocation method(s), flexible compliance mechanisms, and any anticipated emission reduction measures and policies.

Dated: June 16, 2008

Respectfully submitted,

By

A handwritten signature in black ink, appearing to read "Kyle L. Davis".

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June, 2008, I caused to be served, a true and correct copy of the foregoing:

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to be served on the parties on the attached service list in R.06-04-009 via Electronic Mail or U.S. Mail and Overnight delivery to the parties below:

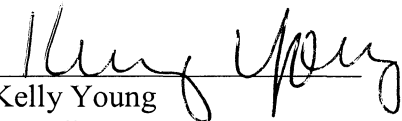
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Executed this 16th day of June, 2008


Kelly Young
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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June, 2008, I caused to be served, a true and correct copy of the foregoing:

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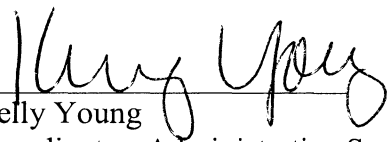
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