

**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   )  
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Rulemaking 06-04-009

<b>DOCKET</b> 07-OIIP-1
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**California Energy Commission Docket #07-OIIP-01**

**REPLY COMMENTS BY CALIFORNIANS FOR RENEWABLE  
ENERGY ON ALLOCATION, FLEXIBLE COMPLIANCE,  
AND RENEWABLE PORTFOLIO STANDARDS**

**I. SUMMARY**

Pursuant to the April 16, 2008 *Administrative Law Judge's Ruling Updating Proceeding Schedule and Requesting Comments on Emission Allowance Allocation Policies and Other Issues*, and five follow-up *Rulings* issued on April 22, May 1, May 6, May 13, and May 20, 2008, CALifornians for Renewable Energy (CARE) respectfully submits these *Reply Comments of Californians for Renewable Energy on Allocation, Flexible Compliance, and Renewable Portfolio Standards*, in R.06-04-009, the **Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies**. Our Comments focus on the issues of allocation and distribution of greenhouse-gas emissions allowances in a California cap-and-trade program, flexible compliance, and renewable portfolio standards.

CARE supports those who believe all credits should be distributed by auction. CARE also supports NRDC/UCS in their call for a "use it or lose it" recycling of auction revenues. CARE believes that most flexible compliance mechanisms should be

disallowed as contrary to the spirit of AB 32, and supports the imposition of a 33%-by-2020 Renewable Portfolio Standard.

## **II. ALLOWANCE ALLOCATION**

CARE agrees with the many people and organizations, including TURN, NRDC/UCS, FPLE, Morgan Stanley, and Mr. Kenneth Johnson, among others, who believe the most efficient and administratively simple method of distributing allowances is entirely by auction. As Mr. Johnson noted, “any free allocation method can be equivalently implemented with full auctioning,” if Auction Revenue Recycling (ARR) is used. CARE agrees with TURN that free allocation of allowances is essentially giving away money. ARR can be used to help covered entities reduce their costs while also allowing the state to retain control over how the auction proceeds are used. This reduces the risk of windfall profits to compliance entities – seen in the EU – that accompanies any free distribution method.

### **A. Auction revenues should be recycled in both an emissions-based and an output-based manner.**

CARE is sensitive to the complaints of some providers, such as LADWP, that they would be unfairly disadvantaged by an entirely output-based method of recycling revenues. Carbon-intensive providers like LADWP will face higher compliance costs than utilities like PG&E that are less reliant on fossil fuels to generate power. CARE agrees with CPUC’s observations in the Interim Opinion that an entirely output-based method of allocating auction revenues would likely lead to large and arbitrary redistributive impacts among customers of these providers. At the same time, an entirely

emissions-based method of distributing revenues would unfairly penalize renewable energy providers for the fact that they are providing clean energy.

For these reasons, CARE believes that auction revenues should be recycled in both ways, in order to minimize the arbitrary redistributive impacts but also provide renewable energy with a much-needed economic boost. CARE does not have a preferred percentage distribution but strongly believes that no more than half of the allocations should initially be distributed in an emissions-based fashion. ARR should gradually transition to an entirely output-based system, as carbon-intensive providers are given time to limit their emissions and develop new sources of energy.

CARE strongly supports the Solar Alliance's comments stating that limiting output-based allocations to fossil fuels needlessly undermines the goals of AB 32. Providing renewable energy with output-based allocations would provide a much-needed economic incentive for the construction of such facilities. However, CARE also believes that the resulting large subsidy to the unlikely-to-expand hydro- and nuclear power industry is unnecessary and undesirable, and supports Mr. Johnson's comments stating that these incentives should instead be focused on "new renewable generation." Therefore, no output-based allocations should be given to these two sectors.

**B. Recycled auction revenues must not be spent on the purchase of allowances, and rate relief must be per meter, not per kilowatt.**

CARE agrees with NRDC/UCS that providers should be forced to "use or lose" their auction revenues within a certain period of time for specified purposes that promote the goals of AB 32, such as investments in renewable energy, energy efficiency, or research and development. Ensuring that auction proceeds are used in such a manner

would prevent providers from spending all recycled revenues on additional credits and making no effort to reduce emissions. Such a requirement would allow providers like LADWP that are heavily reliant on carbon-intensive fuels to modernize and/or construct new facilities, which would further the goals of AB 32. Over time, this promotes environmental justice by reducing the exposure to toxic co-pollutants that low-income residents around such facilities face. One of CARE's environmental justice concerns about cap-and-trade systems is that the localized impacts of fossil-fuel based plants will never be addressed if reductions take place elsewhere and are traded to these facilities. By forcing providers to spend money on reducing emissions via UCS/NRDC's proposal, CARE believes that impacts on low-income communities could be reduced or avoided.

CARE also recognizes CPUC's observation that increases in energy prices often have a disproportionate impact on lower-income consumers. For this reason, although the primary focus of auction revenues should remain on promoting emissions reductions, some of the proceeds should be spent on rate relief for these consumers. However, CARE disagrees with TURN that the California Alternative Rates for Energy program should be expanded. By reducing the cost of electricity consumption, expanding this program would destroy the market incentive for conservation that higher energy prices provide. Instead, CARE supports Morgan Stanley's insistence that any rate relief take the form of a *per meter* rebate – although only to low-income customers – instead of a flat reduction in the cost of electricity. By separating the rebate from the cost of electricity, customers would still have an incentive (via higher prices) to conserve.

### **III. FLEXIBLE COMPLIANCE MECHANISMS**

CARE acknowledges the importance of flexible compliance mechanisms as a way of reducing volatility in any cap-and-trade market. Nonetheless, CARE supports those organizations that believe that certain flexible compliance mechanisms, like borrowing and safety valves, “undermine the environmental integrity of the program by allowing emitters to avoid their compliance obligations,” in the words of Morgan Stanley.

#### **A. There should be no safety valves or price caps**

Safety valves and price caps run the risk of making the entire cap-and-trade program meaningless. As NRDC/UCS and Morgan Stanley noted, if the safety valve or price cap is set too low, compliance obligations become meaningless and emissions increase, rendering the law ineffective. Furthermore, as NRDC/UCS pointed out, the Governor already has the authority to “adjust the applicable deadlines” of AB 32 in the event of extraordinary circumstances, under California Health and Safety Code § 38599(a). Further emergency mechanisms are unnecessary.

#### **B. Banking should be permitted, but borrowing must be disallowed**

As many commenters have stated, banking of allowances is an excellent way to allow companies to hedge against potential future price fluctuations. It also encourages companies to reduce their emissions more than is required in order to save up allowances for future years, when the cap is lower. There are no foreseeable environmental downsides to banking, and it should be permitted.

CARE agrees with Morgan Stanley and NRDC/UCS that borrowing must not be allowed. In addition to discouraging emissions reductions, and allowing those who do not meet their obligations to avoid what should be a harsh but fair noncompliance penalty, borrowing raises environmental justice questions. GHG emissions are nearly always accompanied by co-pollutants; excess GHG emissions therefore will lead to excess toxic co-pollutant emissions, with predictable consequences for the communities surrounding power plants. Borrowing must be prohibited.

**C. Any offsets must be real, additional, verifiable, permanent, and enforceable; their use must be restricted.**

CARE supports NRDC/UCS and TURN in their reservations about offsets. This is an area fraught with complexities. If the offsets are not real, additional, verifiable, permanent, and enforceable, they become an easy, cheap way for companies to reduce their emissions on paper without actually reducing worldwide greenhouse gas (GHG) emissions below what they would otherwise be. The Climate Trust, in its comments in support of widespread use of offsets, ignores many immensely complex questions.

For example, a key criterion is that offsets should be permanent. If they are not, then at best a partial reduction in emissions is achieved. But how can it be ensured that the offset is actually permanent? The UN's Clean Development Mechanism (CDM) offset program has excluded reforestation for this reason, among others – it's not clear that the forest will not be burned or cut down later, either on purpose or through natural disaster.<sup>1</sup> The CDM has faced criticism from all sides – some argue that it is too strict

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<sup>1</sup> Reforestation raises other questions. One study (<https://e-reports-ext.llnl.gov/pdf/324200.pdf>) suggested that trees outside the tropics do not reduce global warming because they absorb heat, contributing to the albedo effect. Trees take a long time to reach maturity; how do we take this into account? Studies are

and discourages legitimate reductions due to expense and complexity, while others say it has given the green light to projects that do not actually reduce emissions.

The Climate Trust, on the other hand, is actively supporting at least three reforestation projects.<sup>2</sup> While these projects are certainly environmentally admirable, they have lifetimes ranging from 50-100 years. How does a 50-year reforestation project compare to, for example, an energy efficiency program that reduces California's energy consumption by an equal amount, but permanently? It is very difficult to say. This example barely scratches the surface of complicated offset questions. While the questions are not unanswerable, they do illustrate that responsibly monitoring offsets is an extremely complicated, expensive and time-consuming endeavor.

CARE agrees with NRDC/UCS that offsets are unlikely to achieve the co-benefits required by AB 32. As previously noted, one important benefit to reducing GHG emissions from power plants is that co-pollutants are also reduced. Reducing toxic co-pollutants promotes environmental justice. As unlikely as it is that an offset in California will produce co-benefits or reduce co-pollutants, it is clear that an offset in *another* country or state will not accomplish this here.

Because of the risk of abuse, and the lack of co-benefits, CARE strongly recommends that CPUC/CEC support a tight limit on the use of offsets, and agrees with TURN that the use of offsets should be limited to California-based projects.

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conflicting as to whether trees are a significant source of methane; if they are, they probably actually contribute to global warming.

<sup>2</sup> [http://www.climatetrust.org/offset\\_deschutes.php](http://www.climatetrust.org/offset_deschutes.php); [http://www.climatetrust.org/offset\\_rainforest.php](http://www.climatetrust.org/offset_rainforest.php); [http://www.climatetrust.org/offset\\_native.php](http://www.climatetrust.org/offset_native.php)

#### **IV. NON-MARKET-BASED EMISSION REDUCTION MEASURES – RENEWABLE PORTFOLIO STANDARDS**

CARE strongly supports the California Wind Energy Association (CalWEA) and the Large-scale Solar Association's (LSA) comments stating that a 33%-by-2020 Renewable Portfolio Standard (RPS) is essential to spur investment in renewable energy in California. Although a properly designed trading system – one that allots ARRs in an output-based manner to all sources of electricity, excluding hydro- and nuclear power – can provide incentives to the construction of renewable energy facilities, CARE agrees that it is vital that California demonstrate its dedication to renewable energy through the imposition of a 33% RPS. Due to the long-term commitments required to develop a new source of renewable energy, it is unlikely that the 2012 cap-and-trade market will, by itself, immediately spawn large investments in renewable energy beyond the current 20% RPS target. A firm declaration from the state that 33% of electricity generation must come from renewable sources would further drive investment in renewable energy, leading to many co-benefits, as CalWEA and LSA pointed out in their comments.

#### **V. CONCLUSION**

For the reasons stated above, CPUC/CEC should recommend to ARB that: (1) all allowances be distributed by auction, with the revenues redistributed in both an output- and emissions-based manner; (2) banking be permitted, but borrowing and price caps prohibited; (3) offsets be limited to in-state projects; and (4) a 33%-by-2020 RPS be adopted. Thank you for considering our comments.



Respectfully submitted,

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/s/

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## CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served a copy of the foregoing document, **REPLY COMMENTS OF CALIFORNIANS FOR RENEWABLE ENERGY ON ALLOCATION, FLEXIBLE COMPLIANCE, AND RENEWABLE PORTFOLIO STANDARDS**, by Electronic Mail where possible and First-Class Mail where not, on all known parties to R. 06-04-009, named on the service list attached to the original certificate of this document pursuant to the Commission's Rules of Practice and Procedure.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Oakland, California, Monday, June 16, 2008.

Respectfully submitted,

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