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**REPLY COMMENTS OF THE NORTHERN CALIFORNIA  
POWER AGENCY ON DRAFT “FINAL OPINION ON GREENHOUSE  
GAS REGULATORY STRATEGIES”**

In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC), and the instructions set forth in the CPUC’s September 12, 2008 Cover Letter issuing the proposed *Final Opinion on Greenhouse Gas Regulatory Strategies* (Proposed Decision or PD), the Northern California Power Agency<sup>1</sup> (NCPA) submits these reply comments in response to the Opening Comments filed by interested parties on October 2, 2008. These comments are also submitted to the California Energy Commission (CEC) in Docket 07-OIIP-01. The CPUC and CEC are collectively referred to as the “Joint Commissions” in these comments.

**I. INTRODUCTION**

Assembly Bill 32 (AB 32) is groundbreaking legislation putting California at the forefront of efforts to reduce the impacts of climate change. California has appropriately set a high standard and NCPA is committed to the challenge by pursuing emissions reductions that are feasible and cost-effective. While the State may hope to lead by example and influence the greenhouse gas (GHG) emissions reduction programs that will be implemented by other jurisdictions, both at the regional and national levels, the Joint Commissions should take care not to lose sight of the end goal: implementation of a viable and cost-effective emissions reduction program that will work to the benefit of, rather than be a detriment to, the State’s consumers. While the Joint Commissions have developed the Proposed Decision in the interest of making recommendations to the California Air Resources Board (CARB) on implementation of AB 32 for the electricity sector, those recommendations must be well-reasoned, technologically feasible, and cost-effective, while at the same time setting a framework to ensure that the State’s electricity consumers are not disproportionately called upon to effect emissions reductions or adversely impacted by compromised reliability.

Over three dozen parties filed comments on the Proposed Decision. While comments ranged in the breadth and scope of their responses to the Proposed Decision, several parties noted that the electricity sector would be best served by waiting until further details emerge

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<sup>1</sup> NCPA is a Joint Powers Agency whose members include the cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, as well as the Bay Area Rapid Transit District, Port of Oakland, the Truckee-Donner Public Utility District, and the Turlock Irrigation District, and whose Associate Members are the Plumas-Sierra Rural Electric Cooperative, and the Placer County Water Agency.

from both CARB and the Western Climate Initiative (WCI) before moving forward with proposals that are based on an incomplete analysis and speculation. NCPA agrees with this conclusion.

## **II. COMMENTS**

### **A. Programmatic Measures Provide For the Greatest Overall Emissions Reductions.**

Like NCPA, many parties concur with the Proposed Decision's determination that programmatic measures can achieve the greatest overall emissions reductions. Clearly, these programs must be more aggressive and more innovative than they have been in the past, and entities are going to be called upon to do even more. Even with those challenges, parties recognize that there is a real and significant role to be played by programmatic measures in achieving the total reductions mandated by AB 32.

Indeed, the only parties commenting in favor of full reliance on the markets are those that would not face any compliance obligation and would have the most to gain in a purely market-based program. However, no party submitted comments that refute the concerns that are inherent in any cap-and-trade program that relies solely on "markets." The potential for market manipulation and market design inadequacies are great, and even in a less volatile environment, the electricity sector and the California economy has already been the victim of markets gone astray. The financial implications of a failed attempt to utilize market-based mechanisms to implement AB 32 are even greater than the impacts of the California electricity market meltdown of 2000-01, and the risks of venturing down this path again far exceed any purported benefits, at least until such time as the State has demonstrated that emissions reductions cannot be achieved through programmatic measures.

Past experiences have demonstrated that publicly owned utilities are able to achieve significant, cost-effective, emissions reductions through programmatic measures – both through voluntary programs and those mandated by their local governing bodies. No party has demonstrated how statewide mandates will increase the level of efficiency or penetration of programmatic emissions reductions measures, nor how programs specifically tailored to the specific climate and socio-economic conditions of a community will not be effective in the future. Accordingly, any recommendation to CARB regarding the use of programmatic measures should note that the most effective measures are those overseen by the retail providers

across the state, and that statewide mandates that do not give appropriate consideration to local demographics will fall short of achieving the greatest possible reductions.

Programmatic measures, and the proposed mandates set forth in the PD, are an invaluable tool in effecting emissions reductions, but they can also be quite costly. As noted by several parties, the E3 modeling does not sufficiently address the cost implications of the PD's proposed energy efficiency and renewable portfolio mandates. Neither does the PD address the technological impediments to implementing the proposed mandates. Before the Joint Commissions make a final recommendation to CARB that certain programs and program levels should be mandated, the record must clearly reflect that such programs are not only technologically feasible and cost effective, but that all obstacles to their implementation have been removed and that their implementation will not jeopardize the reliable provision of electricity to the State's consumers.

**B. The Record Is Insufficient to Support Recommendations Regarding a Cap-And-Trade Program.**

As a clearly stated objective of this proceeding, the CPUC and the CEC have been tasked to provide recommendations to CARB about how the electricity sector should be treated in the context of a multi-sector cap-and-trade program. Unfortunately the timing of such a recommendation is premature, given the impending release of CARB's Final Scoping Plan. While the Proposed Decision correctly recommends inclusion of California's electricity sector in a regional cap-and-trade program, with an eye toward eventual transition to a national program, there are no details or even clear suggestions regarding how a multi-sector program adopted by CARB or a WCI or national regional program might actually be integrated with the recommendations set forth in the Proposed Decision.

The multitude of unknown factors related to the design and regulation of a California-only cap-and-trade program (or even a regional/national program) have yet to be resolved. Thus, it is completely unknown how serious the operational and financial consequences for California's electricity sector might be. California's recent experience with electricity markets and design clearly demonstrates the electricity sector's vulnerabilities in this regard. NCPA concurs with those parties that urge the Joint Commissions to move forward with the greatest caution in implementing any cap-and-trade program for the electricity sector, and those that caution against recommending a program without additional review of the financial and electric

reliability impacts of such a program.

**C. The Proposed Allowance Allocation Structure Should Be Reviewed and Revised to Allocate Allowances to Retail Providers Based on Retail Sales.**

As demonstrated by the range of comments submitted, no clear consensus exists within the electricity sector regarding an appropriate allowance allocation methodology. Several parties, including NCPA, recognized that an allocation of allowances based on historic emissions fails to comply with the mandates of AB 32, detrimentally impacting entities that have already taken extensive efforts to reduce total GHG emissions in their resource portfolios. Other parties with higher-GHG portfolios favor reliance on an allocation methodology based on historic emissions and fuel-differentiated weighting.

The parties argue that such a distribution methodology is necessary to facilitate a transition to a cleaner resource portfolio, while mitigating adverse economic impacts on its customers. NCPA believes there is a fundamental disconnect with this logic. What these parties fail to recognize is that all retail providers, low-carbon and high-carbon based entities, are going to be called upon to reduce emissions and meet the demands of their growing communities. To do so, they must have access to sufficient allowances or allowance values. In restricting access to allowance values – by limiting the allowances allocated to retail providers with low-GHG generation portfolios – the PD effectively limits the programmatic measures that these entities would be able to invest in.

Beyond these arguments, as several parties note in their opening comments, the Joint Commissions' own economic analysis lacks the level of detail and further analysis necessary to form the basis for a conclusive recommendation on an allowance allocation scheme. This is especially problematic, given the PD's failure to even consider any impacts that may result from allocation schemes that might be implemented across the western region. With CARB strongly endorsing linkage of an AB 32 program to one developed by the WCI, it would seem prudent to assess such a relationship before offering a comprehensive recommendation to CARB.

**D. The Electricity Sector Emissions Reduction Targets Must Be Firm and Recognize the Sector's Fair Share Of the State's Total Target.**

Numerous parties properly noted that the total emissions reduction target assigned to the electricity sector must be fair and not overly burden the electricity sector's customers. NCPA concurs with those parties that urge the Joint Commissions to ensure that their recommendation

to CARB represents an emissions reduction target that is cost-effective and technologically feasible. The final number should also represent the sector's fair share of total reductions vis-à-vis a regional program, in order to prevent the State's electricity sector from being unduly burdened in the transition to a regional or national program.

**E. A Mandatory Allowance Auction Should Be Avoided; In the Alternative, an Auction Should Be Implemented to Integrate With a Regional Program.**

Several of the Proposed Decision's recommendations relate to a hasty pursuit of an unproven allowance auction structure. Recommendations as to the level of allowances to be auctioned and the swift pace to full auction cannot and should not be made without the benefit of being able to fully consider the ramifications of those design details as they translate to recommendations made at the regional and/or national level. Although several parties support the PD's recommendation that all allowances be auctioned, those parties fail to address how such a recommendation can be made in the absence of a detailed auction proposal that includes a discussion of how such an auction would be structured, who would be allowed to participate in the auction, how the electricity sector would be impacted by participation in a multi-sector auction, and how such an auction would transition to a regional program. Without resolution of these key policy issues, it is premature for the Joint Commissions to recommend that CARB include the electricity sector in any kind of auction, let alone a multi-sector allowance auction.

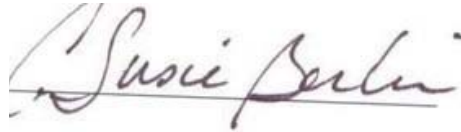
Irrespective of these concerns, if California regulators choose to implement an auction approach, it must be regional in nature. Through many of the comments submitted by parties, parties clearly favor this approach and some apply that same logic to a national program. With the underpinnings of a national program unknown at this time, if the State is going to move forward with a mandatory allowance auction, it should look to the WCI for the basic framework. Although WCI's Final Design Recommendation (WCI Final Design Recommendation for a Regional Cap-and-Trade Program, dated September 23, 2008) still lacks details regarding the actual structure, governance, and oversight of a regional auction, it does provide a more reasoned approach to auction implementation by recommending that 10% of allowances be placed into the initial auction in 2012 and 25% by 2020.

### **III. CONCLUSION**

NCPA appreciates the opportunity to provide these reply comments and looks forward to continuing to work with the Joint Commissions in the development of strategies for implementation of AB 32.

October 7, 2008

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Susie Berlin", written over a horizontal line.

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## CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rule of Practice and Procedure, I have this day served a true copy of the **REPLY COMMENTS OF THE NORTHERN CALIFORNIA POWER AGENCY ON DRAFT "FINAL OPINION ON GREENHOUSE GAS REGULATORY STRATEGIES"** on all parties on the Service Lists for R.06-04-009, as last revised on the Commission's website on October 1, 2008, by electronic mail, and by U.S. mail with first class postage prepaid on those Appearances that did not provide an electronic mail address.

Executed at San Jose, California this 7<sup>th</sup> day of October, 2008.

A handwritten signature in blue ink, appearing to read 'Katie McCarthy', is written over a horizontal line.

Katie McCarthy