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 Emission Standards into Procurement Policies.	Rulemaking 06-04-009 (Filed April 13, 2006)
Order Instituting Informational Proceeding – AB 32.	CEC Docket No. 07-OIIP-01

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
REPLY COMMENT

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Dated: October 7, 2008

SUBJECT INDEX

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY REPLY COMMENT

In accordance with Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the Southern California Public Power Authority ("SCPPA") respectfully submits this reply comment on the Proposed Decision ("PD") of Commissioner Peevey that was mailed in the captioned proceedings on September 12, 2008.

I. THE ARGUMENTS FOR A SALES-BASED ALLOCATION OF ALLOWANCES AMONG RETAIL PROVIDERS ARE ERRONEOUS AND MISLEADING.

Four of the 32 commenting parties argued in support of the PD's recommendation that all electric sector allowances should be allocated among retail providers on the basis of gross retail sales. Pacific Gas & Electric Company ("PG&E") at 4; San Diego Gas & Electric Company and Southern California Gas Company ("SDG&E/SoCalGas") at 4; Northern California Power Authority ("NCPA") at 14; Natural Resources Defense Council ("NRDC") at 12. Without exception, their arguments fail.

First, they argue that "strong incentives" are needed for both deliverers and retail providers to reduce GHG emissions. NRDC at 12, SDG&E/SoCalGas at 4. However, as PacifiCorp points out, "a declining GHG emissions cap already accomplishes the same effect…." PacifiCorp at 12. Instead of providing an appropriate incentive, all that a retail sales allocation of allowances would accomplish is a massive wealth transfer among retail providers.

The Los Angeles Department of Water and Power showed in its opening comment that the recommendation for allocating allowances among retail providers on the basis of retail sales would result in a cumulative wealth transfer among retail providers by 2020 that exceeds $4.7 billion, assuming allowance prices of $100/t. LADWP at 6. PG&E would be the primary beneficiary of the wealth transfer, receiving nearly 70 percent ($3,235) of the transferred wealth. The wealth transfer would have a grossly inequitable impact on rates, "with Anaheim receiving an unthinkable rate increase of 3.9 cents/kWh while PG&E receives an unjustifiable rate reduction of 0.77 cents/kWh." LADWP at 8.

An allocation based on gross retail sales would result in a grossly inequitable wealth transfer without accomplishing anything more than what is supposed to be achieved by the continually declining cap itself. *See* SCPPA Comment at 9.

Second, the parties supporting the sales-based allocation of allowances among retail providers argue that the allocation would "reward, and not penalize, those entities that have already made investments in low-carbon resources." NRDC at 12. PG&E says it is "a low emitting utility which has taken early action on behalf of its customers for many years…." *See also* NCPA at 13. PG&E explains that the "early actions" for which it should be rewarded go back far beyond the enactment of Assembly

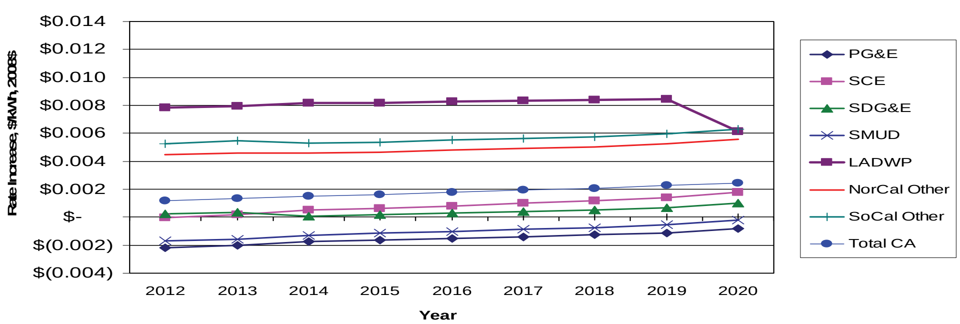
Bill ("AB") 32: "Our customers took 'early action' over the last three decades to invest billions of dollars in energy efficiency and clean energy resources." PG&E at 2.

It is utterly disingenuous for PG&E, NCPA, and NRDC to attempt to claim that large hydroelectric and nuclear facilities that were built decades ago constitute "early action" as that term was used in AB 32[1]. PacifiCorp correctly observes:

> Utilities that built hydroelectric dams many decades ago or nuclear plants in the sixties and seventies did not do so to avoid GHG emissions. Utility investments in renewables or energy efficiency were largely required by regulatory mandates that included numerous public policy rationales, including avoiding new sources of GHG.

PacifiCorp at 8. Allocating allowances to deliverers that are supported by large hydroelectric and nuclear facilities would not result in any GHG emission reductions. The facilities are already in place and have been for years. As the PD correctly notes, "including all generation would provide free allowances to deliverers that use non-emitting resources including nuclear, hydro, and renewable sources that do not need them." PD at 156.

Third, SDG&E/SoCalGas argue that a sales-based allocation among retail providers should be adopted because Figure 5-10 of the PD shows that sales-based allocation "would have minimal impact on rates." SDG&E/SoCalGas at 4. This claim is particularly shocking. Figure 5-10, in fact, shows that while a sales-based allocation would have a benign or even beneficial impact on the rates of most California retail providers, the rates of, particularly, the SCPPA members would be increased in gross disproportion to rates of other California retail providers:



PD at 212. To eliminate the inequity graphically demonstrated by PD Figure 5-10, allowances should be administratively allocated among retail providers on the basis of sales only if the sales are fuel-differentiated and the sales that are supported by legacy large hydroelectric and nuclear resources are excluded from the allocation. SCPPA at 3-4; LADWP at 11.

[1] *See* Cal. H&S Code Sections 38562(b)(1) ("encourage early action") and (3) ("appropriate credit for early voluntary reductions").

II. THE ARGUMENTS AGAINST FUEL DIFFERENTIATING THE ADMINISTRATIVE ALLOCATION OF ALLOWANCES TO DELIVERERS LACK MERIT.

PG&E, NCPA, NRDC, SDG&E/SoCalGas, Calpine Corporation ("Calpine"), and FPL Energy Project Management, Inc. ("FPL") argue against the PD's recommendation for an initial fuel-differentiated administrative allocation of allowances to emitting deliveries during the initial years of the cap-and-trade program. There is a substantial overlap between the parties that argue *against* a fuel-differentiated allocation of allowances to emitting deliverers and parties that argue *for* an allocation of allowances to retail providers on gross retail sales. Some of the arguments are the same. Without exception, the arguments fail.

First, the opponents of a fuel-differentiated administration of allowances to emitting deliverers argue that the allocation would fail to recognize "early actions" to install zero-emission facilities and thus, would "penalize" purported "early actors" instead of rewarding them. *See* e.g., Calpine at 4, NRDC at 9, NCPA at 14. The "early action" argument should be rejected for the reasons discussed above. Administratively allocating allowances to facilities installed prior to enactment of AB 32 would result in a windfall to the owners of the facilities with no possible gain in GHG emission reductions.

Second, NRDC and PG&E argue that the PD's recommended administrative allocation to deliverers would raise wholesale prices, thereby creating an opportunity for windfall profits to deliverers and imposing costs on the consumers of retail providers that are dependent upon wholesale market purchases for supply to consumers. NRDC at 7-9; PG&E at 8-9. PG&E presents a table purporting to show the adverse impact on PG&E rates if allowances were allocated to deliverers and the full value of the allowances were reflected in wholesale prices. Both PG&E and NRDC conveniently ignore the fact that administratively allocating allowances on the basis of output may mitigate the "market clearing price effect" on wholesale price. As the PD notes, an "output-based allocation to deliverers may suppress the pass-through of GHG costs in wholesale prices." PD at 216.

Third, FPL argues against allocating allowances on a fuel-differentiated basis to emitting resources by claiming that "lower emitting resources are already paying a premium price for less carbon intensive fuels they utilize." FPL at 4. FPL's argument provides no justification for any allocation to legacy zero-emitting facilities that have low or zero fuel costs such as hydroelectric and nuclear facilities.

III. THE ARGUMENTS FOR AN EVEN MORE RAPID TRANSITION TO 100 PERCENT AUCTION TO DELIVERERS SHOULD BE REJECTED.

Some of the parties that oppose a fuel-differentiated allocation of allowances to emitting deliverers support a rapid transition to 100 percent auctioning. FPL at 4, NRDC at 4, PG&E at 3. However, the PD's transition from an 80 percent administrative allocation to deliverers to full auctioning by 2016 is already too fast. It should not be accelerated.

If there is an administrative allocation of allowances to retail providers with the allowances subsequently being monetized through a centralized auction, the resulting auction revenues would be exposed to being diverted for other purposes instead of being returned to the retail providers. LADWP explains:

> The LADWP has expressed concerns that an auction of emission allowances will introduce an opportunity for diversion of funds into state coffers. It is simply not credible to believe given the current state budget deficit and expected declines in tax revenues that a significant fraction of auction revenues will not be diverted to help stabilize the budget. Already, proposed federal GHG legislation specifically earmarks use of auction revenue funds from a federal cap-and-trade program for purposes like health care infrastructure and federal budget deficit reduction. Such uses of auction revenues is now being expressed in the aftermath of the recent collapse of the financial sector.

LADWP at 10-11. Retail providers that are also deliverers would be protected against a diversion to the extent to which they were administratively allocated allowances as deliverers. Thus, a lengthened period for the administrative allocation of allowances to deliverers would be beneficial for retail providers that are also deliverers such as the SCPPA members.

Numerous other parties argued for a lengthened period for transitioning from the administrative allocation of allowances to deliverers to full auctioning for separately stated reasons.[2]

IV. ADDITIONAL POINTS TO BE INCLUDED IN A REVISED PD.

Commentors raised several points which should be reflected in revisions to the PD.

First, SCE notes (at 13-14) that the PD recognizes the impact that electrification in the transportation sector could have on the electric sector.[3] SCE recommends that the PD be revised to explicitly recommend that ARB use allowance allocation to address electrification of other sectors. SCPPA concurs.

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[2] Energy Producers and Users and the Cogeneration Association of California ("EPUC/CAC") at 17-18 ("a rapid or material movement to an auction of GHG allowances [presentes] risks to electricity supply and reliability"); Green Power Institute ("GPI") at 3 ("by introducing such a rapid transition from free distribution of most of the allowances to full auction of a dwindling supply of allowances five years later, market participants will not have the level of planning certainty that will promote a smooth transition to the low-carbon future"); Modesto Irrigation District ("MID") at 10 ("the proposed transition slope to 100 percent auction is too steep"); NRG Energy, Inc. ("NRG") at 7 ("the transition to a 100% auction is very rapid given the time inherent in developing new low-emitting technologies"); NCPA at 9 ("going from no GHG emissions allowance market to 100% auction by 2016 is simply to fast to ensure sufficient market protections are in place and working properly"); PacifiCorp at 10 ("it is unrealistic to expect emitting deliverers to make the necessary adjustments to financial investment plans required to meet emission reduction obligations within such a short period of time"); Sacramento Municipal Utility District ("SMUD") at 8 ("an auction should be approached cautiously so as not to cause price shocks"); Southern California Edison Company ("SCE") at 3 ("five years is not sufficient time for entities to transition to low emitting resources").

[3] The PD states: "In order not to create a disincentive for the electrification of transportation, ARB may need to allocate extra allowances to the electricity sector to account for the increase in emissions expected as a result of these and other potential policies." PD at 127.

Second, several parties criticize the PD's recommendation "that the trajectory of…. required annual reductions be generally a straight line reduction between 2012 and 2020 for all sectors including electricity." PD at 125. SCE recommends that "the first compliance period be viewed as a transition period, with a reduced trajectory in order to allow a period of adjustment and [to] reduce the economic burden of emission reductions." SCE at 16; *see also* PG&E at 14-16; SMUD at 4. SCPPA concurs. SCE's recommendation is consistent with LADWP's recommendation for "a reasonable glide path for high carbon retail service providers in the early years to provide an adequate planning horizon for new investments and renewable generation and related transmission" with "a steeper curve in later years until reaching the required reduction levels in 2020." LADWP Comments on Allowance Allocation Issues at 13-14 (October 31, 2007).

Third, SCE recommends the PD be revised to recommend borrowing as an additional flexible compliance mechanism. SCE at 17; *see also* SDG&E/SoCalGas at 2. SCPPA concurs for the reasons set forth in its June 2, 2008 Comprehensive Comments (at 52).

Fourth, the Center for Energy Efficiency and Renewable Technologies ("CEERT") recommends that there be an "alternative compliance option" for retail providers that are also deliverers, "particularly municipal utilities with heavy coal portfolios…." CEERT at 10. For the reasons set forth in SCPPA's February 28, 2008 Comment on Proposed Interim Decision (at 12-13), SCPPA joins in support of an alternative compliance option for retail providers that are also deliverers.

Attachment A contains proposed revised findings of fact and conclusions of law to reflect these points as well as the points raised in SCPPA's opening comment on the PD.

V. CONCLUSION.

For the reasons set forth above, SCPPA urges the Commission to reject arguments for allocating allowances to retail providers on the basis of gross retail sales, to reject arguments against a fuel-differentiated allocation of allowances to emitting deliverers, to adopt a more gradual transition to full auctioning of allowance to deliverers, and to further revise the PD as discussed above and as shown in Attachment A.

Respectfully submitted,

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Dated: October 7, 2008

Appendix A

Proposed Revisions to the PD's Findings of Fact and Conclusions of Law

Appendix A

Southern California Public Power Authority
Proposed Revisions to the Proposed Decision's Findings of Fact
and Conclusions of Law

Findings of Fact

1. Energy efficiency is the cheapest and most effective resource for reducing GHG emissions in the electricity and natural gas sectors.

2. Many non-price market barriers to energy efficiency investment exist and will continue to exist even if a GHG emissions allowance cap-and-trade program is implemented.

3. As the cost of GHG mitigation becomes reflected in the cost of energy, more energy efficiency opportunities should become cost-effective. However, as more "low-hanging fruit" energy efficiency is achieved, incremental energy efficiency options may become more expensive.

4. Achieving the goal of all cost-effective energy efficiency will require a continuation of existing direct regulatory/mandatory requirements, expansions of existing requirements and development of new ones where appropriate, and implementation of other innovative approaches such as market-based strategies.

5. Renewable mandates play an important role in achieving aggressive renewable energy penetration, since they provide a long-term signal that can lead to market transformation of new renewable technologies and potential cost reductions.

6. E3 estimates that GHG emissions reductions obtained through achievement of 33% electricity from renewables may have an average incremental cost of $133 per ton, compared to the current 20% RPS mandate.

7. Renewable energy provides environmental co-benefits, including reducing other non-GHG pollutants, when sited in California.

8. Significant implementation barriers exist to the continued of renewable energy in California.

9. Increased renewable energy penetration would increase fuel diversity.

10. California's longer term 2050 GHG reduction goals will require significantly reducing the GHG footprint of the electricity sector.

11. Having all retail providers deliver 33% renewable energy to their customers by 2020 would be an important first step in achieving this transformation.

12. It is reasonable for the State of California to set as a target that all retail providers deliver 33% renewable energy to their customers by 2020.

13. E3's approach and analysis to estimating costs from reducing GHG emissions are reasonable for the purpose of informing our recommendations to ARB.

14. E3 estimates that the Accelerated Policy Case would result in GHG emissions totaling 79 MMT CO2e for the electricity sector in 2020.

15. We did not study the cost and rate impacts on consumers of increasing energy efficiency goals, renewable energy mandates, or levels of CHP beyond those in E3's Accelerated Policy Case. Prior to increasing these policies/mandates, the costs of additional reductions should be compared against the costs of mitigating GHG emissions across the California economy.

16. Linkage with a regional emissions trading system that includes all jurisdictions in the Western electricity grid would more likely result in coal-fired generators operating less, would significantly mitigate opportunities for deliverers to mask the carbon intensity of electricity through "contract shuffling," and may result in low-carbon generation displacing either coal or natural gas-fired generation depending on time and location.

17. The Western Climate Initiative has issued draft design principles that target an opening date of January 1, 2012 for a linked regional cap-and-trade program.

18. Linking with other state cap-and-trade programs through the Western Climate Initiative would remove or mitigate some of the challenges of a California-only approach.

19. In order to avoid a disincentive for the electrification of transportation, ARB should allocate extra allowances to the electricity sector to account for the increase in emissions expected as a result of transportation electrification and other potential policies.

20. The trajectory of required annual emission reductions should not be a straight line from 2012 to 2020 but, instead, should provide a glide path with a more gradual reduction in early years and a steeper reduction in later years to provide an adequate planning horizon for new investments.

~~19. Auctioning of allowances would provide market liquidity, ensure that all deliverers have equal access to allowances, and avoid the need for a set-aside or other administrative accommodation for new entrants.~~

~~20.~~21. There is an expectation that if allowances are auctioned GHG compliance costs would be internalized in wholesale electricity prices~~,~~. ~~sending more accurate price signals that would encourage participants in the electricity sector to reduce emissions.~~

~~21.~~22. Auctioning allowances would result in entities with compliance obligations bearing the full financial responsibility for emissions associated with electricity that they deliver to the California grid.

~~22.~~23. Auctioning would preclude windfall profits from allowance rents to independent deliverers.

24. An output-based approach to allocating allowances to deliverers may suppress the inclusion of allowance values in wholesale prices and suppress windfall profits from allowance rents to independent deliverers.

~~23.~~25. Distributing some free allowances to deliverers would reduce short-term impacts on generating resources, and would help generators adapt to the new regulatory environment.

~~24.~~26. A slower transition to auctioning would help protect ratepayers if problems arise as ARB implements AB 32 and experience is gained with the auctioning process.

~~25.~~27. A transition to 100% auctioning no earlier than ~~by~~ ~~2016~~ 2020 would ~~ensure that any allowance rents would be short-term and would~~ give existing high-emitting resources time to adjust their generation investments and allow time to gain experience with the auctioning process.

~~26.~~28. It is reasonable to introduce auctioning in a phased approach, ~~with 100% auctioning by 2016, so that California can reap initial benefits from auctioning and, at the same time,~~ to provide some protection and stability while the cap-and-trade market develops and matures.

~~27.~~29. A fuel-differentiated output-based allocation approach with distributions limited to emitting deliverers would provide all deliverers with allowances roughly in proportion to the amount they need, ~~and~~ would reduce the potential for allowance rents, constrain the impact on market clearing prices, and hold down consumer costs.

~~28.~~30. A fuel-differentiated output-based allocation approach with distributions limited to emitting deliverers would avoid undue economic harm to California electricity consumers who are currently locked into a certain degree of dependence on coal.

~~29.~~31. In a fuel-differentiated output-based allocation approach, it is reasonable that a higher weighting factor be applied for all coal generation delivered to the California grid.

~~30. If 100% auctioning is not implemented by 2016, an important longer-term goal of deliverer distributions should be to provide strong incentives for GHG reductions.~~

~~31. It is reasonable that allowance distributions to deliverers transition toward an output-based approach that weights all types of generation equally, to be reached by 2020 if 100% auctioning is not achieved by that time.~~

32. A centralized auction in which retail providers rather than the State own most or all of the electricity sector allowances at the time they are auctioned would simplify the auctioning and revenue distribution process, in that auction revenues would pass directly to the retail providers.

33. A centralized auction in which retail providers are required sell any allowances they receive would remove anti-competitive concerns regarding the distribution of allowances to retail providers.

34. It is reasonable to require that retail providers sell any allowances they receive in a centralized auction, provided that the retail providers have received the allowances in their capacity as retail providers rather than deliverers.

35. Allocating allowances to retail providers based on historical emissions in their electricity portfolios would accommodate carbon-intensive retail providers that may face relatively high rate impacts due to compliance costs.

36. ~~A long-term priority~~ Three key goals for allocating allowances ~~is to provide strong incentives for increased reliance on low- and non-emitting resources and to provide consistent signals to all retail providers regarding the value of low-emitting portfolios~~ are to minimize increases in average retail rates and bills statewide, minimize wealth transfer among customers of different retail providers, and avoid undue windfall profits for independent deliverers.

37. It is reasonable to transition allocation of allowances to retail providers from an historical emissions basis to a sales basis by 2020 ~~because a sales-based allocation would provide a long-term incentive to reduce reliance on high-emitting resources~~ with the allocation being fuel-differentiated and excluding any allocation to sales that are supported by legacy large hydroelectric or nuclear resources.

38. Deliverers that are also retail providers should be permitted to pay the net difference between their cost of buying auctioned allowances and the auction revenues that they receive.

~~38.~~39. To meet the goals of AB 32, California is preparing to implement ambitious energy efficiency and renewable energy mandates.

~~39.~~40. Meeting the targets for the electricity sector outlined in ARB's Draft Scoping Plan will require significant additional expenditures on energy efficiency measures and the development of new renewable resources.

~~40.~~41. It is reasonable to require that all auction revenues be used for purposes related to AB 32 and that all auction revenues from allowances allocated to the electricity sector be used for the benefit of the electricity sector.

~~41.~~42. Electricity delivered to the California grid by CHP facilities is indistinguishable from electricity delivered from non-CHP sources.

~~42.~~43. With respect to GHG emissions, all electricity generated by a CHP facility is identical whether the electricity is delivered to the grid or consumed on-site.

~~43.~~44. It is reasonable to use the same generating capacity size threshold as that used for other deliverers to determine which CHP facilities should be included in a multi-sector cap-and-trade program.

~~44.~~45. It is not necessary to attribute GHG emissions from CHP facilities to a unique CHP sector if the GHG emissions are included in a multi-sector cap-and-trade program.

~~45.~~46. CHP facilities deliver a portion of their electricity to the grid and, for GHG regulatory purposes, also should be treated comparable to deliverers for the portion of electricity that is consumed on-site.

~~46.~~47. It is reasonable to allocate allowances to CHP facilities using the fuel-differentiated output basis, as described in this decision.

~~47.~~48. To the extent that CHP facilities provide electricity that is consumed on-site, distributing allowances to CHP facility operators on the same basis as retail providers would provide equitable treatment for CHP facilities.

~~48.~~49. Linking California's cap-and-trade program with other trading systems would add liquidity and efficiency to California's trading market.

~~49.~~50. Bilateral linkage would allow California to ensure that any allowances accepted by California entities from other systems are of comparable quality to California allowances.

~~50.~~51. It is reasonable for California to pursue bilateral linkage with other local, regional, national, and international GHG cap-and-trade systems that have comparable stringency, monitoring, compliance, and enforcement provisions.

~~51.~~52. Unique characteristics of the electricity sector necessitate that the cap-and-trade market include a ~~reasonable~~ broad range of flexible compliance options in order to provide needed flexibility to the sector while maintaining the environmental integrity of the emissions cap.

~~52.~~53. ~~Permitting entities with compliance obligations to borrow emission allowances would delay reductions and could make it more difficult to achieve AB 32's reduction goals. Other f~~ Flexible compliance measures offer the potential to aid obligated entities to manage their obligations with less risk to the program's environmental integrity.

~~53.~~54. Price triggers and safety valves ~~could very likely distort or defeat the cap-and-trade market by creating uncertainty that investments in emissions reduction technologies will achieve returns commensurate with the level of reductions needed to meet the State's emissions reduction goals~~ provide insurance against unforeseen price spikes that could have a devastating effect in California and threaten the viability of the cap-and-trade program.

~~54.~~55. Declining allowance prices over time are likely to indicate that the market is working to drive sufficient investment toward the required emissions reductions.

56. Banking permits a regulated entity to accumulate allowances as a hedge against volatile allowance prices or unforeseen spikes in the entity's emissions.

57. Borrowing permits a regulated entity to borrow allowances from the future if emissions or allowance prices spike unexpectedly and would allow a regulated entity to smooth the pattern of using allowances to cover emissions.

58. Retail providers that are also deliverers should be permitted to elect to be regulated under an alternative compliance mechanism to mitigate the double burden of paying for allowances while bearing the cost of meeting programmatic mandates.

Conclusions of Law

1. The administrative allocation of allowances that we are proposing is facially neutral, as between interstate and intrastate commerce, and does not have a discriminatory purpose or effect. The allowances would be allocated based on fuel-differentiated output from emitting resources, whether the generation of the electricity occurs in California or elsewhere.

2. The auctioning of allowances that we are proposing is facially neutral, as between interstate and intrastate commerce, and does not have a discriminatory purpose or effect.

3. Under Pike v. Bruce Church, Inc. (1970) 397 U.S. 137, 142, a state enactment "will be upheld unless the burden imposed on [interstate] commerce is clearly excessive in relation to the putative local benefits."

4. The use of an allocation to emitting resources based on fuel-differentiated output ~~based criterion~~ would not violate the dormant Commerce Clause.

5. The auctioning of allowances would not violate the dormant Commerce Clause.

6. Under the California Constitution, Article XIII A, Section 3 a tax can only be enacted by not less than a two-thirds vote of the Legislature.

7. A regulatory fee does not require a Legislative vote of not less than two-thirds because it is enacted under a state's traditional police power, not its taxing authority.

8. Under *Sinclair Paint Co. v. State Bd. of Equal.* (1997 15 Cal.4th 866, 875-876) regulatory fees imposed to pay for the expenses of a regulatory program or to defray the actual or anticipated adverse effects of the payer's action are not taxes imposed for revenue purposes.

9. Under *Sinclair Paint Co. v. State Bd. of Equal.*, (1997) 15 Cal. 4th 866, 870, fees must "bear a reasonable relationship to those adverse effects."

10. Our recommendation that any revenue generated from initial purchases of allowances should be distributed to retail providers to be used to further the purposes and goals of AB 32, and not deposited in the state's general fund ~~for non-AB 32 uses~~, does not violate Article XIII A, Section 3 of the California Constitution.

11. Our recommendation that revenue generated from initial purchases of allowances be reasonable in relationship to the adverse effects caused by the corresponding emission of GHGs, does not violate Article XIII A, Section 3 of the California Constitution.

12. Using auction revenues to provide rate relief to customers generally, or to low income customers who spend a larger proportion of their incomes on utility services, furthers the goals of AB 32, and is therefore a permissible use of auction revenues.

13. An historical emissions-based distribution of allowances to retail providers can be designed to recognize voluntary early actions these retail providers have taken to reduce emissions, consistent with Section 38562(b)(3). Section 38580(a) requires ARB to monitor compliance with, and enforce, the regulations it issues, but does not prohibit the use of out-of-state offsets or credits.

14. Section 38564 encourages linkage with the GHG-reduction programs of other states and nations.

15. AB 32 permits linkage to other GHG-reduction programs and the use offsets from outside of California.

16. Section 38562(b) describes things that ARB should do in “adopting regulations” “to the extent feasible.” It does not require each and every project carried out by private parties under those regulations to have the described effects.

17. Section 38570(b) requires ARB to do certain things “to the extent feasible” prior to the inclusion of any market-based compliance mechanism (such as offsets) in the AB 32 regulations.

18. Sections 38562(b) and 38570(b) require ARB to balance a number of potentially conflicting goals, including minimizing costs.

<u>**CERTIFICATE OF SERVICE**</u>

I hereby certify that I have this day served a copy of the **SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY REPLY COMMENT** on the service list for CPUC Docket No. R.06-04-009 and CEC Docket No. 07-OIIP-01 by serving a copy to each party by electronic mail and/or by mailing a properly addressed copy by first-class mail with postage prepaid.

Executed on October 7, 2008, at Los Angeles, California.

/s/ Sylvia Cantos

Sylvia Cantos

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