

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



FILED

05-05-11
04:59 PM

Order Instituting Rulemaking to Address
Utility Cost and Revenue Issues Associated
with Greenhouse Gas Emissions.

R. 11-03-012
(Filed March 24, 2011)

**REPLY OF THE CITY AND COUNTY OF SAN FRANCISCO
TO PREHEARING CONFERENCE STATEMENTS**

I. INTRODUCTION

Pursuant to the Order Instituting Rulemaking, the City and County of San Francisco (“CCSF”) submits these reply comments to the prehearing conference statements filed on April 21, 2011. CCSF’s interest in this proceeding arises from its unique position as a CCA, a municipality, and as an operator of a publicly-owned utility. First, as a Community Choice Aggregator (“CCA”), CCSF is interested in ensuring that any rules concerning revenues from greenhouse gas (“GHG”) allowances maintain a level playing field for CCAs relative to the investor-owned utilities (“IOUs”). Second, CCSF represents the interests of San Francisco’s citizens and businesses to ensure that the auction proceeds associated with GHG allowances are wisely and optimally allocated. Third, as the operator of a publicly-owned utility that will be subject to the California Air Resources Board’s (“CARB”) cap-and-trade regulations, CCSF is concerned that the overall market for GHG allowances be fairly structured and not subject to gaming.

II. DISCUSSION

A. The Commission Must Ensure Competitive Parity.

This rulemaking must ensure that the use and allocation of revenue from GHG allowances do not create an unlevel playing field or give the incumbent utilities an unfair advantage relative to CCAs, electric service providers (“ESPs”), and independent power producers. The CARB’s staff-proposed regulations require equal treatment between customers of CCAs and IOUs regarding the use of proceeds from allowances allocated to the electrical distribution utilities. Specifically, section 95892(d)(3)(A) of the CARB staff-proposed regulations state that:

Investor owned utilities shall ensure equal treatment of their own customers and customers of electricity service providers and community choice aggregators. (Section 95892(d)(3)(A)).¹

Many parties have recognized that this issue will play an important role in this proceeding.² These comments highlight the need to ensure competitive fairness in how the distribution of revenues from GHG allowances are divided between IOUs on the one hand, and CCAs and ESPs, on the other.

In particular, CCSF reiterates MEA’s comments noting that a key component of this rulemaking will be the deployment of GHG emission rules for CCAs.³ Because the CARB regulations do not allocate emission allowances to CCAs, this proceeding will need to address how revenues from emissions allocations should be passed through in a timely fashion to non-IOU load serving entities, such as CCAs.

The CARB staff-proposed regulations clearly embody a policy of ensuring fairness and equality for CCA customers. However, much work needs to be done to translate what is essentially a policy statement into detailed implementation language. CCSF looks forward to working with the Commission in developing these rules.

¹ OIR at p. 9.

² See opening comments filed by TURN, Southern California Edison, Marin Energy Authority (“MEA”), Independent Energy Producers, Western Power Trading Forum, Shell Energy NorthAmerica, and others.

³ MEA opening comments at p. 2.

B. Any Rate Changes Associated with the Allocation of GHG Proceeds Must Be Coordinated with Other Ratesetting Proceedings.

The Commission's adopted policy regarding refunding the proceeds of GHG allowances to ratepayers reiterates the Commission's concern that any refunds "not dampen the price signal resulting from the cap-and-trade program."⁴ As TURN noted in its comments, this is likely to be a complex issue to resolve, which TURN believes may require evidentiary hearings. CCSF believes that close coordination between this proceeding and the numerous other Commission proceedings affecting rates is appropriate.

C. The Range of Potential Uses of Refunds is Reasonable

In this proceeding, the Commission should consider all reasonable potential uses of revenue derived from refunds. With the caveat, as noted above, that auction revenues not be used to unfairly advantage the incumbent utilities, CCSF supports the Commission's original policy conclusion that:

All auction revenues from allowances allocated to the electricity sector be used to finance investments in energy efficiency and renewable energy or for bill relief, especially for low income customers.⁵

D. Competitive Issues Regarding the Utilities Participation in the Auction Process Need to be Addressed in this Proceeding

In its comments, Pacific Gas & Electric asserts that authorization and guidelines for procurement of GHG products should be addressed in the Long Term Procurement Plan proceeding, R. 10-05-006.⁶ The Division of Ratepayer Advocates, on the other hand, recommends that "the Commission consider and develop upfront standards and guidelines for utility participation in GHG emissions allowance and offset markets in the GHG rulemaking."⁷

⁴ OIR at p. 5, *quoting* D.08-10-037, at p. 227.

⁵ OIR at p. 5, *quoting* D.08-10-037, Ordering Paragraph #15.

⁶ PG&E opening comments at p. 1.

⁷ DRA opening comments at p. 4.

CCSF believes that in examining how utilities participate in the auction process, the Commission must ensure that utility participation in the market not create any unfair competitive advantage, even unintentionally. Different utility procurement strategies for GHG allowances could have significantly different effects on the price of GHG allowances and the overall liquidity of the market, particularly as the three IOUs will be among the largest participants in the initial phases of CARB's cap-and-trade proposal. This issue should be included in this proceeding, rather than in R.10-05-006.

III. CONCLUSION

CCSF looks forward to working with the Commission to address these complex issues.

Dated: May 5, 2011.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, **PAULA FERNANDEZ**, declare that:

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen years and not a party to the within action. My business address is City Attorney's Office, City Hall, Room 234, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102; telephone (415) 554-4623.

On May 5, 2011, I served **REPLY OF THE CITY AND COUNTY OF SAN FRANCISCO TO PREHEARING CONFERENCE STATEMENTS** by electronic mail on Proceeding R.11-03-012.

The following addressees without an email address were served:

- BY UNITED STATES MAIL:** Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

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I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed May 5, 2011, at San Francisco, California.

/s/
PAULA FERNANDEZ