BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

FILED
10-31-07
04:59 PM

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 RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of: Order Instituting Informational Proceeding on a Greenhouse Gas Emissions Cap	)))	Docket 07-OIIP-01

COMMENTS OF THE MODESTO IRRIGATION DISTRICT ON ALLOWANCE ALLOCATION ISSUES

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October 31, 2007

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In accordance with Rules of Practice and Procedure of the Public Utilities Commission ("CPUC") of the State of California, and the Administrative Law Judge's Ruling Requesting Comments and Noticing Workshop on Allowance Allocation Issues issued October 15, 2007 in Rulemaking 06-04-009 ("Ruling"), the Modesto Irrigation District ("Modesto ID") hereby files these Comments ("Comments") on Allowance Allocation Issues. Modesto ID also files these Comments with the California Energy Commission ("CEC") in Docket 07-OIIP-01. In these Comments, the CPUC and CEC will collectively be called the "Joint Agencies."

Parties to the above proceedings are invited to file comments on questions regarding the distribution of greenhouse gas (GHG) emission allowances. The Ruling acknowledges that no decisions have yet been made about the ultimate design of the GHG regulatory framework, including the point of regulation and the measurement of emission reductions. Commenters are

asked to clarify whether their responses differ for differing points of regulation[1] and to provide explanations for each response.

Modesto ID generally recommends that in a market based system implemented to meet emission reduction goals under AB 32 emission allowances should be allocated administratively based at least initially on point of regulations' historic emissions and accounting for forecasted as well as mandated load growth. Auction of allowances should be minimized and delayed until a robust market has matured. Proceeds from any allowance allocation should be used to reduce emissions, including investments in research and development of new non-emitting generation, renewable energy resources, and programs to encourage energy efficiency. Any market system put in place must be closely monitored by a single, identifiable regulatory body to avoid manipulation, fraud and other abuses.

Compliance with AB 32 should be achieved with the lowest possible impact on ratepayers. In any cap and trade system that is adopted emission allowances will play a critical role in meeting this goal. Allocation of allowances within the electric sector must account for growth of electric load, due both to electrification of other sectors and to increases in population. Free direct emission allowances should be provided to the electric sector, reduced on a periodic basis to achieve the overall emission reduction required from the electric sector. Allowances that are in excess of the recipient's need should be returned for free to form a bank for use by those that need an interim loan of allowances. Charges for such allowance "loans" can also be used for emission reduction.

[1] Modesto ID does not voice a preference between the load based (deliverer or retail provider) point of regulation and the first seller point of regulation. Modesto ID generally believes there would be no discernable difference in impact on Modesto ID operations and costs from these approaches.

BACKGROUND

Modesto ID is an irrigation district, organized and operated under the laws of the State of California, which undertakes both electric and water operations. It is a vertically integrated publicly owned utility providing electric services to over 110,000 customers in California's Central Valley. With regard to its electric operations, Modesto ID owns and operates facilities for the generation, transmission, distribution, purchase and sale of electric power and energy at wholesale and retail. Modesto ID is a fully integrated, fully resourced, credit worthy utility. Modesto ID served a peak summer load of almost 700 MW and had retail sales of over 2,500 GW-hours in 2006. Modesto serves this load through a mixture of owned and purchased resources, including wind, hydro, natural gas and coal generation. Modesto ID's projected annual average load growth over the next twenty (20) years is forecast to be 2.79%. Modesto ID is located in the central San Joaquin Valley where population growth has been consistently higher than the State average. The forecast growth is consistent with Modesto ID's historical load growth which has averaged 3% over the last 25 years.

RESPONSES TO QUESTIONS

Question 1:

Modesto ID does not believe the criteria are inconsistent with AB 32 but believes that certain other principles should also be recognized.

Any system for reducing emissions and allocating allowances must be consistent with existing laws and should incorporate emission reductions achieved through existing and future mandatory schemes. For example, renewable resources obtained to meet mandatory renewable portfolio standards and conservation measures obtained through required energy efficiency spending must be taken into account.

Such system must avoid market manipulation in any centralized market that is established.

Such system must balance any shifting of emission reductions from one sector to another. Of significant importance, allowance distribution must be designed to balance emission reductions achieved through fuel switching and other electrification measures.

In addition to these foregoing additional principles, Modesto believes that the criteria identified in "a." through "c." should receive the most weight in forming a system of emission reduction and allowance allocation.

Questions 2 and 3:

Emission allowances should be allocated administratively, in the pattern of the existing acid rain allowance mechanism. This will allow the market to develop gradually. A one hundred percent allocation method can be ratcheted down over time toward an auction once the trading platform has matured. The acid rain example indicates that such a market would likely take at least five years to establish, after which time a gradual creation and building of an emission allowance auction could occur.

Question 4:

Allowances should follow the load being served or the emissions being replaced, and should be administratively reallocated to new market entrants from such load or emissions. Where new load or emissions are created by the new market entrant, allowances can be loaned from a bank as described above.

Question 5:

It is important in the design of an auction process, if one were to be developed, that the overall market system for emissions be established and matured, and that emission allowance

trading is developed and experienced prior to initiation of any auction process. It is also important that any market based system not provide any windfall or any undue burden for the regulated entities. The system should not create a market power or bias among competitors. Nor should it shift responsibilities among industry sectors. The market must be stable and have integrity.

Question 6:

The allocation or auction of emission allowances must be coordinated with the compliance period in a manner that permits regulated entities to incorporate the market system into their business planning and to structure their compliance programs in the most cost efficient and effective manner.

Question 7:

Market power advantages and market manipulation are a significant concern with any market based system. Any such system must be monitored and enforced by a single identifiable regulator that will assume responsibility for avoidance of market skewing activities and fraud.

Question 8:

Any monies accumulated through a market based system, whether through an emission allowance loan program described above, an auction process, or market enforcement, should be applied toward emission reduction goals in a manner that will help retail providers minimize the rate impact reduction mandates will cause.

Question 9:

The success of any market based system will depend on designating an effective single, identifiable regulator responsible for the operation of all aspects of the system.

Question 10:

Modesto ID supports administrative allocation of emission allowances based initially on historical emissions attributed to the point of regulation, using consistent calculation of emissions at all measuring points. Historical emissions could be calculated based on the regulated entities' 2006 emission footprint. Adjustments would be required for early reduction activities undertaken by the entities. Adjustments would also be required to account for electrification activities undertaken to reduce emissions in other sectors and other anticipated electric load growth. This methodology will ensure that allowances are apportioned where they are needed.

Gradually, after the market system is well established, and regulated entities have had sufficient time to incorporate reduction obligations into their long term business planning, an emission based allowance allocation could transition to another allocation methodology. Time must be provided for such transition in order to ensure electric resource adequacy and reliability are protected and rate impacts are equalized.

Question 11:

As indicated in response to question 10, transition to a load based or other per capita allocation method is appropriate after the market system has matured and sufficient time for regulated entities to integrate their reduction programs into their long term planning.

Question 12:

New market entrants would receive allocations from those sources initially receiving "credit" for the emission source or load being served by the entrant.

Question 13:

Allocations should be updated based on reports submitted to the market regulator. Ideally, no new reporting requirements would be needed.

Question 14:

AB 32 was signed into law in 2006; this seems a logical base year for emission based allocations to be determined.

Question 15:

This question is addressed in response to questions 10 and 11 above.

Question 16:

Modesto ID does not oppose a two track system, but does not believe one should be necessary as long as the principles outlined in previous responses are adhered to. A two track system would raise questions regarding methodology for fairly splitting the allowance between the tracks and again among the participants on each track. Care would have to be taken to ensure that no market preferences were created and that manipulation, fraud and windfalls were avoided.

Question 17:

Adjustments would be required to account for load growth, both in terms of forecasted customer growth and electrification of other sectors. In addition, adjustments would be required for load balances (types of customers served by the provider) and climate impacts to load. Other forecasted or mandated load growth should likewise be accounted for.

Economic justice will be addressed through an even distribution of reduction responsibilities and avoidance of windfalls. In addition market proceeds could be used in part to address any residual economic inequities created by market impacts.

Question 18:

Allowance allocations should not be adjusted based on regulatory mandates among retail providers. However, providers should be given the flexibility to factor such mandated activities into meeting their emission reduction obligations. Thus, early reduction activities, including those undertaken in response to mandates and related or similar programs, such as energy efficiency and renewable portfolio standards, should not be discounted in determining reduction obligations and related needs for emission allowances.

Question 19:

This question is addressed in response to question 6 above.

Question 20:

Modesto ID's recommended methodology would provide for a proportional impact to regulated entities. Those having a higher carbon resource mix would necessarily bear a larger burden for carbon reductions; however, all sector participants would bear the burden of accomplishing the state mandates. Apportionment of allowances would be based, at least initially, on historical emission levels and include allocation for future forecasted load growth at least through the regulatory period. Since emission allowances would be allocated where they are needed, no disparate impact should result.

Questions 20 through 25:

As a vertically integrated electric utility, Modesto ID does not perceive a discernable difference in the impact on it of a First Seller approach as opposed to a retail provider point of regulation. If a First Seller approach is developed allocations should be based on the emissions of the generation resource or, as appropriate, the emission factor of the imported resource. System and unspecified power could be addressed through a portioned auction process, provided

that no parties other than the points of regulation should be permitted to participate in the auction until and unless safeguards against manipulation and fraud are securely in place through a single identifiable market overseer.

CONCLUSION

Question 28 requests that commenters provide a summary of their primary recommendations. Modesto ID generally recommends that in a market based system implemented to meet emission reduction goals under AB 32, emission allowances should be allocated administratively based at least initially on point of regulations' historic emissions and accounting for forecasted as well as mandated load growth. Auction of allowances should be minimized and delayed until a robust market has matured. Proceeds from any allowance allocation should be used to reduce emissions, including investments in research and development of new non-emitting generation, renewable energy resources, and programs to encourage energy efficiency. Any market system put in place must be closely monitored by a single, identifiable regulatory body to avoid manipulation, fraud and other abuses.

Respectfully Submitted,

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October 31, 2007

CERTIFICATE OF SERVICE

I, Linda Fischer, certify under penalty of perjury under the laws of the State of California that the following is true and correct:

On October 31, 2007, I served the attached:

COMMENTS OF THE MODESTO IRRIGATION DISTRICT ON ALLOWANCE ALLOCATION ISSUES

on the service list for R.06-04-009 by serving a copy of each party by electronic mail, or by mailing a properly addressed copy by first-class mail with postage prepaid to each party unable to accept service by electronic mail.

Copies were also sent by first-class mail with postage prepaid to Commissioner Peevey and Administrative Law Judges Charlotte F. TerKeurst and Jonathan Lakritz.

A copy was also sent by first-class mail with postage prepaid to the California Energy Commission, Docket Office, MS-4, Re: Docket No. 07-OIIP-01, 1516 Ninth Street, Sacramento, CA 95814-5512.

Copies were also served by email to the CEC docket office and to the Project Manager Karen Griffin.

A copy of the service list is attached hereto.

Executed on October 31, 2007, at Modesto, California.

Linda Fischer

Linda Fischer

CALIFORNIA PUBLIC UTILITIES COMMISSION
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Proceeding: R0604009 - CPUC - PG&E, SDG&E,
Filer: CPUC - PG&E, SDG&E, SOCALGAS, EDISON
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