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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.	R. 06-04-009

BEFORE THE CALIFORNIA ENERGY COMMISSION

AB 32 Implementation – Greenhouse Gas Emissions.	Docket 07-OIIP-01

COMMENTS OF THE WESTERN POWER TRADING FORUM AND THE ALLIANCE FOR RETAIL ENERGY MARKETS ON THE INTERIM OPINION ON GREENHOUSE GAS REGULATORY STRATEGIES

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February 28, 2008

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In accordance with Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission ("CPUC"), the Western Power Trading Forum[1] ("WPTF") and the Alliance for Retail Energy Markets[2] ("AReM") respectfully submit these joint comments on the Proposed Decision of Commissioner Michael R. Peevey, "Interim Opinion on Greenhouse Gas Regulatory Strategies," dated February 8, 2008 ("Proposed Decision" or "PD").

[1] WPTF is a California non-profit, mutual benefit corporation. The membership of WPTF includes energy service providers, scheduling coordinators, generators, energy consultants and public utilities, all of which are active participants in the restructured California electricity market and elsewhere in the West.

[2] AReM is a California non-profit mutual benefit corporation formed by electric service providers that are active in California's direct access market. The positions taken in this filing represent the views of AReM but not necessarily those of individual members of AReM or the affiliates of its members with respect to the issues addressed herein.

WPTF and AReM support the well-reasoned recommendations of the CPUC and the California Energy Commission (collectively, the "Commissions") set forth in the PD regarding the type and point of greenhouse gas ("GHG") regulation for the electricity sector, as well as extension of existing energy efficiency and renewable energy policies to publicly owned utilities ("POUs"). WPTF and AReM also do not necessarily oppose the Commissions' recommendation for partial auctioning of allowances at the outset of the cap-and trade program; however, WPTF and AReM suggest that the Proposed Decision should explicitly state that there should be a transition to the auctioning of allowances over time, and that the work to determine how to allocate allowances administratively during such a transition will continue. WPTF and AReM do not comment herein on the Proposed Decision's recommendations regarding GHG regulatory strategies for the natural gas sector.

I. Making the Deliverer of Power the Point of Regulation for the Electricity Sector is Appropriate.

WPTF and AReM fully support the Commissions' recommendation that the California Air Resources Board ("CARB") should develop and implement a multi-sector cap and trade program that includes the electricity sector, and that the point of regulation for the electricity sector should reside with entities responsible for delivering power to the California grid— i.e., the "deliverer" approach. WPTF and AReM agree with the Commissions' assessment that the deliverer approach best meets the four criteria of: (i) environmental integrity; (ii) compatibility with other trading systems, including an anticipated national system; (iii) accuracy and ease of administration; and (iv) compatibility with wholesale markets, in particular the California Independent System Operator's ("CAISO") Market Redesign and

Technology Upgrade ("MRTU"). Specifically, WPTF and AReM believe that the deliverer approach:

- Addresses emissions from imports, and thus emission leakage, better than a purely source-based system;
- Would be more compatible with an expected source-based federal system, than a load-based approach;
- Is more administratively simple than a load-based approach that uses tradable emission attribute certificates ("TEACs"); and
- Is consistent with operations of evolving wholesale electricity markets, unlike a load-based approach that relies on contract and settlement data, or a source/load-based hybrid.

In addition, WPTF and AReM endorse the Commissions' finding that when a generator operates under a tolling arrangement, responsibility for GHG emissions should reside with the entity that purchases the power pursuant to the tolling arrangement, rather than the owner or operator of the facility. This finding is appropriate because the power plant owner cedes dispatch control when the plant is operated under a tolling arrangement.

WPTF and AReM also support the Commissions' commitment to continue to work with other states participating in the Western Climate Initiative ("WCI") to develop a cap-and-trade system for the Western region. WPTF and AReM believe that the same criteria and advantages noted above argue for the deliverer approach to be applied on a regional basis, and therefore urge the Commissions to pursue agreement on the deliverer approach for the WCI to ensure the broadest possible multi-sector trading system throughout the Western region.

II. Consistent Requirements for Renewable Energy and Energy Efficiency for Publicly Owned Utilities Will Ensure a Level Playing Field and Support the AB 32 Goals.

WPTF and AReM also agree with the Commissions' recommendation that CARB should mandate for POUs equivalent levels of energy efficiency and renewable energy procurement as are required for investor owned utilities. As WPTF and AReM have previously commented in this proceeding, renewable energy and energy efficiency programs provide important incentives for reducing overall emissions from the electricity sector, including from imported power. While the deliverer approach will minimize the potential for emission leakage due to increased reliance on power imports from high emission generators, it will not completely eliminate the problem. WPTF and AReM therefore support the Commissions' recommendation for extension of energy efficiency and RPS to publicly owned utilities.

However, WPTF and AReM believe that the PD should be modified to clarify the recommendations regarding the need for POUs to be subject to the same energy efficiency and RPS requirements, as the current wording could be interpreted as including electric service providers ("ESPs"). First, there is no need for the Commissions to note in the PD that ESPs should be subject to the RPS, as such entities are already required by law to meet the same RPS goals as the CPUC jurisdictional investor owned utilities ("IOUs"). Second, since ESPs are already facilitating energy efficiency programs of their customers, there is no need to impose specific energy efficiency requirements on ESPs. Furthermore, since direct access customers are eligible for most IOU-administered energy efficiency programs and help finance these programs, extension of energy efficiency mandates to the ESPs would be inappropriate. To do so would place ESPs at a competitive disadvantage, given that, unlike

the IOUs, such entities are not compensated for the reductions in generation revenues they would experience as a result of customer energy efficiency, nor are they compensated for program administration costs.

III. The Interim Decision Should Recommend the Administrative Allocation of Emission Allowances to Deliverers in the Early Years of the Program to Mitigate GHG Compliance Costs.

The Proposed Decision recommends that at least some portion of GHG allowances be auctioned to capped entities but, beyond this general policy statement, states only that "(b)ased on the current record, we are not able to determine whether a portion of allowances should be allocated administratively in a deliverer-based system and, if so, what the initial mix should be and whether to transition over time to greater reliance on auctions."[3] The Proposed Decision recommends that this issue be further addressed in this proceeding.

WPTF and AReM agree there is a need to further address allocation issues, and do not necessarily oppose the idea that there would be some auctioning of allowances at the outset of the program. However, as WPTF and AReM have previously noted, the imposition of GHG regulation could impose significant costs on generators and other affected entities, particularly in the early years of the program. WPTF and AReM therefore support the use of administrative allocation mechanisms to alleviate costs under the deliverer approach in the early years of the program.

Furthermore, while WPTF and AReM support a transition to auctioning over time, we believe a gradual transition is necessary to avoid undue economic harm to generators and other affected entities. WPTF and AReM are concerned that the PD's support for at least

[3] Proposed Decision, at p. 86.

partial auctioning of allowances may distract from consideration of the important issue of how to allocate allowances during the transition to increased auctioning. If the Commissions recommend that a portion of the allowances should initially be auctioned, WPTF and AReM urge the Commissions to include in their final decision a clear statement that there will be a transition period, and to direct that a procedural schedule be established for determining the optimal mechanism for allowance distribution during the transition period.

IV. Conclusion

For the reasons above, WPTF and AReM support adoption of the Proposed Decision with the minor modifications described herein. WPTF and AReM appreciate this opportunity to comment on the Proposed Decisions and the Commissions' consideration of our comments.

Respectfully submitted,

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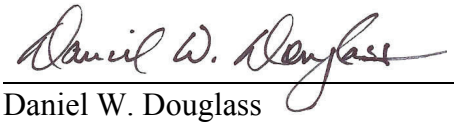

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February 28, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing ***Comments of the Western Power Trading Forum and the Alliance for Retail Energy Markets on the Interim Opinion on Greenhouse Gas Regulatory Strategies*** on all parties of record in ***R.06-04-009*** by serving an electronic copy on their email addresses of record and, for those parties without an email address of record, by mailing a properly addressed copy by first-class mail with postage prepaid to each party on the Commission's official service list for this proceeding.

Executed on February 28, 2008, at Woodland Hills, California.

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