BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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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, 2007)

COMMENTS OF SEMPRA GLOBAL ON PROPOSED DECISION

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February 28, 2008

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I. INTRODUCTION

In accordance with Rules 14.3 and 14.6 of the Commission's Rules of Practice and Procedure, Sempra Global files its Comments on the Proposed Decision of President Peevey (the "PD") that was issued on February 8, 2008. Sempra Global offers Comments on four aspects of the PD, namely: (1) the proposal to obligate Electric Service Providers ("ESPs") to achieve "all cost-effective energy efficiency" is redundant and potentially punitive to ESPs who are currently ineligible to recover the administrative costs of these programs – if the Commission were to adopt this proposal, it would also have to require the Investor Owned Utilities ("IOUs") to recover the ESPs' administrative costs through distribution rates and provide reimbursement to the ESPs to ensure the existence of a level playing field in retail markets, which would make no sense in light of the fact that a mechanism already exists to make these programs available to ESP customers and to allocate and recover associated costs; (2) the Commission should not recommend a unilateral increase in the percentage of energy consumption from renewable energy sources, but rather allow market forces to determine the "right" amount under the cap-and-trade system; (3) the Commission should allocate, rather than auction, the bulk of any emissions allowances under its proposed cap-and-trade in order to avoid threatening reliability or causing whole sectors of the California economy to disappear; and (4) the Commission's

recommendation of designating the "first deliverer" to the California grid as the point of regulation requires further process for determining the correct GHG emissions value to assign to unspecified resources delivering into California. The Commission's prior decisions in this docket were based on an assumption that load-serving entities would be the point of regulation in a cap-and-trade system. Otherwise, the Commission should recommend that the Air Resources Board undertake that further process.

II. COMMENTS

A. The Commission should not require ESPs to achieve "all cost-effective energy efficiency."

The PD appropriately recognizes the valuable role that energy efficiency plays in the potential reduction of greenhouse gas ("GHG") emissions, as reflected in California's Energy Action Plan. However, the PD's proposal to require all load-serving entities including ESPs to achieve "all cost-effective energy efficiency" is misplaced in that it is likely only to impose costs on ESPs without any real impact on energy efficiency penetration levels. The reason for this is that most ESP customers remain eligible to participate in the energy efficiency programs administered by the IOUs, and the ESPs can and do act as facilitators in enrolling customers in these programs. To impose a separate requirement on ESPs to achieve the same enrollment goals as IOUs would be redundant, and would simply create two administrative frameworks rather than one, with each focused on enrolling customers in one set of programs. This would be costly and inefficient but would not result in energy efficiency gains.

Moreover, requiring ESPs to administer energy efficiency programs in parallel with the IOUs would place the ESPs at an economic disadvantage because they would not be entitled to recover their administrative costs through a distribution surcharge as the IOUs do. In order to be fair, the Commission would have to require that the costs to ESPs of their parallel administration

of energy efficiency be recoverable through a distribution surcharge collected by the IOUs and remitted to the ESPs, even though IOUs already offer and recover the costs for programs that are available to the exact same customers. Under such circumstances, the Commission should decline to adopt the proposed ESP requirement and instead focus on achieving maximum penetration of energy efficiency through the continued joint efforts of the ESPs and IOUs.

B. The Renewables Portfolio Standard Should Remain at 20% with Market Forces Determining How Much, if any, Additional Renewable Energy Should be Consumed.

The PD recommends that the current Renewables Portfolio Standard ("RPS"), which requires that twenty percent (20%) of the electricity consumed in California be generated by renewable sources by 2010 be expanded, but declines to offer a specific alternative percentage or timeline. Sempra Global believes that, under a properly designed and well functioning cap-and-trade program, the market will optimize whatever additional renewable energy is needed to achieve the State's GHG emission reduction goals. Rather than attempting to find the "right" amount of additional renewables through an administrative or regulatory process, Sempra Global urges the Commission to focus on developing a robust cap-and-trade program with the proper incentives and rules, and let the market find the right amount of additional renewables.

C. GHG Emission Allowances Should be Allocated to the Maximum Extent Possible

The PD recommends further study, analysis and comment opportunity on whether or to what extent allowances should be allocated rather than auctioned, particularly because much of the current record was predicated on a load-based point of regulation rather than a first deliverer approach. In the case of the energy sector, the product produced is a necessity for all Californians and any major disruption in the marketplace could adversely impact reliability as well as the State's economy. Also, if one or more entities became insolvent due to an inability to

comply with GHG reduction mandates, there could be serious consequences for others in the energy sector as well as for the economy. Sempra Global therefore supports free allocation of allowances to the maximum extent possible.

D. Development of Additional Compliance Mechanisms Will Be Needed as a Result of the Adoption of the "First Deliverer" Point of Regulation.

Finally, Sempra Global notes that the PD's recommendation of the adoption of a "first deliverer" approach to the point of regulation will require identification of the power source and associated GHG emissions. If the source of power delivered to California cannot be determined, a default emission rate may be required. Sempra Global recommends the proposed decision acknowledge that if a default emissions rate is necessary, that it should be the subject of future proceedings. The adoption of a high value would provide a disincentive for high emitting resources to make sales of "system power" with an imputed GHG emission value that is arguably significantly lower than the resource's actual emissions, a practice known as leakage.

Recognizing the time constraints under which the Commission is operating in making its recommendations to the Air Resources Board ("ARB"), it may be equally appropriate or effective for the Commission to simply recommend that ARB adopt a high default GHG emissions value for unspecified units' reporting requirements.

III. CONCLUSION

The State of California and the Commission are about to embark on a historic and costly effort to curb GHG emissions, and the stakes are very high. It is important that the Commission make thoughtful and appropriate recommendations to ARB, which is what the PD does for the most part. However, the provisions of the PD regarding energy efficiency appear to do little more than create two sets of administrators trying to enroll the same customers in the same programs, and should not be adopted. Market forces should be allowed to determine within the

cap-and-trade framework how much renewable energy beyond the RPS is desirable and economically efficient in meeting the State's GHG reduction goals. Because of the economic stakes, emissions allowances should be allocated free to the maximum extent possible. Lastly, because the Commission has changed course by designating the first deliverer as the point of regulation, either the Commission or ARB should further explore the compliance mechanisms under the first deliverer approach to ensure that an appropriate default emissions rate is adopted for unspecified resources to avoid potential leakage.

Respectfully submitted,

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February 28, 2008

CERTIFICATE OF SERVICE

I hereby certify that a copy of **COMMENTS OF SEMPRA GLOBAL ON PROPOSED DECISION** has been electronically mailed to each party of record of the service list in R.06-04-009. Any party on the service list who has not provided an electronic mail address was served by placing copies in properly addressed and sealed envelopes and by depositing such envelopes in the United States Mail with first-class postage prepaid.

Copies were also sent via Federal Express to Administrative Law Judges Amy C. Yip-Kikugawa, Charlotte Terkeurst, and Jonathan Lakritz and Commissioner Michael R. Peevey.

Executed this 28th day of February, 2008 at San Diego, California.

/s/ Jenny Tjokro
Jenny Tjokro

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