BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking to Address Utility Cost and Revenue Issues Associated With Greenhouse Gas Emissions	**R. 11-03-012**

REPLY OF SIERRA CLUB CALIFORNIA TO PREHEARING CONFERENCE STATEMENTS

May 5, 2011

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I. INTRODUCTION

The Commission issued an "Order Instituting Rulemaking to Address Utility Cost and Revenue Issues Associated with Greenhouse Gas Emissions" ("OIR"). The OIR describes a preliminary scope of issues for this rulemaking, including that the Commission will consider "the use of GHG allowance auction revenues that electric utilities may receive from the California Air Resources Board (ARB), the use of revenues and that electric utilities may receive from the sale of Low Carbon Fuel Standard credits the electric utilities may receive from the ARB, and treatment of potential GHG compliance costs associated with electricity procurement.[1] Sierra Club California hereby respectfully submits this reply to pre-hearing conference statements pursuant to the OIR and Rule 7.2 and requests Party status in this proceeding.

II. INTEREST OF SIERRA CLUB CALIFORNIA IN THIS PROCEEDING

Sierra Club California ("SCC") is a non-profit, member-based public benefit California corporation. Sierra Club California's mission and purpose includes "promot[ing] the responsible use of the earth's ecosystems and resources; educat[ing] and enlist[ing] humanity to protect and restore the quality of the natural and human environment; and us[ing] all lawful means to carry out these objectives." Sierra Club California's environmental concerns encompass a broad range of energy and pollution issues. Specifically, Sierra Club has become a leader in the effort to reduce California's and the nation's dependence on fossil fuels. The highest current priority of the Sierra Club's work is eliminating the need for fossil fuel-fired power plants through the

[1] OIR at 21.

development of affordable renewable energy, energy efficiency and conservation. Sierra Club California advocated for the passage of AB 32 (2006), the Global Warming Solutions Act, and has actively participated in the regulatory process at ARB to develop the cap-and-trade regulation.

III. REPLY TO PREHEARING CONFERENCE STATEMENTS

A. Category of Proceeding and Need for Hearing

The Commission initially categorized this proceeding as a "ratesetting" proceeding. To the extent that this proceeding is allocating revenue and considering the effect on rates, this may be appropriate. However, "quasi-legislative" proceedings are proceedings that "establish policy or rules affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry."[2] This proceeding will consider important policy matters regarding the expenditure of allowance values by the class of regulated utilities. If the Commission categorizes this proceeding as "ratesetting," the Commission should proceed with the recognition that this proceeding will establish important policy matters, beyond merely setting rates.

The OIR does not anticipate a need for evidentiary hearings. SCC anticipates a need for adequate opportunity to obtain and present evidence as needed to articulate the relative advantages and disadvantages of various options for the use of allowance values. To the extent that the need arises, SCC respectfully requests the ability to request that hearings be held if needed.

[2] Commission Rule 1.3(d).

SCC additionally recommends that the Commission consider a workshop to allow the Parties to discuss the merits of various uses of allowance values, public participation hearings to provide for public input. At least one workshop could potentially provide for introduction of evidence, and iterative dialogue regarding the merits.

B. Scoping Should Include or Design a Comprehensive Comparative Resource Evaluation to be Coordinated with the California Energy Commission.

The scope of the proceeding as discussed on page 17 of the OIR is generally appropriate. To the extent that subtopics are appropriate to include in the Scope, SCC urges that the within the broad question regarding the use of allowance value and LCFS credit value, that the Commission include a meaningful examination of the relative benefits of a variety of options. Such a comparative resource evaluation should comprehensively examine resource options prior to allocation of revenue, and this evaluation would inform the selection of investments from the pool of allowance revenue allocated to energy efficiency and renewable energy investments. This evaluation should be conducted in close coordination with the Energy Commission.

This evaluation is important to ensure that the expenditure of significant funds best further the purposes of AB 32. A meaningful evaluation is essential to ensure that allowance values and LCFS credits are not only spent in furtherance of AB 32, but are spent in the most effective way, and that the proposed uses deliver emission reductions that are real, measurable, verifiable, permanent, and additional. Such an evaluation should consider factors such as the cost-effectiveness of investments, the ability of investment to overcome barriers to adoption, and positive and negative externalities, such as health and environmental justice co-benefits.

Notwithstanding the outcome of a comprehensive evaluation on the merits of various applications for allowance value, Sierra Club California strongly supports projects that would provide health co-benefits to disadvantaged communities, such as industrial energy efficiency that could lead to emission reductions, provided that projects go beyond regulatory requirements. Sierra Club California also raises the examples of achieving 4,000 MW of Combined Heat and Power (CHP), agricultural greenhouse gas emissions, where methane digesters could both generate electricity and mitigate emissions, but no current program exists to facilitate this transition. Similarly, Sierra Club California also generally supports the expansion and integration of cost-effective distributed generation which could be accelerated by removal of barriers to interconnectivity.. Such investments would need to be consistent with the requirement of the cap and trade regulation section 95892(d)(3) that auction proceeds shall be used for the benefit of retail ratepayers, and consistent with the goals of AB 32.

C. Use of Allowance Value Should Further the Goals of AB 32, and Efficiency and Renewables Investments be Additional to Existing Legal and Regulatory Requirements

The Commission previously decided that "all auction revenues should be used for purposes related to AB 32."[3] The Air Resources Board also included in its resolution adopting the cap-and-trade regulation that these purposes "could include investment in energy efficiency programs *beyond those already required by California law* and in renewable energy projects that achieve environmental and public health co-benefits for Californians."[4] Allowance value should

[3] D.08-10-037 Section 5.5.
[4] ARB Resolution 10-42, December 16, 2010, at 13 (emphasis added).

not be applied toward energy efficiency programs unless they clearly exceed the requirements of existing law, regulatory requirements, and regulatory planning framework, and can be evaluated and verified against the performance measures claimed. Similarly, allowance value applied toward renewable energy programs must be above and beyond requirements in existing law, particularly the limitation for each electrical corporation on procurement expenditures for the Renewable Portfolio Standard.[5]

The development of upfront rules and guidance Considertion of ensuring that the benefits and carbon costs are allocated both to the utility and to the generators.

Some Parties suggest use of allowance revenue to reduce generation rates, additionally with Pacific Gas and Electric (PG&E), San Diego Gas and Electric, and Southern California Edison suggesting an expedited Commission Decision allocating revenue for this purpose effective January 1, 2012. An expedited Decision would prejudice an adequate process that could consider Party arguments and evidence in the record, particularly because this proceeding will likely allocate hundreds of millions of dollars. Even a preliminary Decision could set a precedent that would be difficult to adjust later in the proceeding. Sierra Club California agrees with TURN that for utilities to hold allowance revenue in separate accounts under Commission discretion and disperse revenue appropriately pursuant to the Commission's Decision in this proceeding.

PG&E also suggests that "the AB 32 allowance revenues to be used to mitigate AB 32 costs," implying that all revenue be directed toward cost mitigation. This statement is inconstant with the direction recommended by the ARB. ARB recommended that allowance values include investments in energy efficiency and renewable energy.[6] Additionally, ARB "strongly advises

[5] See Public Utilities Code Section 399.15(b)(9)(c).
[6] ARB Resolution 10-42, December 16, 2010, at 13.

the CPUC…to direct a portion of allowance value…into investments in local communities, especially the most disadvantaged communities.[7] To the extent that allowance revenue is used to mitigate costs, this revenue (1) should be targeted toward mechanisms that directly address affordability, such as focusing on affordability for low-income customers, and (2) preserve conservation incentives to minimize potential increased energy use as a result of cost mitigation. This is supported by the prior Commission Decision which highlighted the need to protect low-income customers,[8] and that any customer cost mitigation should not dampen the price signal resulting from the cap-and-trade program."[9]

D. Use of Low Carbon Fuel Standard (LCFS) Credits Should Further Encourage use of Electric Vehicles By Reducing Upfront Costs of Customer Infrastructure.

Sierra Club California Agrees with the International Council on Clean Transportation that the Low Carbon Fuel Standard (LCFS) Credits should further encourage use of electric vehicles by reducing upfront costs of customer infrastructure. Encouraging electric vehicles is a key strategy in the AB 32 Scoping Plan, and has an appropriate connection with low carbon transportation.

IV. CONCLUSION

Sierra Club California looks forward to the opportunity for discussions in this proceeding regarding applying allowance value to further the goals of AB 32.

/s/ Andy Katz

[7] California Air Resources Board Resolution 1042.
[8] D.08-10-037 at 299.
[9] D.08-10-037 at 227.

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CERTIFICATE OF SERVICE

I hereby certify that I have duly served a copy of "Reply to Prehearing Conference Statement of Sierra Club California" in compliance with the Commission's Rules of Practice, this 5th day of May, 2011. Parties on the Service List have been served by e-mail, if an e-mail address has been provided, or by first class mail, if none provided. The assigned Commissioner and Administrative Law Judge have been served by first class mail.

A copy of the service list is attached.

Signed this 5th day of May, 2011 in Berkeley, CA

/s/ Andy Katz

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