BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

FILED
01-06-12
04:59 PM

Order Instituting Rulemaking to Address Utility Cost and Revenue Issues Associated with Greenhouse Gas Emissions.	Rulemaking 11-03-012 (Filed March 2011)

REVISED PROPOSAL OF THE SOLAR ENERGY INDUSTRIES ASSOCIATION ON USE OF REVENUES RECEIVED FROM AUCTION OF GHG ALLOWANCES BY CALIFORNIA INVESTOR OWNED UTILITIES

GOODIN, MACBRIDE, SQUERI,
DAY & LAMPREY, LLP
Jeanne B. Armstrong
505 Sansome Street, Suite 900
San Francisco, CA 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
E-mail: jarmstrong@goodinmacbride.com

Attorneys for the Solar Energy Industries Association

Date: January 6, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Address Utility Cost and Revenue Issues Associated with Greenhouse Gas Emissions.	Rulemaking 11-03-012 (Filed March 24, 2011)

REVISED PROPOSAL OF THE SOLAR ENERGY INDUSTRIES ASSOCIATION ON USE OF REVENUES RECEIVED FROM AUCTION OF GHG ALLOWANCES BY CALIFORNIA INVESTOR OWNED UTILITIES

In accord with the Joint Administrative Law Judges' Ruling Adopting Modified Schedule issued in the above captioned proceeding on November 16, 2011, the Solar Energy Industries Association (SEIA)[1] offers its revised proposal for the use of the revenues received from auction of greenhouse gas (GHG) allowances by California's investor owned electric utilities (IOUs).

The initial proposal was filed by the Solar Alliance on October 5, 2011. Effective of January 1, 2012, the Solar Alliance merged with SEIA. SEIA is the national trade association of the United States solar industry. Through advocacy and education SEIA and its 1,100 member companies work to make solar energy a mainstream and significant energy source by expanding markets, removing market barriers, strengthening the industry and educating the public on the benefits of solar energy. Through a notice filed on January 4, 2012, SEIA informed the Commission of the merger with the Solar Alliance and the necessary change in party name for participation in this proceeding.

[1] The comments contained in this filing represent the position of the SEIA as an organization, but not necessarily the views of any particular member with respect to any issue.

The revised proposal for the use of GHG revenues being offered herein by SEIA is consistent with the Commission's previously determined intended uses for the revenue and meets what SEIA believes should be the primary objectives of the Commission's adopted revenue allocation.

I. SUMMARY OF CHANGES

SEIA appreciates this opportunity to offer revisions to the proposal first presented to the Commission in October 2011 regarding the appropriate allocation of revenues achieved from the auction of GHG emission allowances. SEIA's overall proposal has not changed from the original Solar Alliance proposal, with SEIA recommending that a portion of the revenues being returned directly to ratepayers in a manner which maintains the carbon signal, a portion being used for energy efficiency programs, and a portion being used to enhance the ability of renewable projects to come on line.

SEIA has, however, made certain modifications to components of the initially offered proposal which pertains to the use of a modest amount of the GHG revenues to fund the upgrade to the IOUs' infrastructure necessitated by the interconnection of renewable projects.[2] These changes include:

- Clarifying that the revenues allocated for this purpose would be used solely for distribution system upgrades;
- Designating the investor owned utilities' (IOU) as administrators of the funds allocated for this purpose rather than have the funds administered through a revolving fund held by a state entity; and

[2] SEIA is also proposing that a modest amount of the funds be allocated to a "California Green Energy Bank" which will serve to provide financing tools that are currently unavailable at a state level to support further development of renewable energy projects in both the retail and wholesale market segments. This component of SEIA's proposal has not changed.

- Recognizing the interplay between elements of its proposal and the Commission's ongoing settlement negotiations regarding the IOU interconnection tariffs.

In addition, as noted, above, SEIA is recommended that a portion of the revenues being returned to ratepayers. In its previous submission, SEIA did not advance a particular method of dong such. To this end, SEIA notes its support for the proposal of the Natural Resources Defense Council, *et al* regarding the means by which any GHG revenues should be returned directly to customers.[3]

II. OVERVIEW OF COMMISSION POLICY AND BASIS FOR SEIA PROPOSAL

The issue of the appropriate use of the revenues from the auction of GHG emission allowances is not new to the Commission, but has been addressed in prior decisions issued over the last several years. Thus in Decision 08-03-018 the Commission stated:

> Because of the benefits, we conclude that some portion of the allowances available to the electricity sector should be auctioned. As an integral part of this recommendation, we conclude that the proceeds from the auction of allowances for the electricity sector should be used primarily to benefit electricity consumers in California in some manner, *in order to minimize costs of GHG emission reductions to consumers and assist with emissions reduction opportunities. Possibilities include use to augment investments in energy efficiency and renewable power or to maintain affordable electricity rates*.[4]

These initial suggestions for the use of auction revenue were reiterated and further refined by the Commission in Decision 08-10-037. In that order the Commission noted that "almost all parties agree that a portion of the auction revenues should be spent on energy

---

[3] *See* Initial Proposal of the Natural Resources Defense Council, Sierra Club California, Greenlining Institute, Union of Concerned Scientists, Local Government Sustainable Energy Coalition (LGSEC), National Consumer Law Center , Climate Protection Campaign, California Housing Partnership Corporation and the Community Environmental Council to Allocate Greenhouse Gas Revenue Allowances, R. 11-03-012 (October 5, 2011) at pp. 17-25.

[4] Decision 08-03-018 at p. 98.

efficiency and renewables,"[5] and stated:

> We continue to support the development of energy efficiency and renewable energy, as articulated in the Energy Action Plan 2008 Update. We believe that retail providers receiving auction revenues should be required to spend such proceeds in a manner consistent with the Energy Action Plan loading order and the goals of AB 32.
>
> ….
>
> California investor-owned utilities currently have sufficient renewable electricity under contract and in negotiation to deliver 20% of their electricity from renewable sources soon after 2010. California's support of renewable energy through the RPS and California Solar Initiative programs demonstrate that renewables can supply a large share of California's energy needs. The Draft Scoping Plan recommends that the State adopt a mandate of 33% electricity from renewable sources by 2020. Bringing that level of new renewables online will require substantial expenditures by California electricity consumers.
>
> ….
>
> For these reasons, and to meet the emission reduction goals in AB 32 through a variety of means, it is critical that California's retail providers devote auction revenues toward cost-effective means of complying with AB 32.[6]

In short, the Commission, having received extensive comments from stakeholders, has already made the determination that a portion of the revenues from the auction of GHG allowances should be allotted to energy efficiency and renewables programs, and thus that the entirety of these revenues should not be attributed to direct rate reduction.[7] Parties have provided no basis for undoing these previous Commission determinations. Therefore, the issue is not whether a portion of the revenues should be used to achieve the state's energy efficiency

---

[5] *See e.g.*, Opening Comments of Pacific Gas and Electric Company on Additional Issues Related to the Implementation of AB 32 in the Electric and Natural Gas Sectors, R. 06-04-009 (June 2, 2008) at pp. 32-33; Opening Comments San Diego Gas & Electric Company on Additional Issues Related to the Implementation of AB 32 in the Electric and Natural Gas Sectors, R. 06-04-009 (June 2, 2008).

[6] Decision 08-10-037, at pp. 226-227.

[7] In ARB Resolution 10-42 adopting the cap-and-trade regulation, the ARB concluded that uses for the funds generated by utility sales of allowances "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." *See* ARB Resolution 10-42, December 16, 2010, at p. 13.

and renewable goals, consistent with the purpose of AB 32, but rather the portion which should be allocated to those goals.[8] Moreover, as illustrated below, allocation of a percentage of the revenues to energy efficiency and renewable technology programs is consistent with the primary objectives to be achieved by such allocation, as set forth in the September 1, 2011 Scoping Memo issued in this proceeding.

III. APPROPRIATE RANKING OF POLICY OBJECTIVES REFLECTS PREVIOUS DELIBERATIONS

The Scoping Memo sets forth a number of policy objectives as an instrument to assist in the evaluation of different proposals presented by parties. Parties are directed to rank these policy objectives in order of importance. In doing so, SEIA submits that the order of importance must be guided by what the Commission has confirmed as the primary uses of the GHG revenues – i.e., *minimize costs of GHG emission reductions to consumers and assist with emissions reduction opportunities*. With this in mind, SEIA offers the following ranking of objectives:

1. Preserve the Carbon Price Signal

In assessing the value of any given proposal the Commission should keep in mind the ultimate goal of AB 32 – i.e., the reduction of GHG emissions. Thus, proposals should be judged on whether they incent the consumer to engage in behavior which leads to the reduction

---

[8] For example, the ten northeast states that participate in the Regional Greenhouse Gas Initiative (RGGI) cap and trade program collectively invest more than ten percent of all auction revenues in renewable programs. Some example of investments in renewables from these revenues:

- New York – Statewide Photovoltaic Program: Through October 2010, New York has committed $12 million of its CO2 allowance proceeds to support end-use solar installations for commercial, industrial, and residential customers, as well as electric utility applications. The program has supported the installation of 383 solar photovoltaic systems with a total capacity of approximately 3,710 kilowatts.
- Connecticut – On-Site Distributed Generation Program: Through October 2010, Connecticut has approved the use of $4.7 million of its CO2 allowance proceeds for municipal renewable energy projects through the On-Site Distributed Generation Program. The allocation funds solar photovoltaic energy systems on municipal buildings. It is estimated that these systems will produce 1,456 megawatt-hours of electricity annually

in GHG emissions or whether they provide an actual means by which to achieve such reductions. As noted by the Commission, "when the cost of greenhouse gas emissions is internalized, emitters and consumers will have an incentive to reduce their production / consumption of those goods or services which result in emissions."[9] In the context of reducing electricity consumption, such actions "could take the form of increased conservation, increased energy efficiency and/or the broader deployment of low or zero emission generating technologies in lieu of more emissive technologies."[10] Preserving the carbon price signal will be the critical means by which consumers will be incented to make the necessary changes to reduce consumption of electricity produced by GHG emitting processes. In order for the AB 32 end game to be reached customers must be incented to change their behavior; thus the objective of preserving the carbon price signal should be afforded the most weight.

2. Correct for Market/Regulatory Failures that Lead to Underinvestment in Carbon Mitigation Activities and Technologies

As explained by the Commission, this policy objective will be assessed based on the degree to which the proposed use of auction revenues addresses market or regulatory failures that inhibit or prevent investment in carbon mitigation activities and technologies.[11] As stated above, if the goal is reduction of GHG emissions, then there must be sufficient opportunity and means for consumers to engage in carbon mitigation activities and investments. Absent such opportunity, it will not matter how large the carbon price signal is as there will be insufficient means for consumers to act on those signals. While the past few years has seen the Commission

---

[9] Scoping Memo, Attachment A "Basis for Comparing the Tradeoff of Different Proposal Regarding the use of Allowance Revenues" (Attachment A), at p.A2.

[10] *Id*., at pp. A2-A3.

[11] *See* Attachment A, at p. A8; while this notation only addresses market failures, at the PHC held on August 2, 2011, ALJ Semcer indicated that addressing regulatory failures would also be considered part of this objective

engage in substantial undertakings with respect to the advancement of energy efficiency and renewable technologies, market and regulatory barriers still exist to the creation of the degree of deployment necessary to achieve AB 32 goals. Therefore, proposals which advance such deployment and provide consumers of all types the means to reduce their carbon footprint should be ranked highly.

3. Prevent Economic Leakage

The Commission states that this policy objective will be assessed based on the degree to which a given proposal protects emission intensive industries from competition by firms outside of the cap and trade regime who do not bear greenhouse gas compliance costs.[12] With that said, the Commission also notes that the ARB's regulations already allocate allowances directly to these entities which cover approximately 90% of their direct emissions.[13] What the ARB's regulations did not address was indirect emission costs -- defined as those costs of reducing emissions that are embedded in the price of the electricity received from California IOUs and used by these entities. Such indirect cost exposure may be substantial. Accordingly, in order to mitigate economic leakage, these industries must be afforded the means to avoid the cost of indirect emissions through the installation of alternative renewable energy sources. Proposals should thus be assessed on whether they provide these industries with the opportunity to reduce the consumption of electricity received from IOUs, thus reducing the costs of indirect emissions, and thus serving to ward off economic leakage.

4. Reduce Adverse Impacts on Low Income Households

As a percentage of income, the price increases in goods and services (i.e., electricity as

---

[12] Attachment A, at p. A5.

[13] Defined as those emissions for which the entities are directly accountable through the combustion of fossil fuels.

well as other products) reflecting the price of carbon will necessarily be greater in the case of low income households relative to higher income households. With respect to higher electricity rates resulting from GHG compliance costs, however, lower income families are largely shielded due to the limited increases in Tier 1 and Tier 2 rates allowed by SB 695, coupled with the significant discount received by low income customers under the CARE program. To extend these protections, the Commission should be looking for other means to assist these low income customers from potentially experiencing increasing energy prices under cap and trade. As noted by the Commission, "both energy efficiency and solar can provide an alternative to buying electricity from the utilities and thus act as a hedge" against higher energy prices.[14] Thus, while reducing adverse impacts on low income households is an important objective, the Commission should be assessing proposals on the degree to which they can assist low income households in decreasing their purchases of electricity rather than whether they allocate a larger share of the revenues to lower income households.

5. Achieve Administrative Simplicity and Understandability

Achieving administrative simplicity and understandability should be a key component of any proposal. Simplicity and understandability will allow for less of the auction revenues to be allocated to administering a proposal, thus allowing more to be used to achieve AB 32's goal of GHG reduction.

6. Maintain Competitive Neutrality across Load Serving Entities

The stated basis on which this policy objective will be assessed is "the degree to which a given approach to allocating revenues does not alter the relative competitive position of utilities,

[14] Attachment A, at pp. A-7-A-8.

energy service provider, community choice aggregators and publicly owned utilities."[15] While an important concept, it does not appears to be one upon which a proposal is built, but more one by which a proposal is implemented. For example, if the proposal is to return a certain percentage of the revenues to ratepayers, then in implementing that proposal, the Commission should assure that all ratepayers receive their allocated share irrespective of whether the IOU is their generation provider or generation is received from some other source (e.g., an ESP or CCA).

7. Distribute Revenues Equitably Recognizing the Public Asset Nature of the Atmospheric Carbon Sink

This objective is premised on the views that all citizens have equal claim over the atmospheric property right, the use of which being partially auctioned, thus all citizens have equal claim to the proceeds generated from the sale of emission allowance. It would appear, however, that for a proposal to meet this objective it would have to be geared toward a straight pass through of the revenues on a per capita basis. If this is the case, then it is unclear how such a proposal would serve to the meet the overall goal of AB 32 – emissions reductions – as it neither incents behavior which leads to GHG reduction or provides a means to reduce GHG emissions. SEIA submits that the use of this objective upon which to assess proposals in this proceeding will not lead to beneficial results.

IV. THE SEIA REVENUE ALLOCATIONS PROPOSAL IS CONSISTENT WITH INTENDED USES AND POLICY OBJECTIVES

As stated above, SEIA believes that the Commission must, consistent with its previously delineated policy, allocate a percentage of the revenues achieved through the auction of GHG allowances to the furtherance of renewable energy in the state. SEIA recognizes, however, that

---

[15] *Id.*, at p. A9.

such policy dictate is tempered by the Commission's overarching mandate to ensure that any funds allocated to such programs will lead to the reduction of GHG emissions in the state in a cost effective manner. With this in mind, SEIA offers the following proposal:

A. Proposal Provides Means to Bring Renewable Projects On-Line

Implement a "California Green Energy Bank" which will serve to provide financing tools that are currently unavailable at a state level to support further development of renewable energy projects in both the retail and wholesale market segments. These financing tools could include revolving loans, loan guarantees, sales tax exemptions for solar generation equipment and/or other financial instruments to renewable energy projects, including incentives for projects on disturbed lands. This bank should be housed within the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA), and complement the existing programs. For example, the SB 71 Advanced Transportation and Alternative Sources Manufacturing Sales and Use Tax Exclusion Program which is administered by CAEATFA, provides sales tax credits on a case-by-case basis to solar energy manufacturing equipment, but not solar generation equipment. SEIA proposes that 10% of the auction revenue be set aside for this purpose.[16] The benefits of the proposal are to provide financing assistance for new projects, but use existing administrative structures so that the proposal can be implemented quickly and efficiently. SEIA proposes that the implementation details, such as eligibility for monies from the fund and the application and disbursal process, be determined through a workshop process cosponsored by the Commission and CAEFTA.

In addition, to the above funding mechanism, SEIA recommends a portion of the revenue funds to be used for distribution system upgrade costs associated with the interconnection of

[16] Included in the 10 percent would be the cost of establishing and administering the fund.

renewable projects. Currently, costs associated with upgrading the transmission system are repaid to the developer by the IOUs over a five year period. The costs associated with distribution upgrades, however, are paid *solely* by the developer, despite the fact these upgrades benefit not only the developer but the general class of ratepayers by modernizing portions of an aging grid infrastructure.

The cost of distribution system upgrades associated with an interconnection can be significant. Such costs can often render a project no longer cost effective. Therefore SEIA proposes that 5% of the auction revenue be used to fund the necessary upgrades to distribution system resulting from the interconnection of renewable projects. The IOUs would administer the funds which would be allocated on an annual basis, with all eligible renewable developers that need to pay distribution upgrade costs within that year to benefit equally (equal dispersion among the developers).

SEIA recognizes that stakeholders are currently engaged in settlement negotiations for the purpose of revising the IOUs' Electric Rule 21 governing interconnection of generation facilities to the IOUs' distribution systems. The appropriate allocation of distribution system upgrade costs as well as the process by which those costs will be determined is part of such negotiations. As it is premature to predict the outcome of these negotiations, SEIA proposes that the specific details and implementation of its 5 percent set aside proposal for distribution system upgrade costs be determined by a workshop after the settlement process has concluded.

B. Proposal is Consistent with Commission Objectives

As discussed above, SEIA believes that the two primary overarching objectives which should be met through the allocation of the GHG revenues are (1) maintenance of the price signal, which will incent consumer engagement in carbon mitigation behavior, and (2) through

the reduction in market / regulatory barriers to investment in carbon mitigating technology, provide consumers adequate means to reduce their carbon foot print. These two objectives are integrally linked. The proposals advanced by SEIA would use a small percentage of the GHG auction revenues to enhance the ability of developers to bring renewable projects on line, and in that manner serve to meet the second of the primary objectives identified by SEIA, while not muting the carbon price signal.

The Scoping Memo sets forth a number of policy objectives which, while consistent, with the overarching objectives identified by SEIA, provide more specificity as to particular goals which should be achieved through allocation of the auction revenue. Parties were requested to discuss how their respective proposal does or does not meet each of Commission- identified objectives. In undertaking this analysis, SEIA regards it proposal as being comprised of three parts: (1) the funding proposals for additional renewable projects or necessary system upgrades which would utilize 15% of the GHG revenue; (2) a percentage allocation deemed appropriate by the Commission to return to ratepayers (in a manner which preserves the carbon price signal);[17] and (3) a percentage allocation deemed appropriate by the Commission for use for energy efficiency programs. With respect to the second element, while SEIA does not recommend a specific percentage allocation, it does, as noted above, it supports for the proposal of the Natural Resources Defense Council, et al regarding the means by which these GHG revenues should be returned directly to customers. With respect to the final element - use of funds for energy efficiency programs -- SEIA is not supporting any particular proposal at this time but does note that such usage is consistent with the uses the Commission has already determined are

[17] Thus for example, simply reducing a consumer's electric rate based on volumes used, merely serves to subsidize prices, removing the conservation signals and the customer's incentive to participate in strategies to reduce its own carbon footprint.

appropriate for GHG revenue.[18]

With this revenue allocation in mind, SEIA submits that its proposal directly meets four of the seven objectives identified by the Commission. First, preserving the carbon price signal can be achieved by returning GHG revenue to ratepayers in a manner which does not mask the true costs of GHG compliance. If the manner of return is only a line item on a utility bill, it will be opaque to consumers, and not serve its remediating function alongside a visible carbon price that encourages conservation and efficiency. Second, correcting market / regulatory failures leading to underinvestment in renewable technology can be, at least partially, achieved through the specific proposals advanced by SEIA. Providing access to funding so as to allow projects to secure the necessary financing to bring a project to completion, removes certain of the relatively high risk of investing in the emerging renewables market. Moreover, through the lowering of the cost of the project and thus the necessary financing and associated carrying costs and interest fees, ratepayers will benefit through the IOUs procurement of renewable energy at a lower cost.

Third, as discussed above, in order to prevent (or mitigate) economic leakage, industries must be afforded the means to avoid the cost of indirect emissions. SEIA's proposals, by providing means for more renewable projects to come on line, can offer opportunities for industry to team up with developers to design and bring on line a renewable project tailored to the needs of, *e.g.*, a particular manufacturing plant or processing center. Fourth, reducing adverse impacts to low income households can be achieved in multiple ways such as (1) the return of a certain percentage of the revenues to ratepayers, (2) using certain of revenues allocated for energy efficiency in a manner which target low income communities, and /or (3) providing that certain of the funds set aside for the "California Green Energy Bank" be used for

[18] *See* Decision 08-03-018 at pp. 98.

projects designed for low income housing, such as in the MASH program.

Moreover, SEIA submits that two of the objectives can be achieved through appropriate implementation of any proposal adopted by the Commission – (1) achieve administrative simplicity; and (2) provide for competitive neutrality across load serving entities. SEIA's recommendations herein are not inconsistent with these two objective.

Finally, the last objective -- distribute revenues in an a manner which recognizes the common nature of the asset- is not, as explained above one which SEIA believes can be used as a basis of a proposal and still maintain the overarching goals of AB 32 . Accordingly, SEIA's proposals are not consistent with this final objective.

V. CONCLUSION

SEIA appreciates this opportunity to present its proposal to the Commission, and looks forward to working with other stakeholders to fashion an allocation of the GHG revenues in a manner which is consistent with the overarching goals of SB 32.

Respectfully submitted this January 6, 2012 at San Francisco, California.

GOODIN, MACBRIDE, SQUERI,
DAY & LAMPREY, LLP
Jeanne B. Armstrong
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 392-7900
Facsimile: (415) 398-4321
E-Mail: jarmstrong@goodinmacbride.com

By *\/s/ Jeanne B. Armstrong*
Jeanne B. Armstrong

Attorneys for the Solar Energy Industries Association

3326/012/X135513.v1