Local Government SUSTAINABLE ENERGY Coalition

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Comments of the Local Government Sustainable Energy Coalition to California Air Resources Board Regarding "Staff Proposal for Allocating Allowances to the Electric Sector"

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The Local Government Sustainable Energy Coalition ("LGSEC")[1] applauds the work of the Air Resources Board in continuing to refine and clarify the regulations related to cap-and-trade, found at Subchapter 10, Article 5, Sections 95800 to 96022, Title 17 of the California Code of Regulations. LGSEC is the only statewide organization that advocates before California's energy and environmental regulatory agencies for the interests of local governments. Our members are leaders among local governments in energy efficiency, renewable energy, climate action planning, and related issues. LGSEC has limited objection to the proposed revisions, as detailed below.

The language added to §95892, entitled "Allocation to Electrical Distribution Utilities for Protection of Electricity Ratepayers," is of particular relevance to the extent that more detail is provided regarding the use of allowances by the electric sector. LGSEC opposes specifying the allocation of all of the allowance revenue, as this would undermine the rulemaking currently pending before the California Public Utilities Commission ("CPUC") addressing the utility cost and revenue issues associated with Greenhouse Gas Emissions (R.11-03-012). This in turn

[1] Across California, cities, counties, associations and councils of government, special districts, and non-profit organizations that support government entities are members of the LGSEC. Each of these organizations may have different views on elements of these comments, which was approved by the LGSEC's Board.

would be contrary to previously articulated policy by the ARB. Indeed, the resolution adopted by the ARB on December 16, 2010 made clear:

> "…the [ARB] strongly advises the CPUC and the POA governing boards to work with local governments and non-governmental organizations to direct a portion of allowance value, if cap-and-trade regulation is approved, into investments in local communities, and to provide an opportunity for small businesses, schools, affordable housing associations, and other community institutions to participate in and benefit from statewide efforts to reduce greenhouse gas emissions." (ARB Resolution 10-42, December 16, 2010, at 13.)

LSGEC participated in the proceedings that led to adoption of Resolution 10-42. The Resolution correctly builds on the AB 32 Scoping Plan and its recognition that local governments provide leadership in developing programs and policies that yield significant energy savings and emissions reductions.

As California implements AB 32, local governments have the most direct connection to residential and business constituencies and the most experience with implementing programs and policies at the grass-roots level. They also are at "ground zero" when their communities and infrastructure are impacted by natural disasters and man-made environmental threats. Consequently, local governments must be viewed as the State's major allies in effecting long-term progress toward sustainable energy and climate protection solutions. With that in mind, LGSEC opposes the limiting language of this proposed revision as it appears to allocate all allowance revenue to ratepayer relief and IOU programs related to energy efficiency and renewable energy, without providing any portion of the revenues to other public and private entities. Not only would this exclusive allocation be contrary to existing policy, but it would also be anti-competitive. Indeed, it would be difficult for any other group to compete with the estimated $5.8 billion over 8 years that the IOUs are estimated to receive from revenues from cap-and-trade allowances.[2]

It bears repeating that local governments are legally responsible for implementing a number of local, regional, and State mandates related to land use and transportation, integrated resource management, air quality, energy efficiency codes and standards and green building practices. For example, cities and counties:

- Own buildings, facilities and infrastructure such as street lighting, auditoriums, vehicle fleets, water distribution systems and wastewater treatment plants, all of which consume large quantities of stationary and mobile source energy
- Manage solid waste collections, landfills, and waste reprocessing facilities which are major potential sources of GHG emissions
- Have significant purchasing power and are able to exert market influence on the availability of environmentally preferable options for vehicles, equipment, building materials, mechanical systems and other technologies
- Set local land use and transportation policies, determine where development will be located and regulate the mix of property uses allowed
- Operate public transit systems and transit/transportation infrastructures
- Adopt and enforce building codes which impact the energy efficiency and renewable energy profile of residential and commercial buildings
- Regulate vehicle parking, traffic circulation and the design and condition of streets and roadways

[2] *See* GHG Auction Revenue Workshop (R.11-03-012) public notes, held on August 1, 2011 at the CPUC.

- Organize and administer access to public health care and treatment, and provision of emergency services, in response to natural disasters, climatic and extreme weather events, and manmade environmental threats
- Integrate community development block grants from the federal Department of Housing and Urban Development into comprehensive municipal programs that provide low-income housing and other assistance
- Have direct, comprehensive access to political leaders, residents, business owners and other constituents throughout their jurisdictions.

Ensuring that revenues from cap and trade are used to build on existing local government success is sound public policy, consistent with guidance from ARB. Indeed, the Economic and Allocation Advisory Committee's ("EAAC") recommendations to ARB and the CA EPA, in their March 2010 report "Allocating Emissions Allowances Under a California Cap-and-Trade Program", upon which the FR are based, makes clear:

> "Allowance value can also be channeled to local and regional government entities including cities, counties, regional planning agencies, school districts and other special districts including water and sanitation districts. These entities are well positioned to advance locally focused efforts on land use plans that facilitate carbon sequestration and avoided emissions from forests and grasslands, public transit agency investments, supporting individual and local business investments in more efficient appliances and weatherization, improved structures, and distributed renewable energy projects. Local entities are a natural focus of efforts to direct investment to disadvantaged communities." (EAAC Report, pp 54-55.)

It is LGSEC's understanding that the proposed revisions to the regulation relate only to a portion of the allowance revenue. ARB should clarify that the proposed revisions relate only to the allocation of allowances to utilities, and not to the disbursement of revenue from allowance sales. Should this interpretation be incorrect, we urge that the ARB maintain the policy it adopted in December. More importantly, ARB should refrain from adopting any new regulations until the CPUC has completed its deliberations, anticipated to be in early 2012.

Respectfully submitted,
LOCAL GOVERNMENT SUSTAINABLE ENERGY COALITION

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