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**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.

R. 11-03-012
(Filed March 24, 2011)

**OPENING COMMENTS OF THE NATURAL RESOURCES DEFENSE COUNCIL
(NRDC) SIERRA CLUB CALIFORNIA, THE GREENLINING INSTITUTE
(GREENLINING), UNION OF CONCERNED SCIENTISTS (UCS), LOCAL
GOVERNMENT SUSTAINABLE ENERGY COALITION (LGSEC), NATIONAL
CONSUMER LAW CENTER (NCLC), CLIMATE PROTECTION CAMPAIGN (CPC),
CALIFORNIA HOUSING PARTNERSHIP CORPORATION (CHPC), AND
COMMUNITY ENVIRONMENTAL COUNCIL ON PARTIES' PROPOSALS TO
ALLOCATE GREENHOUSE GAS ALLOWANCE REVENUES**

January 31, 2012

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1 Introduction

Pursuant to Rule 1.1 and 1.10 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, the Natural Resources Defense Council (NRDC), Sierra Club California (Sierra Club), Greenlining Institute, Union of Concerned Scientists (UCS), Local Government Sustainable Energy Coalition (LGSEC), National Consumer Law Center (NCLC), Climate Protection Campaign (CPC), California Housing Partnership Corporation (CHPC), and the Community Environmental Council (SBCEC) (collectively "Joint Parties") respectfully submit these opening comments based on the "Assigned Commissioner and Administrative Law Judges' Joint Scoping Memo and Ruling" (Scoping Memo) dated September 1, 2011, the "Joint Administrative Law Judges' Ruling Adopting Modified Schedule" dated November 16, 2011, and the "Administrative Law Judges' Ruling Extending Deadline" dated December 28, 2011, to allocate revenues generated from the sale of emission allowances by the three investor-owned electric utilities (Utilities) subject to the jurisdiction of the Commission.

We are encouraged by the broad level of support for California's climate and clean energy initiatives reflected in parties' proposals submitted to date in this proceeding. Where we

diverge from other parties relates to the role allowance revenues can play in facilitating ongoing customer acceptance and support for those initiatives. While we fully agree that allowance revenues can and should mitigate direct customer costs associated with carbon pricing in the electricity sector, the Commission must pay careful attention to the *manner* in which allowance revenues are returned to customers – which will have ramifications not only for the incentives created by carbon pricing to lower greenhouse gas (GHG) emissions and encourage clean energy alternatives, but for the public’s reception to and engagement with California’s climate programs.

We maintain the right approach should capitalize on the communication opportunity presented through allowance revenues to educate customers on the benefits of clean energy and the steps California is taking to make those benefits available to all utility customers (the success of which will ultimately determine the fate of California’s initiatives). We are concerned that proposals that take a fundamentally different path, proposing to obscure the costs and benefits of carbon pricing from customers entirely, risk creating the appearance of a convoluted shell game with little bearing on customer engagement and education. Instead, we feel the Commission can best ensure the enduring success of the program by returning allowance revenues directly to customers in a manner that is transparent and simple to understand, and by setting aside a portion of revenues for strategic investments to increase the availability and attractiveness of customer clean energy programs.

2 Parties

NRDC is a non-profit membership organization with nearly 100,000 members in California and has a longstanding interest in minimizing the societal costs of the reliable energy services that Californians demand.

Sierra Club is a national, California-based non-profit membership organization with 150,000 members in California, with an interest in increasing energy efficiency and renewable energy to reduce greenhouse gas emissions.

The Greenlining Institute is a national policy, organizing, and leadership institute working for racial and economic justice. The organization’s mission is to empower communities of color and other disadvantaged groups through multi-ethnic economic and leadership development, civil rights, and anti-redlining activities.

The Union of Concerned Scientists (UCS) is a national, non-profit, membership organization with over 14,000 members in California and is devoted to building a healthier environment and a safer world through the use of rigorous scientific analysis, innovative thinking and committed citizen advocacy.

The Local Government Sustainable Energy Coalition (LGSEC) is the only statewide organization that formally represents the interests of local governments before California's energy and environmental regulatory agencies. Members are leaders among local governments in energy efficiency, renewable energy, climate action planning, sustainability and related issues.¹

The National Consumer Law Center (NCLC) was established in 1969 with the mission of advocating on behalf of low-income consumers in the economic marketplace. In addition to focusing on many other consumer issues, NCLC has long worked on a range of energy and utility issues, with the goal of ensuring that low-income households have access to essential utility services and to energy efficiency programs. NCLC actively participated in the public policy discussions around the Waxman-Markey bill and other climate change legislation that came before Congress, particularly on the issue of how to allocate sufficient revenues to low-income customers to address bill impacts and to mitigating the effects of climate change.

The Climate Protection Campaign (CPC) is a California-based non-profit organization which focuses on public policy that will significantly reduce greenhouse gas emissions through increasing energy efficiency, developing renewable energy and other means.

The California Housing Partnership Corporation (CHPC) is a statewide organization dedicated to assisting nonprofit and government housing agencies to create, acquire, green, and preserve housing affordable for lower-income households, while providing leadership on housing preservation policy and funding. CHPC is also the convener of the Green Rental home Energy Efficiency Network (GREEN), a coalition of over 35 organizations committed to increasing access to energy efficiency resources for very low income residents of multifamily rental properties in California and ensuring that publicly assisted properties serving the state's lowest income households receive an equitable distribution of these resources.

¹ The LGSEC is a statewide membership organization of cities, counties, associations and councils of government, special districts, and non-profit organizations that support government entities. Each of these organizations may have different views on elements of these comments, which were approved by the LGSEC's Board. A list of our members can be found at www.lgsec.org.

The Community Environmental Council is a member-supported environmental non-profit organization formed in Santa Barbara in 1970 and is the leading environmental organization in the Central Coast region of California. In 2004, the Council shifted its primary focus to energy and transportation issues and is spearheading a regional effort to wean Central Coast communities from fossil fuels, on a net basis, during the next two decades. The Council is almost unique in combining on the ground work on a number of energy and climate change-related issues with concurrent work on state and federal policy issues. The Council's state policy work is directly informed by experience with what has worked, or is likely to work, at the local level. More information on the Council and its energy programs may be found at www.cecsb.org.

3 Discussion

We offer comments on specific elements of parties' proposals below. Overall, we continue to ask that the Commission weigh and compare proposals to the extent they advance the collective set of objectives identified in this proceeding. As outlined in the Scoping Memo, each objective reflects an important component of a well-designed plan to allocate allowance revenues, and the Commission should reject elements of proposals that achieve certain objectives at the expense of others.

3.1 The Commission Should Return Allowance Revenues to Customers Outside of Rates

3.1.1 Returning Allowance Revenues in Rates Contravenes ARB's Design Principles for Allocating Allowances to the Electric Utilities and Standing Commission Policy on the Appropriate Mechanism to Return Allowance Revenues to Utility Customers.

As we have documented throughout this proceeding, returning allowance revenue through rates is at odds with nearly every expert body that has considered the issue (including ARB and this Commission), as it undermines incentives at the retail level for efficiency and conservation.² ARB designed the allocation scheme for the electric utility sector contingent on the understanding that allowance revenues would not be returned to customers in rates. As ARB

² See, e.g., CPUC, D.08-10-037 at 227; EAAC, "Allocating Emissions Allowances Under a California Cap-and-Trade Program: Recommendations to the California Air Resources Board and California Environmental Protection Agency," p.66 (March 2010); ARB, "Allowance Allocation" (Appendix J), at J-61, available at: <http://www.arb.ca.gov/regact/2010/capandtrade10/capv4appj.pdf>.

noted in the Final Statement of Reasons (FSOR) accompanying final adoption of the cap-and-trade program, “when we determined that allowance value should be allocated to electrical distribution utilities on behalf of customers, *we made this decision with the explicit understanding that value would not be used to skew carbon pricing or reduce incentives for greenhouse gas reductions*” (emphasis added).³ Returning allowance revenues in rates also undermines incentives at the wholesale level to source power from a cleaner portfolio. As long as the Utilities can blunt price impacts on retail customers through the return of allowance revenues, the Utilities will have less of an incentive to avoid incurring carbon costs through the procurement of clean electricity.⁴ We therefore strongly urge the Commission to follow through on ARB’s expert guidance and reaffirm its prior conclusion that it is “imperative” that any mechanism providing bill relief through auction revenues be designed “so as to not dampen the carbon price signal” reflected in retail rates.⁵

3.1.2 Providing Off-Bill Rebates and Investing in Additional Energy Efficiency and Distributed Generation Programs Can More than Offset Increased Generation Costs Passed Through to Utility Customers.

The Commission should not view rate credits as the only viable means of mitigating costs to utility customers through the return of allowance revenues. ARB, for example, recommends providing rebates to residential customers as separate payments, not simply deducted from utility bills.⁶ We propose the Commission likewise return revenues to residential customers in the form of a separate off-bill rebate, varying in amount to take into account factors that the Commission has long recognized impact households’ electricity needs (overall, we propose setting aside roughly 70% of allowance revenues to rebate directly to customers, with a greater proportion of revenues going back to customers over the course of the program as allowance prices rise).⁷

In addition to direct customer rebates, however, allowance revenues present a critical opportunity to provide customers with enduring bill relief through facilitated demand-side

³ ARB, “California’s Cap-and-Trade Program: Final Statement of Reasons,” p.2307 (Oct. 2011), available at: <http://www.arb.ca.gov/regact/2010/capandtrade10/fsor.pdf>.

⁴ ARB, Appendix J, at J-16.

⁵ CPUC, D.08-10-037 at 227.

⁶ ARB, “California’s Cap-and-Trade Program: Final Statement of Reasons,” p.2307 (Oct. 2011), available at: <http://www.arb.ca.gov/regact/2010/capandtrade10/fsor.pdf> (noting “[we] continue to believe that rebates to residential customers should be made as separate payments, and not simply deducted from consumer bills.”).

⁷ Based on a schedule of allowance prices. Sierra Club California supports a higher portion of allowance revenues being set aside for investment.

reductions, which have the double benefit of both reducing customers' electricity usage (to mitigate direct customer costs) and Utilities' compliance costs (to mitigate system-wide costs). That is precisely the result forecast by several macroeconomic models looking at the impacts of carbon pricing,⁸ and has been borne out in practice in the states participating in the Regional Greenhouse Gas Initiative (RGGI); where, due to investments in energy efficiency programs financed through cap-and-trade allowance revenues, utility customers across sectors have experienced a *net decrease* in their overall utility bills.⁹

The same opportunity is available in California to lower customer bills by investing allowance revenues in additional energy efficiency and clean energy programs. Although California has long been a leader in utility-financed energy efficiency, and maintains aggressive targets for its customer energy efficiency programs, significant potential remains to advance energy efficiency that allowance revenues can help unlock. As we document extensively in our proposal, for example, the Utilities' energy efficiency portfolios are designed under a resource procurement framework that is under-investing in programs designed to achieve energy savings over a longer payback period (and which will be critical to achieve California's long-term climate goals at least cost).¹⁰

Massachusetts' experience to date under RGGI further illustrates the opportunity that allowance revenues present to capture additional energy efficiency and lower utility bills for customers. According to a recent study, Massachusetts has benefited the most economically of any of the RGGI states because it has invested the bulk of allowance revenues to help fund aggressive energy efficiency programs.¹¹ Like California, however, Massachusetts has

⁸ See, e.g., EAAC Report; ARB, "Updated Economic Analysis of California's Climate Change Scoping Plan: Staff Report to the Air Resources Board," (March 24, 2010), available at: http://www.arb.ca.gov/cc/scopingplan/economics-sp/updated-analysis/updated_sp_analysis.pdf; Center for Resource Solutions, "Climate Policy and Economic Growth in California: A Comparative Analysis of Different Economic Impact Projections," (Dec. 3, 2009), available at: http://www.resource-solutions.org/pub_pdfs/Climate%20Policy%20and%20Economic%20Growth%20in%20California.pdf; and David Roland-Holst, "Energy Efficiency, Innovation, and Job Creation in California," (October 2008), available at: http://www.next10.org/next10/pdf/report_eijc/UCB_Energy_Innovation_and_Job_Creation_10-20-08.pdf (all finding any additional costs in the form of higher generation costs can be more than offset through stimulated demand-side reductions).

⁹ Analysis Group, "the Economic Impacts of the Regional Greenhouse Gas Initiative on Ten Northeast and Mid-Atlantic States: Review of the Use of RGGI Auction Proceeds from the First Three-Year Compliance Period," p. 4-5 (Nov. 2011), available at: http://www.analysisgroup.com/uploadedFiles/Publishing/Articles/Economic_Impact_RGGI_Report.pdf.

¹⁰ See Joint Parties' Revised Proposal discussion at 37-48.

¹¹ Analysis Group, "the Economic Impacts of the Regional Greenhouse Gas Initiative on Ten Northeast

historically been a leader in developing energy efficiency as a resource (and supplanted California this year at the top of the American Council for an Energy-Efficient Economy's (ACEEE's) annual state rankings on efficiency achievement).¹² The Commission should thus not perceive California's progress on energy efficiency as an impediment to achieving deeper savings through programs financed by allowance revenues: as California has proven time and again, energy efficiency is the low-hanging fruit that continues to grow back.

3.1.3 The Commission Should Retain the Visibility of the Carbon Price in Retail Rates and Ensure the Benefits of Allowance Revenues are Transparent to Customers.

In addition to blunting incentives at both the retail and wholesale level, we are concerned that returning allowance revenues volumetrically in rates risks creating the appearance of a shell game that could jeopardize public acceptance and response to the cap-and-trade program. Cap-and-trade programs suffer in the public eye from their perceived complexity and connection to arcane financial instruments. At its core, however, the fundamental underpinning of a cap-and-trade program – to price what we want to discourage (carbon-intensive goods and services) and incentivize what we want to encourage (clean energy alternatives) – is easily understood and resonates well in California. Should the rulemaking process cloud the simplicity of that design, however, against the advice of expert panels and ARB (the lead agency responsible for implementing AB 32), we fear the program will lose support. The Commission must consider the appearance and efficacy of a program that freely allocates emission allowances to the electric Utilities, who are required to sell them at auction to upstream generators, but may then use the proceeds to eliminate any price effects at the retail level – particularly when allowance revenues are projected to *exceed* the Utilities' compliance costs over the course of the program.¹³

Likewise, we are concerned that returning allowance revenue through incremental rate credits will leave the vast majority of customers entirely unaware of the benefit. We do not think keeping customers in the dark is conducive to the enduring success of the program. Regardless of the decisions made in this proceeding, customers will hear reports about the program's

and Mid-Atlantic States" at 4-5.

¹² ACEEE, "2011 State Energy Efficiency Scorecard," available at <http://www.aceee.org/sector/state-policy/scorecard> (although those results are the subject of some dispute from California advocates).

¹³ See ARB, "Proposed California Cap On Greenhouse Gas Emissions And Market-Based Compliance Mechanisms Regulation, Including Compliance Offset Protocols," Appendix A: Staff Proposal for Allocating Allowances to the Electric Sector, p.12 (July 27, 2011), available at: <http://www.arb.ca.gov/regact/2010/capandtrade10/candtappa2.pdf>.

impacts on electricity costs (real or inflated). We therefore maintain that the success of the program is best ensured if the Commission embraces the opportunity to educate customers on why California is taking steps to reduce carbon pollution, and how state regulators are designing those programs to ensure utility customers are part of the broader solution.

3.2 Returning Revenues to Utility Customers in Direct Proportion to their Consumption “Eliminates Incentives for GHG Reduction Strategies” in the Electricity Sector, Thereby Increasing Compliance Costs for All Utility Customers

Returning revenues to customers in direct proportion to usage undercuts incentives for efficiency and conservation and contravenes ARB’s explicit policy direction in allocating allowances to the electric Utilities. ARB’s draft cap-and-trade rule prohibited the Utilities from returning revenues to customers on a volumetric basis. Citing jurisdictional concerns, ARB relaxed the mandatory prohibition in the final rule, but put to rest any suggestion that the change signaled a departure from a policy perspective, noting in the FSOR “we do not agree with the [Utilities] that return of value proportionate to electricity use is the correct incentive to reduce emissions.”¹⁴ Rather, ARB reemphasized its position that “volumetric return of allowance value *eliminates incentives for greenhouse gas reduction strategies* such as conservation of electricity, efficient combined heat and power, and distributed electrical generation.”¹⁵ Dampening incentives at the retail level to implement GHG reduction strategies will also lead to higher compliance costs for the Utilities in the long-run, as they will have need to account for the emissions associated with increased (and more carbon-intensive) customer load and than would otherwise be the case. We therefore share ARB’s policy assessment and urge the Commission to reject proposals to the extent they tie any customer’s receipt of allowance revenue exclusively to future consumption.

3.3 Investing Allowance Revenues in Additional Carbon Mitigation Programs Will Benefit Utility Customers Directly

¹⁴ ARB, “California’s Cap-and-Trade Program: Final Statement of Reasons,” at 2307.

¹⁵ Id. That view was also reinforced in the final ARB Board resolution accompanying final adoption of the cap-and-trade program, where the Board found that should allowance revenues be returned directly to utility customers, they be returned in a manner “consistent with State efforts to promote energy efficiency and energy conservation.” ARB, Board Resolution 11-32 (October 20, 2011), available at <http://www.arb.ca.gov/regact/2010/capandtrade10/res11-32.pdf>

Allowance revenues provide a unique opportunity to make strategic investments in programs and technologies to reduce GHG emissions that pricing effects alone will not achieve, and which will be essential to provide enduring bill relief to customers in a carbon-constrained economy. That view has long been shared by both ARB and this Commission,¹⁶ and remains one of the key objectives in this proceeding (see Objective #5 – correct for market failures that lead to underinvestment in carbon mitigation activities and technologies). Nonetheless, many parties to this proceeding do not propose to invest any portion of allowance revenues, suggesting at various times that setting aside revenues for any use other than direct bill relief will not benefit utility customers. That presents an overly narrow view of customer benefit, however, which belies California’s track record on energy efficiency and clean energy and ignores the much larger economic benefit to customers achievable through reductions in consumption – which has been the experience in the RGGI states (who collectively invest over half of all allowance revenues in clean energy programs, generating a net return to date of over \$1 billion in energy savings for utility customers).¹⁷

Lowering utility bills for all customer segments through targeted investments in efficiency and clean energy programs is similarly a cornerstone of our proposal. We propose programs funded with allowance revenues be available to all utility customers, including Community Choice Aggregator (CCA), Direct Access (DA) and commercial/industrial customers, and prioritize opportunities for non-commercial entities that provide vital social services such as local governments, schools, universities, hospitals, federal and state agencies, non-profit organizations that own/operate government assisted housing, and community-based organizations. In addition to the direct customer gains from efficiency, ramping up investments in carbon mitigation programs and technologies will be critical to keep California on pace to meet AB 32 targets and the state’s long-term climate objectives.

3.4 Returning Allowance Revenues Exclusively In Proportion to Direct Costs Ignores the Indirect Costs of Carbon Pricing in the General Economy and the Costs of Adapting to Climate Change, Both of Which Will Disproportionately Impact Low Income Customers

¹⁶ See, e.g., ARB Resolution 10-42 at 13; D.08-10-037 at OP 15

¹⁷ Analysis Group, “the Economic Impacts of the Regional Greenhouse Gas Initiative on Ten Northeast and Mid-Atlantic States: at 4-5.

The Utilities rank reducing adverse impacts on low income households as a critical objective in this proceeding, yet their proposal does nothing to address the impacts of carbon pricing or climate change on low income customers.¹⁸ Instead, the Utilities define equity in the context of this proceeding by reference to the direct costs (in the form of higher rates) utility customers will bear from implementation of AB 32. Under current statutory rate restrictions, the Utilities' definition of equity means CARE customers will not share in the return of allowance value, as they will not see commensurate rate increases.¹⁹ The Utilities' definition of equity overlooks, however, the indirect costs utility customers will see from carbon pricing in the general economy and the costs of adapting to a changing climate, both of which the Commission and ARB have highlighted as important objectives that the return of allowance revenues should address.²⁰

As ARB drew attention to in developing the cap-and-trade program, the incidence of carbon pricing will vary by sector and the extent to which producers in that sector can pass through their carbon costs to consumers.²¹ Absent leakage risk, commercial and industrial customers should largely be able to pass through carbon costs (in the form of higher electricity rates) to consumers.²² In that event, all consumers will see cost impacts from carbon pricing in the electricity sector, and those costs will likely fall disproportionately on low income customers (as the Commission has recognized in this proceeding).²³ Similarly, as we document in

¹⁸ See Revised Proposal of the Joint Utilities at 8.

¹⁹ As we discuss in our proposal, we are aware of the differential cost impacts that the prevailing rate restrictions will result in for residential customers, and therefore propose rebate amounts vary by household to account for legitimate variation in electricity usage that may push certain households into the upper tiers despite meaningful efficiency and conservation efforts. We also note other efforts are underway to reconsider the current residential rate structures, and this proceeding is not the appropriate forum to take up those larger issues.

²⁰ See D.08-10-037, Ordering Paragraph 15 (noting "we recommend that ARB require that all allowance auction revenues be used for purposes related to Assembly Bill (AB) 32, and that ARB require all auction revenues from allowances allocated to the electricity sector be used to finance investments in energy efficiency and renewable energy or for bill relief, *especially for low income customers*") (emphasis added); Scoping Memo, Appendix A at A7 (asking parties to explain the degree to which the anticipated costs to low income households resulting from cap-and-trade and climate change are recognized and addressed, given the state's and the Commission's longstanding commitment to protect vulnerable communities from adverse outcomes); ARB, Board Resolution 10-42 (December 16, 2010), available at: <http://www.arb.ca.gov/regact/2010/capandtrade10/res1042.pdf> (directing the Executive Officer to work with the California Public Utilities Commission (CPUC) and the publicly owned utilities (POU) to ensure that the proposed allowance value directed to the electric distribution utilities is used for the benefit of residential, commercial, and industrial ratepayers that might otherwise face *indirect* costs from the implementation of this regulation, with particular consideration of the potential for impacts from this program on low-income customers) (emphasis added).

²¹ ARB, Appendix J, at J-9.

²² Id.

²³ See Scoping Memo, Appendix A at A7; see also Appendix A to the Joint Parties' Revised Proposal.

Appendix A to our proposal, the costs of adapting to climate change will fall in higher proportion on low income customers. Consistent with a critical objective in this proceeding, allowance revenues thus can and should reduce adverse impacts on low income households.

Finally, we are concerned that allocating revenues to only certain residential customers (who will be predominantly wealthier under the Utilities' proposal), will undermine the public's reception of the cap-and-trade program and jeopardize its long-term viability. Given the state's and this Commission's longstanding commitment to protect our most vulnerable families, we ask the Commission to ensure low income customers share in the return of allowance revenues.

3.5 Clarification Regarding the Joint Parties' Proposal to Return Allowance Revenue to Customers Classified by ARB as Energy-Intensive and Trade Exposed (EITE)

In response to questions at the revised proposal workshop, we offer the following clarification regarding our proposal to return allowance revenues to customers classified by ARB as energy-intensive and trade exposed (EITE).

We propose the Commission offset indirect leakage risk from electricity purchases by employing a methodology that respects EITE customers' variable leakage risk categorization under the cap-and-trade rule and which will cover the majority of their electricity-related costs. Specifically, we propose EITE customers receive annual rebates calculated as a function of their average historical electricity usage, the incremental generation cost from compliance with the cap-and-trade program as estimated by the Utilities, and the leakage assistance factor assigned to that industrial sector by ARB in the cap-and-trade rule. We propose the Commission apply a proportionality factor to ensure rebate amounts remain contingent on the product output level relative to the historical period. Rebates would only be available to EITE customers who take power from the grid (either directly from the utility, or as a DA or CCA customer). Other EITE customers who self-generate obtain allowances directly from ARB and therefore do not require additional consideration in this proceeding; accordingly, in the event an EITE customer opts to self-generate, that customer would no longer be eligible for rebates for the electricity consumed from their own generation (as the customer would be eligible for allowances under ARB's

product-based benchmark methodology for similar customers who self-generate in that sector). CCA and DA EITE customers would be eligible for rebates under the same methodology, using the incremental generation factor that would apply as if they were bundled customers.

Consistent with the example we presented in our revised proposal, an EITE customer with annual average historical consumption of 750,000 kWh would therefore receive a rebate of \$2,970 for that compliance year, calculated as: $(750,000) \times (0.9) \times (\$0.0044) \times (1.0)$. If at the end of a compliance year production at the firm fell by 5%, the same percentage (5%) of that year's rebate amount (\$148.50, under this example) would be subtracted from that firm's rebate in the following year.²⁴ Our proposal can thus be thought of as a specific version of Option C proposed by CLECA and EPUC (employing a rebate based on a Commission benchmark derived from each EITE customer's historical electricity usage per unit of production).

3.6 Defraying the Upfront Costs of the RPS Should Not Drive the Commission's Decision-Making in This Proceeding

3.6.1 Recognizing the Costs of the RPS and Other GHG-reduction Policies Did Not Lead ARB to Conclude Allowance Revenues Should Be Returned Exclusively in Rates on a Volumetric Basis, Nor Should it Persuade the Commission.

As noted by the Utilities, ARB has signaled that the Commission should consider the cost impact of all GHG-reduction policies, including the 33% Renewable Portfolio Standard (RPS), in determining an appropriate allocation scheme from allowance revenues.²⁵ ARB has been equally clear, however, that consideration of the costs associated with the RPS should not completely eliminate the carbon price reflected in retail rates. Rather, as documented above, ARB continues to recommend providing rebates to utility customers through separate payments – not volumetrically through rates.²⁶ The Commission should not accept selective citations to ARB's recommendations in designing the cap-and-trade program to develop an appropriate allowance allocation. The Commission must instead consider the *entirety* of ARB's design recommendations, which recognize the need to account for the costs of other GHG-related

²⁴ Some additional analysis may be needed to develop a composite aggregate for the product output of multi-product firms, but we do not anticipate collection of this data would be overly costly or burdensome since product output data is routinely collected by ARB.

²⁵ ARB, "California's Cap-and-Trade Program: Final Statement of Reasons," at 2307.

²⁶ Id.

programs like the RPS, but unequivocally disavow the conclusion that such consideration should take the form of rate credits tied exclusively to consumption.

Furthermore, the RPS is mandated through separate legislation and is not entirely a product of AB 32. While climate mitigation is an important reason to require increased renewable energy, it is decidedly not the only purpose of the program. The RPS is justified in statute for a variety of reasons, including increased fuel diversity, energy security, reduced toxic and criteria air pollution, and green job and clean energy leadership. While the RPS and AB 32 are interrelated, to consider the RPS only an AB 32 measure would ignore a wide variety of the benefits and purposes for which it was enacted. The RPS also has its own cost containment requirements, which by themselves are intended to ensure that customer bills remain just and reasonable, without contemplation of the rate reductions from allowance revenues recommended by the Utilities.

3.6.2 The Utilities' RPS Cost Projections Are Inflated.

The Utilities project that attainment of a 33% RPS will cost utility customers roughly \$20 billion by 2020. As revealed at the revised proposal workshop, however, several deficiencies and outstanding questions undermine the credibility of that projection, which should not be used as the basis for any decision in this proceeding, including:

- The cost projection uses a reference case of 12.5% renewables penetration (when the Commission's 2010 estimates put the figure closer to 17%²⁷ and the Utilities were mandated under legislation to meet a 20% target by 2010);
- The cost projection uses an all gas reference case, based on low gas prices, which was never evaluated in the Long-Term Procurement Plan proceeding prior to the Commission-approved settlement.
- The cost projection does not count for energy efficiency cost savings; and
- The cost projection does not account for the substantial decrease in the costs of renewable energy achieved in recent years and the likely continuation of that trend out to 2020.

²⁷ CPUC, "Current Renewable Procurement Status," available at: <http://www.cpuc.ca.gov/PUC/energy/Renewables/index.htm>.

4 Conclusion

We appreciate the opportunity to offer these comments and look forward to participating in the remainder of this proceeding.

Dated: January 31, 2012

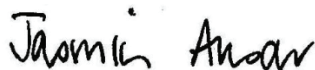
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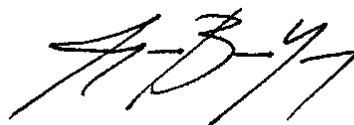


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