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Kevin Kennedy
California Air Resources Board
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Re: Northern California Power Agency Comments on Proposed Scoping Plan Program Design

Dear Kevin:

The Northern California Power Agency[1] (NCPA) appreciates the opportunity to offer these comments to the California Air Resources Board (CARB) in response to the materials prepared for the February 6, 2008 *AB 32 Scoping Plan Program Design Stakeholder Meeting*.

The materials prepared in advance of the February 6 working group meeting set various potential "Scenarios for Preliminary Modeling." Three of these scenarios were focused around a cap-and-trade program, with variations in the scope of the program. Yet, according to the handout, each cap-and-trade modeling scenario had one thing in common: an assumption that "full auctioning of allowances" would be utilized for each modeling run. NCPA is concerned with the potential adverse impacts that modeling full auctions will have on a complete and reasoned review of all viable options in the short time available to develop recommendations for inclusion in the Scoping Plan.

NCPA, along with several other stakeholders in the room, expressed concerns regarding the implications of CARB's decision to model full auctioning of allowances within the cap-and-trade program. As a possible harbinger, or self-fulfilling prophecy, the decision to model full auctioning of allowances without a more thorough vetting of the myriad issues surrounding the

1 NCPA members include the cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, as well as the Bay Area Rapid Transit District, Port of Oakland, the Truckee Donner Public Utility District, and the Turlock Irrigation District, and whose Associate Members are the Plumas-Sierra Rural Electric Cooperative and the Placer County Water Agency.

role that market abuses and manipulation could play in an auction environment is effectively moving CARB and the state forward with a policy decision to use auctions irrespective of the potential impacts that such a structure would have on California consumers.

Making a decision to model the potential economic impacts associated with an auction as a means to allocate allowances skips several key steps that *must* be undertaken *first*. Namely, extensive review of an auction structure that will influence costs associated with implementation of an auction, and ultimately impact California's consumers. As those that went through the experience of the California energy crisis can attest, there is too great a potential for market abuses and manipulation that could emerge under an auction scheme to justify moving forwarding with modeling of the *full* auction in a vacuum. Indeed, the notion of auctioning is so tentative that during the course of the workshop, CARB panelists were undecided on many aspects of such a notion, including an implementation date for an auction, and the amount of time to transition to auctioning, with discussions ranging from 2012 to 2020. NCPA strongly cautions advancing the notion of an auction as a viable solution without considering the implications of the auction structure and governance.

Concerns regarding the potential impacts of an auction on consumers (and electricity customers) are broadly acknowledged, both inside and outside the state, and there is proposed federal legislation to further address this issue even in advance of implementing a cap-and-trade program. On December 7, 2007, Senator Diane Feinstein (D-CA) introduced S.2423, titled "The Emissions Allowance Market Transparency Act," which would require greater oversight and visibility for emission trading functions, as well as provide penalties for false reporting, manipulative or deceptive practices, or attempts to cheat or defraud other market participants. Since its introduction, S.2423 has garnered wide-based support, and has been endorsed by groups representing more than 50 million consumers across the nation, including, NCPA, PG&E, the Consumer Federation of America, and the National Association of State Consumer Advocates. In a December 19, 2007 letter to Senator Feinstein endorsing the bill, NCPA and these organizations noted that "[i]n order to protect consumers, ensure market integrity, and prevent uneconomic escalation of program costs, we believe it is critical that any federal climate change legislation include strong provisions to oversee the allowance market, prevent manipulation and other abusive practices, and appropriately sanction those parties that seek to exploit the market."

Indeed, creating an auction market within a GHG reduction scheme could produce similar unintended consequences as those that faced development of an RTO where venture capitalist organizations were able to thwart policy by purchasing congestion revenue rights for financial gain, to the detriment of consumers in those regions.

Even in the Northeast, where the Regional Greenhouse Gas Initiative (RGGI) stakeholders have been working on development of an auction for more than six years, a final program has yet to be implemented. That is clearly an indication that this issue is complex and does not lend itself to easy resolution. Despite the best intentions of those working on this process, whatever protections we create to mitigate market manipulation, there are those that have little concern for the typical California consumer. We owe it to the California consumer to get it right in the GHG debate the first time.

NCPA, like many other stakeholders at the February 6 meeting, is concerned that making a hasty determination to model full auctions, without the corresponding review of that structure of that auction, will only result in a situation where it will be time to make recommendations for the Scoping Plan, and no other viable options will have been considered, which will necessarily mean that the only option modeled – full auction – will need to be recommended. This is an untenable end result, and one that should be avoided.

CONCLUSION

NCPA appreciates the resources that CARB staff has dedicated to development of the Scoping Plan, including putting forth recommendations for proposed program design scenarios, and appreciates the opportunity to provide these comments to CARB in response to those initial discussion items

If you have any questions regarding these comments, please do not hesitate to contact the undersigned or Scott Tomashefsky at 916-781-4291 or scott.tomashefsky@ncpa.com.

Sincerely,

MCCARTHY & BERLIN, LLP

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