



May 20, 2008

Re: Distribution of Allowances in the Utility Sectors

Dear President Peevey, Chairwoman Pfannenstiel, and Commissioners:

We appreciate the California Public Utilities Commission (CPUC) and California Energy Commission's (CEC) efforts to advise the California Air Resources Board (CARB) on the best structure for a cap and trade program for the utility sectors, should CARB determine that such a program is a desirable part of the package to implement AB 32 and meets the requirements of the law. As you know, a cap and trade program creates "allowances," or a limited number of permits to emit GHGs. These allowances should be seen as a public asset, since they represent permission to use the atmosphere, which belongs to all of us, to dispose of pollution. Appropriate distribution of allowances is crucial to the success of any cap and trade program.

On April 16th, the CPUC and CEC asked for comments on the "Joint California Public Utilities Commission and California Energy Commission Staff Paper on Options for Allocation of GHG Allowances in the Electricity Sector" (hereinafter "Staff Paper"). Some of our organizations will submit detailed comments in response to the Staff Paper. This letter summarizes our major concerns with the Staff Paper's preliminary allocation options and our principal recommendations for how allowances should be distributed in the public interest. We have also attached a position paper by a number of environmental organizations summarizing our perspective on cap and auction programs overall.

Allowances should NOT be allocated for free to deliverers.

We oppose giving away any allowances for free to deliverers. Free allocation to deliverers will result in windfall profits to at least some deliverers at the expense of California consumers. Allowances provide permission to use the public atmosphere, and there is no reasonable policy rationale for giving away a public asset for free to private companies. We are extremely concerned that four of the six preliminary allocation options presented in the Staff Paper, and *all three* of the staff-preferred options, suggest allocating some allowances for free to deliverers. While we remain open to possible free

allocation to *customers*, through their retail provider, in a manner that would aid consumers and further the state's energy efficiency and pollution reduction goals, we strongly oppose any free allocation to *deliverers*.

Allowances should NOT be grandfathered.

Allowances should not be grandfathered, i.e.: given away for free based on historical emissions. Grandfathering allowances rewards pollution, penalizes early action, and can also result in windfall profits at the expense of consumers if given to certain types of deliverers. We are very concerned that four of the six allocation options presented in the Staff Paper suggest grandfathering some or all allowances. Grandfathering does not further the goals of AB 32 and it sets a very bad precedent for California in a future national global warming reduction scheme. California should not grandfather any of its allowances.

Allowances SHOULD be auctioned.

We believe that auctions are the fairest, simplest way of distributing allowances. Auctioning avoids unfair windfall profits, encourages innovation and rewards early action.¹ In addition, auctions will benefit consumers and further AB 32's goals if the revenues are used for the public good. An important way that auction revenues from the utility sectors should be used for the public good is to recycle the revenue back to benefit utility customers through specified investments by their retail provider (see below).

Auction revenues should be used in the public interest and to further the goals of AB 32.

The majority of auction revenue from the utility sectors should be returned to benefit consumers through specified investments by their retail provider. Some revenue could be invested through statewide programs that would also benefit consumers. Investments should benefit consumers and also help the state meet other environmental and economic goals specified in the statute. These investments could include:

- energy efficiency, especially for low-income and disadvantaged consumers;
- Research, development, and demonstration (RD&D) and deployment of low-carbon technologies;
- support for air and toxic pollution reduction efforts, especially in historically burdened communities;
- protection for low-income and disadvantaged communities, including through direct rebates;
- provision of economic opportunities for low-income and disadvantaged communities; and
- support for green collar jobs.

¹ Many RGGI states are auctioning their allowances beginning this year. *RGGI Press Release* (March 17, 2008), available at http://www.rggi.org/docs/20080317news_release.pdf

In summary, we strongly urge you to reject any recommendation for distributing allowances, a public asset, for free to private polluters. We urge you to recommend that, if CARB decides to adopt a cap-and-trade program, it should auction allowances and invest the revenue in a manner that benefits consumers and furthers the goals of AB 32. Thank you for considering our recommendations.

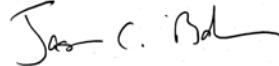
Sincerely,



Kristin Grenfell
NRDC



Chris Busch
UCS



Jason Barbose
Environment California



Tim Carmichael
Coalition for Clean Air



Bill Magavern
Sierra Club



Mike Sandler
Climate Protection Campaign

cc: Darren Bouton
Mary Nichols
James Goldstene
Chuck Shulock
Kevin Kennedy
Julie Fitch
Karen Griffin