BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the Commission’s Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies.

Rulemaking 06-04-009
(Filed April 13, 2006)

COMMENTS OF THE CENTER FOR RESOURCE SOLUTIONS ON COMMISSIONER PEEVEY’S PROPOSED DECISION ON GREENHOUSE GAS REGULATORY MATTERS

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Dated: October 2, 2008
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COMMENTS ON THE PROPOSED DECISION
ON GREENHOUSE GAS REGULATORY MATTERS

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California
Public Utilities Commission (“Commission”), the Center for Resource Solutions (CRS)
respectfully offers these comments on the Proposed Decision of Commissioner Peevey
issued in the above captioned proceeding on September 12, 2008 (“Proposed Decision or
“PD”). CRS will limit its comments to Section 5.4.3.2. Renewable Energy in the PD.

I. COMMENTS

Although CRS appreciates and supports the Commission’s stated recognition of
the importance of continued investment in renewable energy as essential to achieving the
State’s statutorily mandated greenhouse gas (“GHG”) reduction goals, we believe that the
Proposed Decision, as currently drafted, misses an opportunity to ensure that such
investments continue to be valued under the prospective cap-and-trade mechanisms that
may be adopted by the California Air Resources Board (CARB).

In particular, the Proposed Decision considers but rejects proposals from several
parties, including the Solar Alliance, Sacramento Municipal Utility District and others, in

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1 The Center for Resource Solutions is a 501 (C) 3 nonprofit organization that works to promote renewable
energy markets and consumer protection mechanisms through its Green-e Energy and Green-e Climate
certification and verification programs.
support of allocating allowances to be allocated among or set aside for deliverers of renewable electricity.

As discussed in the Proposed Decision, in addition to the GHG-emission reduction value of renewable resources that is captured by the State’s Renewables Portfolio Standards, another market exists for renewable energy that also contributes to reducing GHG. This private investment market (a.k.a. the voluntary market) allows individuals, corporations and government entities to prove their commitments to sustainable practices and clean energy via purchases of renewable energy or renewable energy certificates (RECs) or installation of on-site renewable electric generation technologies, such as photovoltaics.

Although the Proposed Decision concludes that there are too many unanswered questions at this time to endorse such a set-aside program, CRS believes that there is ample evidence of its value in promoting renewable energy, and that failure to consider such a program would have adverse consequences for renewable energy development in California and in the West.

At the very least, we would encourage the Commission to forward a recommendation to CARB as part of its Final Decision in the proceeding, that a formalized set-aside program for private investments in renewable energy be considered as part of AB32 compliance rules.

A. Voluntary Commitments to Reducing GHG Could be Negated under a Cap-and-Trade Program, Unless There is a Mechanism for Retiring Allowances on Behalf of Those Investments

When citizens and businesses take voluntary action to purchase renewable electricity, renewable energy certificates (RECs) or to install renewable generation on-
site, their dollars support the growth of new renewable generation facilities, infrastructure, and markets that benefit all of society. In the absence of a greenhouse gas cap, the addition of renewable generation to the electric grid also has the effect of reducing overall greenhouse gas emissions. One of the principal drivers of voluntary purchases of renewable energy is the reduction of greenhouse gas emissions. Yet under a cap on the electricity sector, this reduction in emissions does not take place. When a renewable energy generator produces emissions-free electricity, a fossil-fuel fired plant produces less electricity, but the number of pollution allowances in circulation remains unchanged.

Thus, the only way that buyers or sellers of renewable energy can reduce direct emissions under a cap-and-trade program is to take a separate and additional action to reduce the number of pollution allowances in the marketplace.

If the cap-and-trade program does not adequately recognize the carbon-reduction value of these renewable purchases or on-site generation, and nullifies the ability for a voluntary purchaser of renewable energy to reduce GHG emission levels, this will drastically reduce and perhaps eliminate the voluntary market for renewable energy, taking the many societal benefits of this voluntary market with it. The capped emissions level will become the ceiling for greenhouse gas emissions reductions rather than the floor, and going forward we will lose the powerful contributions that voluntary action has thus far made to a clean, domestic renewable energy industry.

At present, the emissions reductions caused by citizens and businesses buying green power are a result of their private investment. When implementing its cap-and-trade policies, the State should continue to take advantage of contributions to our shared
challenge that are paid for by citizens and individuals and not the State. However, for this to continue to take place, the State needs to set up the structure to enable such action.

**B. An Approach that Adopts an “Off-the-top” Accounting for Voluntary Purchases of Renewable Energy is Consistent with Policies Being Developed in the West and in Other Regions**

Accordingly, we recommend the following approach to preserve the ability for private citizens to invest in clean renewable electricity or renewable energy certificates. This is the approach that was implemented by RGGI, and we feel it will work for the California (and the West) as well.

Prior to allocation of any allowances, renewable generators or marketers/suppliers of renewable energy will notify the cap-and-trade Program Administrators of their projected voluntary demand for RECs, renewable electricity or the output from on-site distributed renewable generation. Program Administrators would convert the MWhs to tons avoided carbon and remove this quantity of allowances from the entire pool of allowances available\(^2\). These allowances will be held by the Program Administrator in the equivalent of an escrow account. Each year, parties selling renewable generation or RECs to end-users would report their actual MWh sales or generation (for on-site renewable generators), and the Program Administrator would retire a commensurate amount of allowances for the sum total of MWhs associated with the voluntary market. At the end of the allowance compliance period, any difference between projected tons avoided and actual tons avoided would be trued up by either banking excess allowances that were not used, or borrowing from the pool of allowances from the next compliance period.

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\(^2\) Program administrators could choose to calculate such emissions reductions in a number of ways, including replicating the methodology used when factoring in full compliance with the RPS into the emissions baseline.
This “off-the-top” approach differs from a traditional set-aside because the allowances are not allocated to renewable generators directly. Instead, allowances are retired and taken out of circulation on behalf of reported voluntary sales. This approach is far superior to a set-aside because it can provide some degree of certainty to the marketplace that all renewable sales in the voluntary market will be able to make carbon reduction claims. This certainty is absolutely critical to the market because customers and project financiers require it. It is also superior to a set-aside because the approach does not pit renewables against energy efficiency or other important special interests in a fight for limited allowances. Currently nine of ten states participating in RGGI have issued final or draft rules implementing a version of this “off-the-top” solution for their regional green power markets.

II. CONCLUSION

CRS welcomes the Commission’s attention to these difficult matters in its attempt to achieve fair and equitable policies for achieving the State’s goals in reducing GHG. And we are gratified that the Proposed Decision recognizes the value of private investment and voluntary markets for renewable energy and the role they may continue to play, even under new compliance mechanisms such as a cap-and-trade system for carbon allowances.

However, there is a pronounced risk that when a cap is placed upon the electricity sector the reductions in electricity demand resulting from a company investing in renewable energy will not result in any net emission reductions, but rather will simply make it cheaper for a capped company to emit more GHG emissions (reduced demand for allowances will reduce the price of allowances). This counterintuitive result of a
voluntary environmental action will likely hamper any such private investment moving forward, thereby reducing the individual initiative that is needed to meet the shared challenge of reducing GHG emissions.

Among the best ways to address this potential adverse consequence would be to adopt a policy allowing for allowances for such voluntary commitments to renewable to be taken “off-the-top” of a carbon cap. CRS believes that there are mechanisms available, including WREGIS and allowance registries and tracking systems that will be developed as part of implementing the cap and trade program, to ensure against double-counting of these transactions and for accurately calculating the GHG-reduction values associated with them.

CRS respectfully asks the Commission to alter its conclusions in the Proposed Decision that there is not enough information available to recommend the creation of a set-aside program. Instead, we request that the CPUC specifically recommend that CARB consider such a policy as part of its compliance mechanisms for meeting AB 32 goals.

Respectfully submitted this October 2, 2008, at San Francisco, California.

ARTHUR O’DONNELL

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CERTIFICATE OF SERVICE

I, Melinda LaJaunie, certify that I have on this 2\textsuperscript{nd} day of October 2008 caused a copy of the foregoing

\textbf{COMMENTS OF THE CENTER FOR RESOURCE SOLUTIONS ON COMMISSIONER PEEVEY’S PROPOSED DECISION ON GREENHOUSE GAS REGULATORY MATTERS}

to be served on all known parties to R.06-04-009 listed on the most recently updated service list available on the California Public Utilities Commission website, via email to those listed with email and via U.S. mail to those without email service. I also caused courtesy copies to be hand-delivered as follows:

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I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2\textsuperscript{nd} day of October 2008 at San Francisco, California.

\textit{/s/ Melinda LaJaunie}
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