



MEMORANDUM

TO: Members of the Local Government Sustainable Energy Coalition

FROM: Jenny Berg, Consultant

SUBJECT: CPUC Rulemaking re Revenues from Cap and Trade Program for Greenhouse Gas Emissions

DATE: November 4, 2011

In 2013, California will implement a cap-and-trade program for greenhouse gas emissions. Pursuant to this program, the Investor Owned Utilities (“IOUs”) will be allotted free allowances that can then be auctioned. The California Public Utilities Commission (“CPUC”) has been charged with determining how the revenues from the sale of the free allowances provided to the IOUs should be allocated. Currently, there is a rulemaking in the CPUC regarding this allocation. To put the importance of this proceeding in context, the CPUC estimates that there will be \$5.8 billion in revenue from the sale of these allowances over an eight year period.

There has been a lot of activity in this rulemaking over the last couple of weeks. Specifically, the written proposals by the parties were filed and served on October 5th, and full day workshops, which I attended, were held on November 1 and 2. There is a long way to go in this rulemaking as recognized by the Administrative Law Judges (“ALJs”).

The proposals by the parties can be broken down into two groups: 1. those advocating that 100% of the revenues be returned to the ratepayer, and 2. those that want some money returned to the ratepayer, and some revenue directed towards investment. LGSEC filed a joint statement with eight other parties advocating for the second position.¹ The proposals, as well as comments that came out at the workshop, will be addressed in turn.

1. 100% of Revenues Direct Toward Ratepayer Relief (IOU Proposal)

The IOUs submitted a joint proposal wherein they advocate that all of the revenue should be returned to the customer on a volumetric (or “equitable”) basis so that the ratepayer will not bear the cost of cap-and-trade and other AB 32 programs. Low income customers that do not experience a rate increase will not get any sort of credit. The IOUs were unable to answer how to explain to one neighbor why they were not getting a credit while the other neighbor was. They defended their position at the hearing saying that low income customers will not have any direct impact, i.e. no increased costs, even though they may have indirect costs such as higher health issues; however, those costs should be addressed by the Legislature.

One of the IOUs’ justifications for this proposal is public acceptability of cap-and-trade, which the IOUs contend will only result if ratepayers do not have to pay any additional costs. Because

¹¹ The parties are: NRDC; Sierra Club California; Greenlining Institute; Climate Protection Campaign; National Consumer Law Center; Union of Concerned Scientists; California Housing Partnership Corporation and Community Environmental Council.

California is a leader in this area, the customer needs to stay happy so that there is no backlash, preventing other states from adopting similar programs. The only way this can be done is to give customers money, without any information about why they are getting the funds, cap-and-trade, climate change, etc. (ALJ Hecht wants the issue of transparency, or lack thereof, addressed in their next round of briefing.) The IOUs also do not want the revenue to appear as a credit or as a rebate.

The IOUs do not think that any money should go to “pet projects” as that would not be setting a good example. PG&E advocates that there should be credit given to those that have taken early action and have taken advantage of renewable energy programs.

The IOUs insist that the amount of costs associated with implementing cap-and-trade and other AB 32 related programs, will be equal to the allowance value. That is, they estimate that their costs for AB 32, which would otherwise be passed on to the rate payer, are \$5.8 billion over eight years! This proposition was not taken well by Matt Zaragoza from the California Air Resources Board, who attended the workshop. The IOUs’ insistence with this position made them look bad.

The other parties that are in support of 100% rate payer return, with the slight variations noted parenthetically, are: **PacifiCorp** (they want built in assurances for low income customers and also want a list of acceptable programs where revenues may be directed); **Noble Americas Energy Solutions**; **Direct Access Customer Coalition**; **Marin Energy Authority** (wants some money allocated towards non-IOUs programs), **Large Energy Users**; **California Large Energy Consumers Association**; **CAS Manufacturing**; **Agricultural Parties** (wants a small portion set aside for renewable energy programs); **California Cogeneration Council** (Combined Heat and Power customers should get the same credit as IOU customers); **Division of Ratepayers Advocates** (90% rate payer return on a volumetric basis, in the form of an annual bill reduction or rebate check; 10% to finance energy efficiency improvements), and **TURN (the Utility Reform Network)**.

2. Revenues Allocated to Rate Payer Relief *and* Investments

On our panel was the Solar Alliance, which advocates that 15% of the revenues be set aside for renewable energy; energy efficiency and other clean technologies, similar to how the Regional Greenhouse Gas Initiative in New England does the allocation. Green Power Institute was also on our panel. While the FPI proposal has not been fully articulated, they advocate that at least a portion of the revenues be set aside for renewables and investment in infrastructure. Both of these parties may join our group in future filings.

The Joint Parties’ (our group) presentation went very well. In short, we advocate that some of the revenues be returned to the ratepayer, together with information about cap-and-trade, climate change, and AB 32. The remainder of the revenues should be placed in what we are calling the Carbon Trust. Revenue from the Trust will be allocated towards investment in programs consistent with AB 32 targets; some revenue will expressly earmarked for Local Government programs. While we did receive a barrage of questions and skepticism from the IOUs (which means we did it right!), the feedback was very positive, particularly from CPUC staff and the ALJs. In response to PG&E’s comment that these programs were already being funded, I pointed out that LGs budgets have been decimated, despite having to comply with other AB 32 related goals. The main areas in which we were asked to provide further clarification relate to how our suggested programs are not duplicative of other programs or are

not subject to other CPUC proceedings; why these programs won't be funded by the Pollution Control Fund; and how the Carbon Trust would be administered. The power of being in a coalition with other parties cannot be minimized. The Commission asked the parties to work together and we are the only group that did what they had requested. Again, our goal is to have some of the revenues set aside. While the final proposal we submitted last month did not include everything that LGSEC wanted, we need to stay focused on the bigger picture, which is to have a piece of the pie. We have 8 parties signing on to local governments getting a portion of the revenues, which would never have happened if we had all filed separately.

NEXT STEPS

The schedule for the remaining proceeding will change because the ALJs realized how much work is left to do. The only definitive change is a postponement of the December workshops. The next round of briefing will likely be pushed out to mid December. In that round, the parties are to provide further clarification in the areas where the ALJs and staff have asked. They also asked that we discuss how our proposals could be implemented.

Our group will try to lobby the Commissioners together to educate them and to show that we are a united front. Jody will likely be our representative.

For future filings, we may file comments specific to LGSEC, while also joining in the joint parties' proposals. I will discuss this with our subgroup after I receive the next round of deadlines. If you would like to be part of the LGSEC subgroup on this issue, please let me or Jody know.

As always, please contact me with any questions or comments: 510-839-0688, x 213 and Jennifer.berg@ngem.com