



DOCKET	
07-OIIP-1	
DATE	JUL 02 2007
RECD.	JUL 02 2007

July 2, 2007

California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

RE: Docket No. 07-OIIP-01 (AB 32 Implementation)

Dear Commissioners:

San Diego Gas & Electric Company (“SDG&E”) appreciates this opportunity to offer its comments concerning the *Joint California Public Utilities Commission and California Energy Commission Staff Proposal for an Electricity Retail Provider GHG Reporting Protocol* (“Staff Proposal”) prepared jointly by the California Energy Commission (the “Commission”) and the California Public Utilities Commission (the “CPUC”). These comments have been concurrently filed in CPUC Docket R.06-04-009.

**I.
INTRODUCTION AND BACKGROUND**

Assembly Bill (“AB”) 32 directs the California Air Resources Board (“CARB”), in consultation with the Commission and the CPUC, to adopt regulations requiring the reporting and verification of statewide greenhouse gas (“GHG”) emissions, and to monitor and enforce compliance with adopted standards.^{1/} AB 32 further provides that such regulations must “[a]ccount for greenhouse gas emissions from all electricity consumed in the state, including transmission and distribution line losses from electricity generated within the state or imported from outside the state.”^{2/}

In furtherance of this objective, the Staff Proposal sets forth a draft tracking and reporting framework for assigning GHG emissions to various types of procured generation, including unspecified system purchases. The concepts contained in the Staff Proposal are intended to assist the Commission and the CPUC in developing joint recommendations to be presented to the CARB in September, 2007. As SDG&E and SoCalGas explain below, however, the Staff Proposal is flawed in certain material respects. Specifically, application of the criteria with regard to the “Accuracy” and “Unintended Consequences” demonstrates that the proposal’s omnipresent use of default values leads to greater inaccuracies and fosters unacceptable opportunities for gaming. In addition, the definition of Contract Shuffling set forth in the Staff Proposal is too broad and is ill-suited for the purpose outlined under AB 32.

^{1/} Assembly Bill (AB) 32, Sec. 1, Part 2, § 38530(a) (Stats. 2006, Ch. 488).

^{2/} *Id.* at § 38530(b)(2).

II.
**WHILE THE CRITERIA IDENTIFIED IN THE STAFF REPORT
ARE APPROPRIATE, THE STAFF PROPOSAL DOES NOT
ADEQUATELY COMPLY WITH THESE CRITERIA FOR USE UNDER AB 32**

The Staff Proposal sets forth specific criteria for assessment of proposed reporting protocols, noting that “[c]hoices made among possible reporting protocol methods will have significant implications for the final emission burden ascribed to a given retail provider.”^{3/} SDG&E and SoCalGas agree with this observation and support the evaluation criteria articulated in the Staff Proposal.^{4/} SDG&E and SoCalGas further believe that rigorous application of these criteria will help ensure a sound reporting protocol that will accomplish the objectives of AB 32 without imposing unnecessary burdens on retail providers. However, while the tracking and reporting protocol may satisfy reporting necessary during the interim period prior to the implementation of AB 32, it is deficient for the purposes of developing a load-based cap under AB 32.

SDG&E and SoCalGas submit that application of the criteria with regard to the “Accuracy” and “Unintended Consequences” demonstrates that the Staff Proposal falls woefully short in these critical areas. First, in principle, the use of default values leads to greater inaccuracies than using emission factors based on actual tracking of generator emissions. Second, for all its benefits, the proposed methods create unacceptable opportunities for gaming, which could lead to unpredictable fluctuations in energy prices and do nothing to reduce GHG emissions.

Given the inherent limitations of the Staff Proposal, the document should provide more discussion of the path to a comprehensive measurement system required for reporting under AB 32. Efforts to establish guidelines for the firm tracking of GHG inventories, such as expansion of the WREGIS tracking system, can and should be advanced in order to ensure that an accurate tracking system is in place well before AB 32 implementation. While the extensive use of default values may be suitable to support an interim methodology, the proposed methods would demand replacement prior to the implementation of AB 32 when there will be real economic consequences, and where any degree of inconsistency with the default factors can provide a strong incentive for gaming.

Information provided in the workshop demonstrated that a suitable system of real time imputation of traded and imported GHG emissions can be developed. While the report alludes to such a system, it does not openly provide a recommendation that a tracking system be developed to calculate the avoided emissions for every MWh generated. GHG measurement and reporting systems under the load-based cap must be uncompromised and technically sound (*i.e.* not result based in inaccurate accounting of emissions) and credible among all stakeholders interested in emission reductions (*i.e.* provide a high degree of confidence that they use appropriate principles, assumptions and boundaries).

^{3/} Staff Proposal, p. 6.

^{4/} The evaluation criteria include: (i) accuracy; (ii) consistency; (iii) simplicity; (iv) transparency; (v) minimization of unintended consequences; (vi) setting appropriate policy signals; and (vii) expandability. (Staff Proposal, pp. 6-8).

The pervasive use of default values would create an insurmountable obstacle to the creation of a cap-and-trade type program by failing to ensure accuracy and transparency in the accounting of GHG emissions reductions. Under the Staff Proposal, a ton may not be ton where accounting of emissions is dependent upon the regional average of the area where the generation is produced or traded. For example, coal power in the Northwest would have a lower GHG value than gas-fired generation in the Southwest. In addition, artificial reductions can be created by arbitraging markets. Power may be sold into the CAISO integrated forward market (“IFM”) and later bought back in the CAISO real-time market, this artificially creates 100 lbs. of GHG reduction for each MWh under the Staff Proposal.^{5/} These type of default values create incentives to use Regional Power Pools inappropriately (*i.e.* in and out exchanges raise the aggregate dirty power associated with the energy pool) under an AB 32 cap with economic consequences.

III. THE DEFINITION OF CONTRACT SHUFFLING SHOULD BE REVISED

The definition of Contract Shuffling set forth in the Staff Proposal is, in the view of SDG&E and SoCalGas, too broadly defined if it is to be implemented as per the explanation provided by Staff to ARB at the Power/Utilities Technical Discussion on June 21, 2007. Contract shuffling should only be used in reference to repackaging power in some fashion to obtain a lower GHG content for sale to a California retail provider.

Contract shuffling should not be defined as any change of contract with existing generators. The definition provided in section 2.1.11 of the Staff Proposal could be interpreted as signifying that if a retail provider drops a contract with a high-emitting generator, it receives no credit if it signs a new contract with a low-emitting existing generator because the high-carbon resource will simply be resold to another buyer in an uncapped region. Under this definition, the retail provider is being held accountable for actions over which it has no control.

Further, it provides perverse incentives to sign short-term contracts with the highest emitting resources since if there is no reward for signing contracts with lower emitting sources, there can be no penalty for purchasing short-term power from higher emitting resources.

This interpretation is at odds with other provisions of the Staff Proposal that assign default values to generation from different regions and markets. If existing generation is unchanged by changing financial contracts, all power purchased from existing generators or generated from existing plants should have the same average value. Keeping the default values while ignoring actual contracts would likely stimulate more gaming opportunities. If a lower GHG content is not given for a new

^{5/} A lower default value for the CAISO real-time market than the CAISO IFM market provides harmful incentives to shift load to the real-time market similar to the differential market caps which occurred during the California energy crisis.

contract with specified power, there still would be a corollary reduction by purchasing unspecified power under the Staff Proposal.

This interpretation is at odds with AB 32, which is interested in California's carbon footprint. AB 32 further provides that the CARB shall "[e]nsure rigorous and consistent accounting of emissions, and provide reporting tools and formats to ensure collection of necessary data."^{6/}

This interpretation also ignores the interest throughout the Western region in reducing GHG emissions, as demonstrated by the six state coalition and the general perception based on the number of bills introduced in Congress that the United States will likely adopt a national GHG reduction program at some time in the future. The assumption is that retail providers in non-capped states will be willing buyers of high emitting power. But just as California has adopted a carbon adder in anticipation of future GHG regulation, it is reasonable to assume that retail providers in uncapped states are considering the risks of increasing the GHG content of their respective electric power portfolios.

For these reasons, the intended application of the term "Contract Shuffling" contained in the Staff Proposal should be clarified and the broad interpretation proposed by Staff in the June 21, 2007 technical discussion should be rejected.

IV. THE REPORTING PROTOCOLS AND THE 1990 ELECTRIC SECTOR INVENTORY SHOULD USE CONSISTENT METHODS

In general, the GHG Reporting Protocols should be consistent with the 1990 GHG inventory calculation where assumptions and approximations are being used. The Staff Proposal calculates the GHG emissions of imported power using a marginal approach which is consistent with method being used by ARB for estimating the 1990 GHG emissions inventory (based on the most recent workshops).

If adopted, the Staff Proposal would recommend using the average emissions of system purchases from asset-owned entities located out-of-state at some future date.^{7/} This adjustment would ensure greater compatibility with the approach taken by other states in calculating the GHG emissions, based on comments at the workshops. However, the ARB may want to reconsider using the Loyer method for calculating the 1990 GHG inventory if this method is used extensively, since the Loyer method is based on average emission factors for asset-owning entities selling to California.^{8/}

The adjusting of regional averages to account for claimed generation approach recommended at page 23 of the Staff Proposal also create incompatibilities with the 1990 GHG inventory, where there were

^{6/} Assembly Bill (AB) 32, Sec. 1, Part 2, § 38530(b)(4) (Stats. 2006, Ch. 488).

^{7/} Staff Proposal, Table 1, p. 24.

^{8/} Staff Proposal, section 3.2, p. 9.

no unbundled environmental attributes that others were claiming, such as renewable resources like hydro power.

The rationale for maintaining consistency within the GHG reporting protocol is to ensure that retail providers' obligations are not increased solely based on changes in the GHG reporting protocol. The emission tracking estimate must be internally consistent in all its elements over a period of years, so that whatever is added, adjusted or removed by changing the GHG reporting protocol should likewise be reflected in methodology for calculating the 1990 GHG inventory.

**V.
CONCLUSION**

For the reasons set forth above, if an interim GHG reporting protocol is ultimately adopted, SDG&E and SoCalGas urge the Commission to exercise its jurisdiction to amend the Staff Proposal in accordance with the aforementioned comments to incorporate the modifications as proposed herein.

Yours sincerely,

Bernie Orozco