

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Address Utility Cost and Revenue
Issues Associated with Greenhouse Gas
Emissions.

Rulemaking 11-03-012
(Filed March 24, 2011)

**THE DIVISION OF RATEPAYER ADVOCATES'
REPLY TO JOINT MOTION OF PACIFIC GAS AND ELECTRIC COMPANY
SOUTHERN CALIFORNIA EDISON COMPANY, AND
SAN DIEGO GAS & ELECTRIC COMPANY FOR INTERIM DECISION TO
AUTHORIZE USE OF GREENHOUSE GAS ALLOWANCE REVENUES FOR
2012 ELECTRICITY RATES**

DIANA L. LEE
Attorney for the
Division of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-4342
Email: Diana.Lee@cpuc.ca.gov

JORDAN PARRILLO
Regulatory Analyst for the
Division of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-1562
E-mail: Jordan.Parrillo@cpuc.ca.gov

May 26, 2011

I. INTRODUCTION

Pursuant to Rule 11.1(e) of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) submits the following reply to the "Joint Motion of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company for Interim Decision to Authorize Use of Greenhouse Gas Allowance Revenues For 2012 Electricity Rates," (Motion), filed May 11, 2011. The Motion requests that the Commission "expeditiously issue an interim decision authorizing the Utilities to credit AB 32 greenhouse gas allowance revenues directly to retail electricity and gas customers in rates effective January 1, 2012."¹

DRA agrees that the Commission should promptly consider how to return to ratepayers the allowance revenue that the Utilities will receive in the auctions that the California Air Resources Board (ARB) plans for 2012, but disagrees that the Commission should grant the Motion as framed, because there are questions that the Motion does not answer. Those questions include how the Utilities request to return allowance revenue on a volumetric basis in the distribution surcharge can be reconciled with the ARB's regulations that allowance revenues should be returned through a fixed portion of the bill or a separate credit, and the Commission's Decision (D.) 08-10-037, which concluded that it was imperative that the return of allowance revenue to customers not "dampen the price signal"² that the cap-and-trade program was designed to send.

It would be premature to issue a decision without a full discussion of the issues and consideration of viewpoints from parties other than the Utilities. While DRA recognizes that a delay does not serve the interest of ratepayers, and clearly supports bill relief as soon as practicable, the Commission should not hastily decide how to return hundreds of millions of dollars to customers at the expense of reasoned decision making.

¹ Joint Motion of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company For Interim Decision to Authorize Use of Greenhouse Gas Allowance Revenues For 2012 Electricity Rates," filed May 11, 2011, (Motion), p. 1. DRA's Reply refers collectively to Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company as Utilities.

² D.08-10-037, p. 227.

II. DISCUSSION

The Utilities seek an interim decision that would authorize the use of an estimated \$650 million in GHG allowance revenues³ to directly reduce a delivery rate component, e.g. distribution rates, of all customers' rates in 2012. The Utilities' proposal to return the allowance revenue to customers on a volumetric basis contradicts Section 95892(d)(3)(B) and Section 95892(d)(3)(C) of the ARB's Proposed Regulation to Implement the California Cap-and-Trade Program (Proposed Regulation) which state:

(B) To the extent that an electrical distribution utility uses auction proceeds to provide ratepayer rebates, it shall provide such rebates with regard to the fixed portion of ratepayers' bills or as a separate or fixed credit or rebate.

(C) To the extent that an electrical distribution utility uses auction proceeds to provide ratepayer rebates, these rebates shall not be based solely on the quantity of electricity delivered to ratepayers from any period after January 1, 2012.

While the ARB language is not a mandate for the Commission to follow, the Commission has an important role in implementing ARB's cap-and-trade regulation for the electricity sector in a manner that is consistent with the intent of the regulation, while protecting electricity ratepayers from the increased costs due to cap-and-trade. The Commission recognized this in D.08-10-037, where it stated, "[i]t is imperative that any mechanism implemented to provide bill relief be designed so as not to dampen the price signal resulting from the cap-and-trade program."⁴

Before the Commission issues a decision in this proceeding, parties need the opportunity to develop the record and fully consider and discuss numerous issues pertaining to the Joint Utilities' proposal and how the proposal is consistent with the ARB's and Commission's guidance not to dampen the price signal from the cap-and-trade program which is cited in the Order Instituting Rulemaking. For example, the

³ Order Instituting Rulemaking to Address Utility Cost and Revenue Issues Associated with Greenhouse Gas Emissions, March 24, 2011, page 11.

⁴ D.08-10-037, p. 227.

Utilities assert that under their proposal to return allowance revenue to customers through reduced rates, electricity price signals in wholesale power markets will fully include the price of carbon.⁵ The Utilities' proposal does not discuss retail electricity rates and the notion of including the price of carbon in retail electricity rates. To the extent that ARB freely allocates allowances to the Utilities, the Utilities' proposal would effectively dampen or eliminate the price of carbon in retail electricity rates. The issue of including the carbon price signal in retail rates is one that merits more discussion in this proceeding before the Commission issues an interim decision. DRA anticipates that a major part of this discussion will be an analysis of the expected increases in retail electricity rates due to the cap-and-trade program. Thus far, the Utilities' characterization of "extreme" changes to customers' utility bills⁶ is not supported by evidence or analysis.

Secondly, the Utilities argue that the allowance revenue should not be returned on a fixed basis because it would not mitigate the AB 32 costs in most cases and would result in inequitable impacts among customers.⁷ The Utilities highlight this argument by pointing out that, for residential customers, the primary burden of these costs would be borne exclusively by customers with upper tier usage because state law restricts the allocation of such costs to lower tier usage.⁸ DRA recognizes that customers will face a range of cost impacts due to the price of carbon. The equitable return of the allowance revenue to the customers who will bear increased costs due to cap-and-trade is a central premise to this proceeding. However, there are alternate methods, including fixed rebates among customers in each tier usage, to return allowance revenue to customers that deserve consideration before the Commission issues an interim decision.

⁵ Motion, p. 3.

⁶ Motion, p. 3.

⁷ Motion, p. 3.

⁸ Motion, p. 2, footnote 2.

Third, the Utilities cite the “extensive, prolonged and sophisticated”² communications and outreach efforts that would be necessary to educate customers as a reason to oppose returning the allowance revenues on a fixed basis. The Utilities claim that time has already run out for such an extensive statewide customer communications effort, and that the Utilities have other significant customer communications needs to educate customers on rate changes planned for this same period, which would need to be carefully coordinated with the GHG cost communications in order to avoid confusing customers.¹⁰ This argument is problematic, because it implies that the time to outreach to customers regarding GHG costs is before the cap-and-trade program begins. This creates an artificial timeline based on the anticipated “extreme” increases in utility bills in 2012. In fact, a major benefit of how ARB designed California’s cap-and-trade program is the opportunity it provides to protect electric ratepayers while educating them on the costs of GHG emissions. Returning the allowance value on a fixed basis, in the form of annual or semi-annual ratepayer rebates, could provide significant long-term value in communicating the message about increased GHG costs in California. The benefits of a fixed rebate approach in regards to customer communications and outreach efforts could be an important aspect of the long term success of the program and hence should receive full consideration in this proceeding before the Commission issues an interim decision.

Finally, the Utilities request that the Commission grant the Motion and issue the requested interim relief no later than September 1, 2011.¹¹ The Utilities have not established why it is critical to have an interim decision by September 1, 2011. The Utilities claim that if an interim decision in this OIR proceeding is not issued in time for the Commission to incorporate that decision into the Utilities respective rate changes effective January 1, 2012, then there is an extremely high risk that the incremental costs of AB 32 compliance will be included in the Utilities’ 2012 rates without the opportunity for the Utilities to mitigate those costs on behalf of customers with the AB 32 allowance

² Motion, p. 3.

¹⁰ Motion, p. 4.

¹¹ Motion, p. 5.

revenues beginning January 1, 2012.¹² The Utilities cite their three 2012 Energy Resource Recovery Account (ERRA) forecast filings as an example of their ratemaking schedule. By September 1, 2011 two of the three Utilities will have filed their ERRA forecast applications. It is not clear the extent to which these two Utilities expect to include the allowance revenue in their ERRA forecasts. The Utilities routinely update their ERRA forecasts after filing, and the Motion does not explain why such an approach would not work for the return of allowance revenue. More information is needed on these issues before the Commission issues an interim decision.

III. CONCLUSION

DRA respectfully recommends that the Commission deny the Motion for an interim decision to authorize use of greenhouse gas allowance revenues for 2012 electricity rates until the parties have the opportunity to explore the issues raised in DRA's reply. While DRA agrees that a delay between the time when customers incur cap-and-trade related costs and the time when allowance revenue is returned to customers does not serve the interests of ratepayers, it is premature to grant the Motion without examining whether there are ways to return the revenue to customers that better serve ARB's goal of reducing GHG emissions and maximizing the overall benefits of the program without adversely impacting California's economy. If the Commission has not issued a final decision in this proceeding by January 1, 2012,¹³ DRA would support an interim decision on how to return the allowance value to customers as long as the return of allowance value is consistent with the goals of the ARB regulation and D.08-10-037.

¹² Motion, p. 5

¹³ The January 1, 2012 date assumes that ARB's cap-and-trade regulation starts on time. A delay in the start of the program would impact DRA's position regarding the date of an interim decision.

Respectfully submitted,

/s/ DIANA L. LEE

DIANA L. LEE
Staff Counsel

Attorney for the Division of Ratepayer
Advocates

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-4342

May 26, 2011