

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Integrate
and Refine Procurement Policies and
Consider Long-Term Procurement Plans

Rulemaking R-10-05-006

**COMMENTS OF THE GREEN POWER INSTITUTE
ON THE PROPOSED DECISION OF ALJ ALLEN**

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Introduction

Pursuant to Rules 14.3 and 14.6 of the Commission's Rules of Practice and Procedure, the Green Power Institute (GPI) respectfully submits these *Comments of the Green Power Institute on the Proposed decision of ALJ Allen*, in R.10-05-006, the **Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans**.

Track I Issues

As one of the signers of the Proposed Settlement, the GPI supports the Proposed Decision's (PD) acceptance of the Settlement agreement. We agree with the PD (pg. 5) when it says: "The proposed settlement is, in essence, a punt." We wish to note, however, that while the settlement may be a punt, a great deal of productive effort was invested in getting us to that point, and the PD does not lack a punch. The essential finding stands: At this time, no authorization is needed or granted to obtain additional conventional generating resources. That is indeed a significant determination.

Track III Issue: Greenhouse Gas Product Procurement

California's cap-and-trade system for controlling greenhouse gas emissions, which was originally scheduled to go into effect on January 1, 2012, has been delayed for one year, and is now scheduled to go into effect on January 1, 2013. The electric utility companies will be responsible for obtaining allowances or other qualifying compliance instruments for greenhouse-gas emissions associated with their own operations, and for the greenhouse-gas emissions burden of energy that is imported from out-of-state. For energy that is procured from third-party,

in-state generators, it is the generators that are responsible for covering the emissions, not the purchasing utilities. Although the utilities will be given large allocations of allowances, all of those allowances, by rule, will be auctioned by the state. This means that the utilities will have to procure all of their own compliance-product needs through the marketplace.

All greenhouse-gas emissions allowances will be created by the ARB, and distributed according to ARB-published rules for the cap-and-trade program. Some of the allowances will be distributed to predetermined recipients who have emissions of their own that will need to be matched with allowances. The remainder, including all of the allowances that are allocated to the IOUs, will be made available to the public via auction. The other major type of compliance instrument, offsets, which can be used for up to 8 percent of a compliance obligation, will be created by a variety of entities, and certified by the ARB.

Although the first compliance period for the cap-and-trade program does not begin until next January, the ARB will hold the first auction of allowances later this year (currently scheduled for August, 2012, pre-selling vintage 2013 allowances). Of course, it is difficult to predict what will happen with the nascent greenhouse-gas product market when it is launched. The utilities will have the obligation to obtain the requisite amount of compliance products during each compliance period, and the responsibility to do so in a way that effectively controls costs and risks. That is a difficult proposition in a yet-to-be-launched market fraught with uncertainty. Given the high level of uncertainty, it makes sense for the Commission to take a cautious, measured regulatory approach.

The GPI believes that the Commission has struck the right path in its treatment of utility procurement of greenhouse-gas compliance products. The GPI supports the PD's decision to authorize the utilities to begin the procurement of qualified procurement instruments (allowances and up to eight-percent certified offsets). We support the PD's decision to withhold authorization at this time to procure

derivatives, like swaps and options. We support the PD’s decision to allow the use of third-party transactions for the procurement of qualified compliance products. However, we wonder whether requiring seller-assumption of all certification risks for offsets, including forward risks, might hinder the liquid performance of the market.

The GPI supports the PD’s use of bands in authorizing utility procurement of compliance products. We do, however, have some concerns about the numbers in the table on page 54 of the PD. We would prefer to see tighter bands, particularly in the early years when uncertainty is so high. In addition, and particularly in view of the fact that, as far as we know, the ARB has no current plans to sell allowances with forward vintages, we do not understand the meaning of procuring towards a utility’s 2015 – 2017 compliance period obligation before the year 2014, the last year of the previous compliance period, when surplus compliance products can be banked for use in the following compliance period. We offer, below, a corrected, improved and extended version of the Compliance Period Procurement Limits table.

	2013-2014		2015-2017		2018-2020	
	<u>min</u>	<u>max</u>	<u>min</u>	<u>max</u>	<u>min</u>	<u>max</u>
2012	10	30				
2013	40	65				
2014	100	115	0	10		
2015			25	50		
2016			55	85		
2017			100	112½	0	12½
2018					22½	52½
2019					52½	90
2020					100	112½

The cap-and-trade rules require regulated entities to meet their compliance obligation at the end of each compliance period (2014, 2017, 2020). With the numbers in the table on page 54 of the PD, in 2014 the utilities would be required to not only meet their compliance-period-one obligation; they would also be required to procure at least ten percent of their compliance-period-two obligation. We question whether that is consistent with the ARB's program or intention. Note that the first compliance period is only two years in duration, while the second two compliance periods are three-years each. Thus, a fifteen-percent surplus at the end of the first period would be equivalent to a ten-percent down-payment in the second compliance year's three-year obligation.

Finally, the GPI is pleased to see the clear instructions on page 52 of the PD regarding the focus of utility procurement of greenhouse-gas products:

Accordingly, at this time, while the market for greenhouse gas compliance instruments is still new, the utilities need to focus on procurement for compliance purposes. Utilities should not be procuring greenhouse gas compliance instruments for speculation or other financial purposes.

The Commission should pass the PD essentially as is, but substituting the Compliance Period Procurement Limits table that we provide above, for the table on page 54 of the PD, and correcting the corresponding discussion.

Dated March 12, 2012, at Berkeley, California.
Respectfully Submitted,



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