

January 8, 2010

**VIA FIRST CLASS MAIL AND EMAIL**

Dr. Lawrence H. Goulder, Chair  
AB 32 Economic and Allocation Advisory Committee  
CALIFORNIA AIR RESOURCES BOARD  
P. O. Box 2815 Sacramento, CA 95812-2815

Re: Mountain Utilities' Comments on Draft EAAC Report

Dear Dr. Goulder:

This law firm represents Mountain Utilities. Enclosed with this letter by first class mail, and attached to an email that will be sent to you today, is a letter from Mountain Utilities with comments on the Draft Report of the Economic and Allocation Advisory Committee's draft report.

Thank you and the members of the Committee for considering these comments.

Very truly yours,

DOWNEY BRAND LLP



Dan L. Carroll

DLC:dc

1051033.1

# Mountain Utilities

P. O. BOX 205 • KIRKWOOD, CA 95646 • PHONE (209) 258-7332 • FAX (209) 258-7345  
January 7, 2010

Mountain Utilities (MU) issues related to EAAC Report

**Dr. Lawrence H. Goulder, Chair**

AB 32 Economic and Allocation Advisory Committee  
CALIFORNIA AIR RESOURCES BOARD  
P. O. Box 2815 Sacramento, CA 95812-2815

Dear Dr. Goulder:

Mountain Utilities (MU) is the smallest jurisdictional electricity provider in California. MU serves only 0.001% of California's jurisdictional electric requirements, based on coincident peak demand. Like other utilities serving primarily recreational load,<sup>1</sup> MU wants to maximize energy efficiency, expand reliance on low and zero emission generation resources, and especially substitute bio-fuels for carbon intensive transportation fuels.

MU appreciates this opportunity to comment on the Economic and Allocation Advisory Committee (EAAC) January 2, 2010 draft report (Report). Other utilities are apparently commenting on the larger issues of the Report, so MU has chosen to focus on specifics that would affect the unique utility that is MU.

Three items in the report would appear to require fleshing out to evaluate their impact on MU.

The three items are:

---

<sup>1</sup> **Service Territory:** Kirkwood is a small and geographically isolated community with a primary focus on skiing and recreational activities. It is located approximately thirty miles southwest of Lake Tahoe in the high Sierra. **Mountain Utilities (MU)** is the tiny electric utility serving the community of Kirkwood.

With a base elevation of 7,800 feet, MU's service area covers less than 2 square miles and is about 30 miles away from any other utility's transmission lines. Potential transmission routes would traverse some of the roughest terrain in the Sierra Nevada. Thus, MU is not connected to California's electric transmission grid and is of necessity the sole provider of electric power to Kirkwood. All power provided by MU is generated using five diesel engines with a maximum capacity of roughly 5,000 kilowatts. The diesel fuel used to fire MU's generators must be trucked up the mountain for storage and eventual consumption at Kirkwood.

**Customers:** There are approximately 700 customers in MU's service area. The vast majority of MU's customers are seasonal vacation properties and second homes. In addition, MU serves approximately 100 full-time residential customers, one store, one restaurant and one standby service.

**AB 2509 and Electric Microutilities:** AB 2509 became effective on January 1, 2005. It added Sections 2780 and 2780.1 to the Public Utilities Code. Section 2780 creates a class of electric utility known as "electric microutility" That term is defined as "any electrical corporation that is regulated by the commission and organized for the purpose of providing sole-source generation, distribution, and sale of electricity exclusively to a customer base of fewer than 2,000 customers." As so defined, MU is an electric microutility.

# Mountain Utilities

P. O. BOX 205 • KIRKWOOD, CA 95646 • PHONE (209) 258-7332 • FAX (209) 258-7345  
January 7, 2010

Mountain Utilities (MU) issues related to EAAC Report

1. Guaranteed quantities of emission allowances for small entities under an auction regime

The Report suggests that small entities be guaranteed a **small** quantity of allowances at the market clearing price.<sup>2</sup> If “small” is intended to mean that entities such as MU will only get a minimal quantity of their needed allowances from the auction, then this approach would be an unnecessary complication, failing to adequately serve the needs of small entities with no market power, very limited resources and possibly minimal if any options to reduce GHG emissions. It is like allocating a single drop of water to a person dying of thirst.

For this reason, MU recommends that the guaranteed allowances be increased to be “sufficient” to satisfy the GHG allowance requirements.

2. Advance collection of funds to pay for allowances or GHG abatement measures.

The Report suggests that firms with exceptionally limited resources be allowed to recover the cost of allowance purchases in advance of need.<sup>3</sup> MU believes that it would qualify for such treatment because it meets the criteria outlined in the report, but it is not absolutely clear that such is the case. This suggestion should be amplified to reduce uncertainty about the result. At a

---

<sup>2</sup> 2.4.3 Other Features of the Auction

In addition to the two main choices that identify the way that the market-clearing price is determined in the auction, there are a number of other subordinate features that should be considered, including:

- Frequency of the auction (e.g., quarterly)
- Allowance vintages to be auctions (e.g. current year and/or future year vintages)
- Use of a reserve price (a minimum price in the auction)
- Auction platform (where the auction will occur and who will run it)
- Eligibility rules and financial prequalification
- Passive bid provisions for small entities so they can be guaranteed a small quantity at the market clearing price (Emphasis added) (Ref. P. 16 EAAC Report)

<sup>3</sup> 2.2.1 Rationales for Free Allocation

Direct Provision of Compensation

Many view free allocation as a particularly expedient way to provide compensation to regulated entities. The compensation comes in the form of (valuable) free allowances. In contrast, when all allowances are auctioned, providing compensation to regulated entities involves both an auction and a subsequent recycling of auction revenue to these entities. Because the process involves two steps, compliance entities might feel that obtaining allowance value through recycling of auction revenue carries greater risk than obtaining such value in one step through receipt of free allowances. For firms with exceptionally limited cash reserves or ability to borrow in order to finance the purchase of auctioned allowances, receiving allowances free will be much more attractive than receiving proceeds from an auction after having had to purchase allowances. However, in most cases, the economic evidence suggests a large majority of the cost of allowances will be passed on to consumers. In such cases firms will be able to recover the cost of allowance purchases even before the firms are actually required to obtain allowances for surrender at the end of a compliance period. (Emphasis added) (Ref. P. 6 EAAC Report)

# Mountain Utilities

P. O. BOX 205 • KIRKWOOD, CA 95646 • PHONE (209) 258-7332 • FAX (209) 258-7345

January 7, 2010

Mountain Utilities (MU) issues related to EAAC Report

minimum, the Report should be augmented with a statement to the effect that: "Electric Microutilities, upon submission of an advice letter, should receive authorization from the California Public Utilities Commission (CPUC) to establish a balancing account to recover the anticipated costs of obtaining allowances and investing in GHG reduction investments and to collect in rates such costs in advance of need."

### 3. Amelioration of unintended migration consequences.

One aspect of the GHG program that does not appear to be addressed in the Report is the potential for migration by a utility's more mobile customers. While the Report mentions regions that have reduced their energy use,<sup>4</sup> it does not address the geographic circumstances that make it possible for urban coastal dwellers to have a very small carbon footprint. Thus, coastal urbanites enjoy the same lifestyle as folks in Redding, Sacramento, Fresno, or Bakersfield, with a significantly reduced need for air conditioning and heating. As a consequence, increasing utility bills to recover GHG allowances will provide an impetus to move from areas with extremes of temperature to more temperate climes.

If this migration is viewed as an acceptable and desirable means of reducing GHG emissions, then the Report should address the means of preventing countervailing influences from negating this activity. One likely effect of anticipated migration to areas requiring less energy would be for coastal landowners to raise rents and land prices. Not only would this action deter migration, it would also enrich such landowners at the expense of utility ratepayers.

---

#### <sup>4</sup> 5.1.2 Preventing Price Increases to Electricity Consumers

...

Third, customers in regions that already have reduced their energy use should not be penalized for their efforts. Moreover, most households in regions that are expected to experience relatively greater changes in electricity prices reside in regions with relatively lower demand for home heating and they will face lower changes in those costs. Hence the net effect on households should be taken into account, rather the effect with respect to one particular type of energy use (Footnote reference omitted) (Ref. Pp. 34, 35 EAAC Report)

# Mountain Utilities

P. O. BOX 205 • KIRKWOOD, CA 95646 • PHONE (209) 258-7332 • FAX (209) 258-7345  
January 7, 2010

Mountain Utilities (MU) issues related to EAAC Report

Mountain Utilities appreciates this opportunity to comment on the Report.

Respectfully submitted:



John Dutcher – V.P. Regulatory Affairs  
**Mountain Utilities**  
3210 Corte Valencia  
Fairfield, CA 94534-7875  
Telephone: (707) 426-4003  
Facsimile: (707) 426-4003

Cc (via email):

**EAAC Members:**

Justin Adams, Forward Observer  
Vicki Arroyo, Georgetown State and Federal Resource Center  
Matthew Barger, Hellman and Friedman LLC  
James K. Boyce, University of Massachusetts  
Dallas Burtraw, Resources for the Future  
James Bushnell, University of California Energy Institute  
Robert Fischer, Gap, Inc.  
Richard Frank, California Center for Environmental Law & Policy  
Dan Kammen, University of California  
Christopher R. Knittel, University of California  
Joe Krueger, Bipartisan Policy Center, National Commission on Energy Policy  
Stephen Levy, Center for the Continuing Study of the California Economy,  
Joe Nation, Stanford University  
Nancy E. Ryan, California Public Utilities Commission  
Nancy Sidhu, Los Angeles County Economic Development Corporation,  
James L. Sweeney, Stanford University

Ms. Karen Douglas, Chair -- California Energy Commission  
Ms. Mary I. Nichols, Chair – California Air Resources Board  
Mr. Michael R. Peevey, President – California Public Utilities Commission  
Director – Energy Division - California Public Utilities Commission  
Mr. James Goldstene, Executive Officer – California Air Resources Board  
Kevin M. Kennedy, Ph.D. – Program Evaluation Branch, California Air Resources Board  
Senate Select Committee on Climate Change and A.B. 32 Implementation