March 20, 2010

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California Air Resources Board
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James Goldstene, Executive Officer
California Air Resources Board
P.O. Box 2815
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RE: Comments on the January 10, 2010 Draft Report Allocating Emissions Allowances under California’s Cap-and-Trade Program

The Los Angeles Water and Power Associates, Inc. (Associates) is pleased to provide comments on recommendations contained in the above titled report prepared by the Economic and Allocation Advisory Committee (EAAC). The Associates previously provided comments on July 30, 2008 to the California Air Resources Board (ARB) regarding its California Climate Change Scoping Plan. The Associates should not to be confused with the City of Los Angeles Department of Water and Power or any other municipal entity.

The EAAC’s recommendations to ARB regarding the allocation of allowances are to “rely principally and perhaps exclusively, on auctioning as the method for distributing allowances”. This recommendation would require California’s municipal electric utilities to purchase allowances, at substantial costs, just to continue to operate their systems. The EAAC projects that allowances could cost several billions of dollars. A further complication is that the proposal will add an “additional cost layer” to municipal electric utilities that are aggressively pursuing renewable energy goals. These goals, 20% by 2010 and 35% 2020, will require substantial commitments of resources and hundreds if not billions of dollars. So, at the very same time municipal utilities
are committing major revenues to renewable energy goals, the EAAC’s recommendation effectively
doubles the cost burden of the utilities. Estimates of the combined cost will increase electric bills well
over 70%. There does not appear to be any attempt by EAAC to address the economic effects of their
recommendations in conjunction with other related programs. However, the EAAC clearly states in their
report that ARB should not discourage rate increases because higher rates will encourage conservation
and less demand for energy. The electric utility customer/rate payer/businesses/residents of California
who will be expected to foot the bill would take issue with this philosophy. Rulemakings should not be
made in a vacuum, especially when the issues are interdependent. Therefore, the Associates
recommend that before ARB takes any action, it should consider the combined effect of its
recommendation.

To further the uncertainty of the costs and impacts on the customer/rate payer/businesses/residents of
California, ECCA recommends that the proceeds from the auction be given to an as yet to be determined
State agency or new commission to administer the redistribution of the proceeds. The report clearly
indicates that the proceeds will not necessarily go to those that paid the bills. This reallocation of
potentially billions of dollars by the will of an agency or commission is ripe for misuse and will likely
result in the transfer of wealth from one segment of society to another. It appears that ECCA’s focus is
on generating revenue for the State and not necessarily on reducing greenhouse gases (GHG). The
ability of a municipal electric utility to continue to provide services, meet system requirements, increase
its renewable energy portfolio and purchase allowances will strain its ability to meets its financial
responsibilities. Therefore, the Associates recommend that, before ARB supports the establishment of
another agency and another substantial program in California, it should encourage and seek input from
stakeholders, the segment of society that is going to be asked to pay for it – the customer/rate
payer/businesses/residents of California and not chiefly rely on academia, environmentalists, regulators
or utilities.

The Associates believe that there are several successful cap and trade programs that can be emulated by
California. The Federal Acid Rain Program for the reduction of sulphur dioxide emissions (SO2) is an
excellent example for allocating allowances to existing emitting sources, with specific reduction goals.
The Federal Program allows sources to participate in the market to buy or sell allowances. It provides
the covered sources with a means to assess and meet their needs in the most cost effective manner
while still meeting the objectives of the Acid Rain Program. The program leaves it up to the source to
determine the method to achieve compliance and not the regulator. Another example of a successful
program is California’s South Coast Air Quality Management District’s (SCAQMD) Regional Clean Air
Incentives Market Program (RECLAIM) to regulate emissions of nitrogen oxide (NOx). Under RECLAIM,
facilities received emission allocations with a declining cap. RECLAIM is also market driven in that
allowances can be bought and sold and it leaves it up to the facility to determine how to achieve
compliance in the most cost effective way. Both the Federal and SCAQMD programs provide facilities
with initial allowances, have declining allowances and leave it up to the source to maintain compliance.
The key to both of these programs is their flexibility to allow the sources to achieve compliance in the
most effective manner. Therefore, the Associates recommend that ARB use a similar approach to
allocate allowances to facilities and not implement the pure auction approach recommended by EAAC.

The ARB has acknowledged that there are other regional and federal GHG cap and trade programs
currently under consideration. GHG emissions have no boundaries, state, regional or otherwise and
should be regulated accordingly. If ARB continues with their rulemaking, there is no reason why sources
covered by the ARB program could not be included in region/national programs without duplication or
additional costs. The EAAC stated in their report that allowances cannot be given to sources because of
potential conflicts with future programs. However, the Associates believe and recommend that ARB develop and include in their rulemaking a methodology that can accommodate sources with allowances while protecting the State from conflicts with future federal or regional programs.

In summary, the Associates recommend that any cap and trade program that is implemented in California provide allowances to existing facilities, based on historical emissions. The program should be flexible enough to allow sources, such as those of the municipal electric utilities, the ability to achieve the goals of the program through the most cost effective means without jeopardizing their ability to continue procuring renewable energy and meeting their other system requirements. The benefits of this approach are clear. The objectives of the Global Warming Solutions Act (AB 32) can be achieved. The program would be simple to implement, fair and cost effective. The customer/rate payer/businesses/residents of California will not be subjected to another substantial rate hike and the municipal electric utility will have some certainty in the management of their resources.

Sincerely,

Kent W. Noyes
Kent W. Noyes
President,
Water and Power Associates, Inc.