

October 27, 2009

Dear Senator:

As the Senate works towards passage of comprehensive federal climate change legislation, we urge you to provide all allocated electric sector carbon emission allowances only to regulated entities, which are the local distribution companies (LDCs). The four signatories represent a diverse group of organizations, all of whom have a strong interest in protecting consumers. In addition, we all support enactment of affordable climate change legislation that reduces greenhouse gas emissions, protects consumers, prompts investments in new technologies, and spurs economic growth.

Allocating electric sector carbon emission allowances only to LDCs will ensure that consumers do not bear unnecessary costs in the achievement of climate change goals. We are therefore opposed to inclusion of any provisions in the bill that allocate greenhouse gas emission allowances within the electricity sector directly to owners of unregulated merchant electric generation units. The American Clean Energy and Security Act of 2009 (HR 2454), as passed by the House of Representatives, allocates up to 10 percent of the electricity sector's allowances to unregulated merchant coal generators, directly reducing the ability of the regulated LDCs to protect consumers. In the Senate, the Clean Energy Jobs and American Power Act (S 1733) just released by Senator Boxer largely mirrors the allocations contained in HR 2454.

Because these merchant generators are not owned by a regulated utility, there is no way to ensure that consumers would receive the benefits of the free allowances allocated to them in H.R. 2454, and it is much more likely that instead consumers would incur substantial extra costs. A recent study by Synapse Energy Economics found that a free allocation to merchant generators would increase costs to consumers all across the country, regardless of region and market structure. The study also found that it is likely that *any* allowance allocation to merchant generators will result in billions of dollars of consumer-funded windfall profits for many merchant plant owners. These windfall profits are especially problematic because they are “unproductive costs” that do not produce reductions in carbon emissions and significantly distort market price signals. You can access the Synapse study at: <http://www.synapse-energy.com/downloads/cap-and-trade.pdf>.

The most effective way to protect consumers is to allocate all allowances within the electricity sector to LDCs, thereby allowing the rate-setting entities to credit the full value of those allowances to consumers. Any electric sector allowances given to unregulated generators would directly reduce the ability of LDCs to soften the impact of pricing carbon on consumers. Free allocation to merchant generators would not help ensure reliability – the reliability of the system is guaranteed by extensive rules and procedures that do not allow generators to be taken out of commission purely because they have become less profitable. Charging consumers excess costs just to keep a handful of plants in service would be a very inefficient and redundant way to ensure reliability.

The allocation is problematic for all consumers, even within “deregulated” electricity markets as the Synapse study shows. Under a free allocation, generators in these markets will add to their electricity price the opportunity cost of holding, rather than selling, the allowance. Merchant generators will therefore simply add an estimated market price of the allowance to their price charged for electricity.

At a time when consumers are facing extreme economic hardships, implementation of a carbon mitigation policy must be done in a manner that achieves needed emission reductions at the least cost to consumers. Allocation of allowances to merchant generators will only raise the cost for consumers without guaranteeing any corresponding reduction in carbon emissions.

Sincerely,

Frederick Butler  
National Association of Regulatory  
Utility Commissioners



David Springe  
National Association of State Utility Consumer  
Advocates



Mark Crisson  
American Public Power Association



Glenn English  
National Rural Electric Cooperative Association

