

MR. TUTT: Good afternoon. Thank you for the
25 opportunity to speak.

1 I'm Tim Tutt. I represent the Sacramento
2 Municipal Utility District. And I'm here to talk about
3 perspective enforcement of regulations that are coming up
4 and dealing with global climate change and now the RPS.

5 I would like to start out by saying SMUD is fully
6 committed to achieving the states's goals in climate
7 change and the RPS. We have a Board policy of reducing
8 our GHG emissions to ten percent of our 1990 emissions by
9 2050. And we are probably going to be one of the few
10 utilities that meets the 20 percent RPS by 2010 and are
11 fully committed to 32 percent RPS by 2020.

12 Now, what we would like to note for you is that
13 GHG and RPS compliance and enforcement are going to be
14 completely different animals. Greenhouse gases, while
15 important to control over the long term and SMUD's
16 committed to those controls, do not have the same
17 day-to-day public health impacts as criteria pollutants
18 and toxic air contaminants. For GHG and upcoming RPS
19 regulations, compliance would likely be on an annual basis
20 with three years' compliance period and banking
21 considerations fundamentally different than the criteria
22 pollutant framework. And, for example, that we contend
23 that this would imply the daily penalties for violations.
24 Considering each day of noncompliance as a separate
25 violation does not make sense with such an annual limit or

1 cap.

2 We'd also like to point out that the forthcoming
3 RPS and the GHG regulations are complicated and
4 comprehensive news structures. They're going to require
5 some initial flexibility for the first and second rounds.
6 But it's still an evolving set of protocols to establish
7 efficient long-term penalty and enforcement protocols.
8 Don't put the enforcement in stone yet. Work on it for a
9 couple of rounds, because it's going to need some
10 flexibility.

11 The presentation mentioned the adoption of strict
12 liability, and SMUD feels that that implies that it's
13 important for cost reduction to identify and establish up
14 front circumstances that should not result in a penalty,
15 even if a violation of a limit occurs and include those
16 circumstances where appropriate as predefined exemptions.
17 For example, under the proposed SF-6 regulations, an
18 exemption for a catastrophic equipment failure should be
19 included to avoid the cost of enforcement cases when an
20 entity suffers an unforeseeable release of SF-6 gas.
21 There could be limits on such exemptions, but the need for
22 those exemptions is real.

23 Utilities in general regard compliance with
24 regulations as a must, but circumstances can occur that
25 result in a technical but unavoidable violation. And CARB

1 should be aware of those and reflect those in their
2 up-front regulations.

3 In addition, SMUD believes that well-defined
4 settlement and variance procedures, as has been discussed
5 many times here today, will greatly assist stakeholders in
6 making sure compliance remains a most important but yet
7 cost effective corporate strategy.

8 Another thing that's going to be different is
9 there is independent verification of GHG emissions. This
10 establishes perhaps an additional enforcement tool, but
11 also raises the prospect of minor reporting violations
12 occurring. So if SMUD believes that ARB should develop a
13 threshold of, say, three percent of emissions below which
14 any problem identified would need to be remedied by the
15 reporter as soon as possible, perhaps as a 90-day period
16 to remedy with an appeal process for that, and longer lead
17 hardware changes might require differences in permitting
18 and other things. But above that, financial penalties
19 could be assessed if the problem was a result of
20 negligence or willful disobedience to the rules.

21 Now I want to point out in the GHG sector,
22 50 percent of the greenhouse gas emissions in the state
23 are not going to be covered up until 2015. So, to us, it
24 doesn't make sense to have penalties for small reporting
25 violations when at least half of the emissions are not

1 even covered at the time.

2 One last thing. When inevitably a violation of
3 enforcement action drags on and even ends up in court
4 perhaps, SMUD feels this should not affect compliance by
5 other entities in the structure. And basically what we
6 mean by that is that the uncertainty about the -- that
7 particular entity's emission signature GHG footprint
8 shouldn't change the cap, shouldn't change what other
9 entities have to do.

10 And that's all we have to say. Thank you.