State Supreme Court says auction of carbon credits is constitutional

Sacramento Bee 6-29-17
BY DALE KASLER dkasler@sacbee.com

Californians pay more for gasoline and other goods to finance the state’s war on climate change. The state Supreme Court decided Wednesday they’ll continue paying for at least three more years.

The court declined to hear a lawsuit challenging the state-run auctions of carbon-emissions allowances, which cement makers, food processors and others must purchase in order to spew greenhouse gases. Two lower courts already ruled the auctions, which have raised billions of dollars since their introduction in 2012, are constitutional.

The auctions are an integral part of California’s cap-and-trade program, which is designed to reduce carbon emissions. Companies get most of their carbon credits for free. But to meet their needs, they have to buy some credits, either on the open market or in the state-run auctions held every three months.

With credits selling for around $13 a ton, the economic impact hits home most directly at the gas pump. Fuel wholesalers are among entities required to purchase credits, and they pass their costs along to consumers. The UC Energy Institute estimates the cost of carbon adds about 11 cents a gallon to gas prices. A separate program called the low carbon fuel standard adds another 4 cents a gallon, for a total cost of 15 cents a gallon.

The California Chamber of Commerce and Woodland tomato processor Morning Star Co. argued in court that the auctions amount to an unconstitutional tax. The California Constitution says all new taxes must pass with a two-thirds supermajority. AB 32, the state’s 2006 climate change law, passed with only a simple majority.

The 3rd District Court of Appeal ruled in April that the auctions aren’t a form of taxation because buying the carbon credits is voluntary – companies could choose instead to reduce emissions – and the credits are a “thing of value.”

The cap-and-trade program expires in 2020 and the Legislature hasn’t renewed it yet. Gov. Jerry Brown has been urging the Legislature to extend the program on a two-thirds vote to avoid the possibility of future legal challenges.

“With this Supreme Court victory, now it’s up to us to take action extending California’s cap-and-trade system on a more permanent basis,” Brown said Wednesday.

CaliforniaGeo Responds—
At $3.00 per gallon of gasoline, a 15¢ bump for protecting climate only amounts to a 5% price boost. This amount is somewhat equal to running on lower than recommended tire pressures, jackrabbit starts from intersections, and certainly the continuing prevalence of larger SUV or pick-up truck ownership.

The good news is that a financial payment for air pollution is now baked-into the business operations of those who deal with carbon. While complaints about Cap and Trade have been persistent from
manufacturers and business, we have only to look at European gasoline prices that have long been double our own per gallon. Cleaner air saves lives and reduces illness and missed workdays—something that business should appreciate.

Geothermal heat pumps remain the only heating equipment that can import and export thermal energy from and to the earth, without carbon. If all the environmental and social costs of carbon and air pollution were contained in its price, geo heat pumps would be the low cost leader for heating and cooling of buildings.