COMMENTS ON THE

CALIFORNIA AIR RESOURCES BOARD'S

CLIMATE CHANGE DRAFT SCOPING PLAN

JUNE 2008 DISCUSSION DRAFT

Submitted By:

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I. Introduction

The California Wind Energy Association ("CalWEA") and the Large-scale Solar Association ("LSA") are pleased to comment on the California Air Resources Board's ("ARB") *Climate Change Draft Scoping Plan, June 2008 Discussion Draft* ("Draft Scoping Plan"). CalWEA and LSA represent approximately 30 companies engaged in developing utility-scale renewable energy projects for the market created by California's Renewables Portfolio Standard ("RPS") policy. Our members collectively have signed power purchase agreements for renewable energy capacity totaling over 4,000 MW, in addition to owning and operating approximately 1,000 MW of existing project capacity in California.

CalWEA and LSA strongly support the Draft Scoping Plan for the greenhouse gas ("GHG") regulatory strategies required to implement AB 32[1]. The Draft Scoping Plan lays out a roadmap for California to reduce GHG emissions to 1990 levels by 2020, and provides the direction needed to ultimately achieve the goals of Gov. Schwarzenegger's Executive Order S-3-05, which calls for a further 80 percent reduction of greenhouse gases from 1990 levels by 2050. Our members are proud to be a substantial part of California's efforts to fight global warming, and we fully agree with the Draft Scoping Plan's recognition that a firm 33% Renewables Portfolio Standard ("RPS") requirement is a foundational prerequisite that must be assumed if California is to meet AB 32's requirements.[2] We further agree with the Draft Scoping Plan that renewable energy beyond a 33% RPS can provide even greater GHG emission reductions as part of the energy sector's role in the regional greenhouse gas cap-and-trade program to be developed as part of the Western Climate Initiative ("WCI").[3]

II. Comments

A. A Firm Commitment to Renewables is Necessary to Achieve the Anticipated GHG Reductions

The expansion of the RPS to 33% would, as the Draft Scoping Plan concludes, provide 21.2 $MMTCO_2E$ in GHG reductions — over 12% of the total GHG reductions that the report identifies as the "Recommended Greenhouse Gas Reduction Measures" necessary to achieve the

[1] Assembly Bill 32, the Global Warming Solutions Act of 2006 (Nuñez, Ch. 488, Statutes of 2006).
[2] Draft Scoping Plan at p. 24.
[3] Id. at pp.17-19.

2020 requirements.[4] These critical reductions can ***only*** be relied upon if the 33% RPS is truly a requirement. We urge you to adopt achievement of 33% RPS as a core element of the ARB's AB 32 compliance measures, as well as to support enabling legislation to increase the California RPS to 33% and apply the statutory program broadly to all electric load-serving entities. Renewables, although growing strong and having immense potential to become a competitive and well-established portion of the energy sector, are still very much in a nascent stage. Moreover, unlike conventional energy generation, the cost of renewables is not in the variable and ongoing costs of fuel; it is in the capital-intensive construction of the facilities themselves. To encourage the long-term investment needed for renewables to be constructed, investors must be assured that the market for renewables is no mere fleeting interest, but a commitment into the future for a new, clean energy sector.

It is the state's 20% RPS requirement that has supported developers' investment of many millions of dollars in the procurement and study of project sites, transmission studies, transmission upgrade deposits, bidding processes, and all of the other activities that go along with project development. Likewise, the 20% RPS has served to drive the transmission and system integration planning that is necessary to achieve that goal. Even with the 20% RPS goal having been established six years ago, the state is still substantially lagging in planning for — let alone building – the necessary transmission infrastructure. If an express 33% RPS target is not established now, there is every reason to be pessimistic that the 33% RPS goal could be achieved, due to lack of supporting transmission. At the same time, the momentum that has now been gained through the RETI process and various state- and federal- land-use initiatives poises the state for timely achievement of the 33% goal by 2020.

Once renewables are a well-established and substantial portion of the energy sector, renewables may be able to contribute even more. The strength of the renewables industry could then support further investment relying on cap-and-trade revenues rather than a regulatory mandate. Until that time, the volatile history of such cap-and-trade markets simply would be too uncertain to form the basis of the long-term investment needed for capital-intensive renewable generation development. In short, without a firm commitment to a 33% RPS requirement and the related infrastructure, California cannot expect renewable generation to provide the GHG

[4] Id. at p. 14, Table 2.

reductions that the Draft Report anticipates and relies upon to meet California's GHG goals, whether in the near- or long-term.

The 33% RPS requirement would further employ an already-established, readily implementable and verifiable means to achieve a substantial proportion of California's GHG goals. While reducing our carbon footprint, increased renewable energy requirements would, as the Draft Report indicates, provide the economic benefits of clean technology[5] and the environmental and health benefits of reduced criteria and toxic air emissions.[6] As renewables provide a wide array of benefits, their costs must be considered in light of their overall value, and not simply on a carbon basis. The current regulatory regime for renewables provides cost control measures that address energy, GHG and other renewables values through three categories of "products": the reasonable cost for energy products is modeled by the Market Price Referent ("MPR")[7]; the reasonable cost for the greenhouse gas reduction function of renewables is modeled through a GHG "adder" (now included as an element of the MPR); and, to a limited degree, compensation reflecting environmental and other co-benefits is now addressed through the Above-Market Fund ("AMF"), which can be applied to above-MPR costs until they are exhausted. Any future RPS regulatory regime can be expected to similarly address these three categories of values, reflecting both further development of GHG costs as well as further evaluation and assessment of the many environmental and economic benefits that renewables bring to California. The cost of renewables as a carbon-reduction tool, after their energy and other co-benefits values are subtracted, could be minimal — or even negative — depending on events over the next decade; continuing regulatory cost-control oversight will ensure that it remains cost-effective as future conditions develop.

B. The RPS Should Not Be Subject to Compliance Offsets

The Draft Scoping Plan suggests that sources within the cap-and-trade program may be able to meet specified regulatory obligations through alternative means, such as through

[5] Draft Scoping Plan at p. 49. While reducing our carbon footprint, increased renewable energy requirements would simultaneously provide the energy needed to return our economy to vibrancy, produce sustainable jobs, and contribute to California's tax base.
[6] Draft Scoping Plan at pp. 57-61.
[7] The MPR represents the market cost of energy, which the Commission has determined, at present, to be based on the costs of a proxy natural gas-fired combined-cycle turbine. Time of Delivery ("TOD") factors are applied to the MPR to produce a market price for different products including baseload, peaking, and as-available output.

compliance offsets.[8] CARB staff also has recently indicated in public forums on the Draft Scoping Plan that the agency is considering whether compliance offsets should be available for use against regulatory measures.

CalWEA and LSA strongly encourage the CARB not to weaken the RPS requirement by enabling alternative means of compliance, whether through compliance offsets or other means. It is essential to make the 33% RPS obligation a firm one for the same reasons that it is necessary to establish the obligation in the first place; that is, to support the major capital investments and system planning that will result in the shift in the fundamental electric generation resource mix required to achieve the goal. Incremental use of offsets is a temporary alternative compliance measure that does not fundamentally shift our reliance on carbon-based energy sources.

If retail sellers of electricity are able to escape their RPS obligation through other mechanisms such as compliance offsets, it will undermine developers' confidence in the RPS market and compromise the ability to plan for and build new renewable generation, as well as the transmission to accommodate that amount of renewable energy on the system.

Moreover, the RPS program itself contains substantial compliance flexibility options, including the ability to defer compliance for three years and the ability to bundle renewable energy credits (RECs) with generic power deliveries into the state. These flexibility measures eliminate the need for further non-renewable-energy compliance flexibility measures, such as compliance offsets, that would undermine achievement of the RPS goals.

III. Conclusion

The renewables contribution needed to attain the AB 32 2020 goals can only be obtained through the firm, 33% RPS-by-2020 commitment relied on in the Draft Scoping Plan. The ongoing regulatory oversight to ensure that renewable generation is cost-effective, considering all of the products and benefits they convey, is an appropriate cost-containment counterbalance to that firm commitment. The combination of a set percentage and regulatory cost oversight is necessary for the long-term capital-intensive investment needed for renewable generation development; the proposed cap-and-trade program may inspire further renewables investment, but cannot be depended upon as a sufficient incentive until renewable generation has become

[8] "Offsets could also be used by a source subject to direct regulation if the regulation would need [sic] specifically provides for its use." Draft Scoping Plan at p. 44.

well-established. By building on the increasing success of the RPS program to date, a 33% RPS-by-2020 commitment will provide a firm cornerstone of California's carbon reduction program, allowing for a greater degree of flexibility and experimentation in the cap-and-trade component and ultimately a stronger and more reliable carbon reduction program overall.

Respectfully submitted,

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On behalf of

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