June 12, 2009

VIA EMAIL: corlando@arb.ca.gov
Claudia Orlando
California Air Resources Board
1001 "I" Street
Sacramento, CA 95812

Dear Ms. Orlando,

NextEra Energy Resources (NextEra) is a leading clean energy provider with over 13,000 MW of natural gas, wind, solar, hydroelectric and nuclear power plants in operation in 25 states. More than 90 percent of NextEra's electricity is generated by clean fuels. In addition, NextEra is the nation's leader in wind energy generation and operates the two largest solar thermal fields in the world. Furthermore, we are an affiliate of a regulated utility, Florida Power & Light Company located in southern Florida. In California, NextEra affiliates own and/or operate 700 MWs of wind, 310 MWs of concentrated solar thermal, 500 MW of combined cycle natural gas, and 44 MWs of coal generating capacity. Our company brings a unique perspective to the climate change discussion. We have looked at this issue from both the regulated and unregulated perspective as well as from the view of merchant and contracted assets. We operate in all major regions of the country. Our corporation is committed to advancing climate change policies and has actively participated in the development of Regional Greenhouse Gas Initiative (RGGI) protocols in the Northeast, the Western Climate Initiative (WCI), Midwestern Governor GHG Accord, as well as all federal GHG reduction efforts.

NextEra applauds the Air Resources Board (ARB) for changing its Scoping Plan to specifically recognize that voluntary renewable energy set asides could contribute to California's climate goals by providing an incentive for voluntary purchases of renewable energy and additional reductions in the emissions responsible for global warming. We urge CARB to follow the example set by the Regional Greenhouse Gas Initiative (RGGI) by including an off-the-top rule, that is the set aside and retirement of allowances, to account for voluntary action on renewable energy.

First, we wish to note the importance of strong energy sector measures to bolster clean energy development, in particular bold renewable portfolio standards. The voluntary market stands apart from compliance efforts. It is essential to prevent any double counting of renewable energy, with only a voluntary or a compliance claim allowed, not both. The fact that the greatest amount of voluntary market activity occurs in the areas with the most compliance driven renewable energy development indicates that the voluntary market does not interfere with or inhibit the achievement of renewable portfolio standards.

Many organizations and individuals choose to purchase renewable electricity or renewable energy certificates as part of their social commitment to helping to reverse global warming. They should be encouraged to continue this socially responsible behavior rather than having the environmental fruits of their investments claimed by others, which could occur if cap-and-trade is designed without an off the top approach to voluntary renewable energy purchases.

The voluntary market has been an important driver of clean energy development in California. In 2007, 2 million megawatt hours of electricity were generated by renewable sources and sold through the Center for Resource Solutions Green-E Energy consumer protection program. This amounts to about 1.2 million metric tons of avoided carbon dioxide emissions, using the US Environmental Protection Agency's emission factor for the western region (based e Grid, the Emissions & Generation Resource Integrated Database). Yet this number significantly understates the actual reductions as neither the green power programs of six California utilities nor most on-site generation are included in this figure.

A key driver of the purchase of voluntary renewable power is customer confidence that this helps reduce the pollution that causes global warming. If the State of California does not implement an off-the-top approach, there is a great risk that this will undermine continued growth in California's voluntary renewable power market and the benefits that this market provides to the State of California, including low cost emission reductions by leveraging non ratepayer actions. When a cap on emissions is established under Assembly Bill (AB) 32, starting in 2012, voluntary purchases of renewable energy will still displace fossil generation. Unless allowances are retired on behalf of this renewable generation, the number of emission allowances will be unaffected and emission reduction claims from these voluntary investments will become problematic.

The contribution from the voluntary purchase renewable energy credits to the development of new clean energy projects should not be ignored. The clean energy development that the off-the-top approach provides will put California in a better position to meet its long term goals (i.e. post-2020). The additional early (i.e. pre-2020) clean energy development will mean less reductions will have to be found in the long term, which will potentially reduce future allowance prices. Again, there are many other environmental and economic benefits beyond these reduced allowance prices. We offer the following specific suggestions for how the process of setting-aside and retiring allowances associated with voluntary purchases of renewable energy should work:

- If a California cap-and-trade program is linked with others through the Western Climate Initiative (WCI), California should negotiate reciprocity with other WCI participants.
- CARB (and the WCI Partners) should consider the location of the renewable energy purchaser, not the location of the generator, for eligibility. The RGGI program provides useful insight into how an off-the-top system can work.
- The voluntary renewable energy set-aside should be estimated in advance of each compliance period and then removed from the total pool of allowances created under the cap.
- At the end of a compliance period, program administrators should reconcile voluntary demand estimates with actual sales.
- The difference between estimated and actual demand can be accounted for by adding to or subtracting from the set aside for the next compliance period.
- Information from the National Renewable Energy Laboratory, the Western Region Electricity Generation Information System, and other public data sources should serve as the basis for determining the quantity of allowances to be set-aside under the cap in advance of each compliance period.

The accounting for the voluntary purchase of renewable energy credits at the location of the purchaser allows for the development of renewable energy projects at the most cost effective sites. CARB's implementation of AB32 should not limit the ability of customers in CA to support the development of renewable generation but should encourage it. The purchase of a voluntary renewable energy credit in CA will result in a real reduction in GHG emissions regardless of location of the project. The purchaser typically does not care where the credits come from, but is more concerned the investment results in a real reduction. CARB should be interested in the fact that the purchaser's investment is maximized by allowing investment in a project results in the most generation capacity for the lowest cost. Accounting for voluntary renewable energy purchases at the location of the purchaser allows in the investment within CA, WCI, or elsewhere depending on availability and cost. If the project is located outside CA or WCI, GHG emissions are reduced at the location of the project and an allowance is retired within the capped sector. This will force the reduction of emissions within the capped sector in an equivalent amount to the purchase. Allowing consumers to participate in development projects through the voluntary market and the retirement of voluntary renewable energy credits at the purchasers location through an off-the-top set aside of allowances simply has the potential to get more renewable energy projects actually constructed.

We applaud the effort of CARB in attempting to include the voluntary renewable energy market into the AB32 program development. NextEra Energy Resources looks forward to working with CARB and other stakeholders on this issue. As the largest developer of wind energy in North America and the owner of the largest amount solar thermal electric generation in the world, NextEra Energy Resources supports the off-the-top set-aside concept. Our affiliate, Florida Power & Light, supports the same concept from a perspective of maximizing our customers investment in renewable energy projects. With the set aside and retirement of allowances for voluntary renewable energy purchases, ARB will ensure that renewable power delivers on its promise to reduce emissions while establishing a framework to meet the state's post-2020 carbon reduction goals. By employing an off-the-top set aside for voluntary renewable credits the AB 32 cap-and-trade design can allow individuals, businesses, and nonprofit organizations to continue to invest in a clean renewable energy future and establish an electric generation fleet that will enable CA to meet their ambitious post-2020 emissions reduction goals.

If you have any questions concerning these comments or any of our other positions on climate change policy, please feel free to contact me directly.

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