Comments of NextEra Energy Resources California Air Resources Board Greenhouse Gas Cap and Trade Allowance Allocation Workshop

NextEra Energy Resources[1] (NextEra Energy) is a leading clean energy provider with over 18,000 MW of natural gas, wind, solar, hydroelectric and nuclear power plants in operation in 26 states and Canada. We are an affiliate of a regulated utility, Florida Power & Light Company located in southern Florida. Within the Western Electricity Coordinating Council (WECC)[2], NextEra Energy affiliates own and/or operate 1550 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 and has specific experience in the voluntary renewable energy markets and the RGGI cap and trade program. We have looked at the issues surrounding climate change programs from both the regulated and unregulated perspective as well as from the view of merchant and contracted assets. 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, Midwestern Governor GHG Accord, California's implementation of the Global Warming Solutions Act of 2006, as well as all federal GHG reduction efforts.

We realize that the staff at the California Air Resources Board (ARB) has a huge task to complete in a very short amount of time. In spite of the accelerated time constraints staff is facing, the effort to flush out thoughts and ideas from a wide range of stakeholders is commendable. The impacts the program will have on consumers and the California economy will continue to drive policy decisions surrounding regulatory implementation. In order for the program to be considered a complete success, GHG emissions must be reduced at a minimal cost to consumers while sustaining or even expanding California's economic growth. NextEra Energy feels the inclusion the following items related to the distribution of allowances into the final version of the regulation will help accomplish that goal:

- Cost containment mechanisms that protect against extreme economic impacts while not eliminating the stimulus needed to drive changes in behavior.
- A market structure that allows lowest cost option to emerge.
- Prudent use of allowance value to build infrastructure for low carbon economy.

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[1] NextEra Energy Resources, LLC and its affiliates NextEra Energy, Inc., Florida Power & Light Company each have subsidiaries and other affiliates with names that include FPL, NextEra Energy Resources and similar references. For convenience and simplicity, NextEra Energy Resources, NextEra Energy Inc, and FPL as well as terms like Corporation, Company, our, we and its, are sometimes used as abbreviated references to specific subsidiaries, affiliates or groups of subsidiaries or affiliates. The precise meaning depends on the context. NextEra Energy Resources and some of its affiliates were formerly known as FPL Energy.

2 The Western Electricity Coordinating Council region encompasses the interconnected power grid of the Western states, provinces, and a small part of Mexico.

Cost containment is a necessary component to a cap and trade program

One of the main concerns surrounding the regulation of GHGs is the cost associated with the program implementation. The emissions of GHGs into the atmosphere at concentrations that influence climate change exact a cost on society. The introduction of a GHG reduction program in the form of a cap and trade program will shift a portion of this cost to the emitting entities and in turn inject the cost of GHG emissions into goods and services. Since the cost of GHG emissions has been ignored thus far, the economic impacts of suddenly thrusting the full cost of these emissions into the economy and onto consumers could have some undesirable results. This untested market has the potential to experience price spikes and that could result in extreme economic impacts and ultimately the political implosion of the program. These sudden and undesirable impacts can be managed through the use of cost controls and flexible compliance mechanisms. NextEra Energy supports the use of these mechanisms for the following reasons:

- The absence of viable commercial scale carbon reduction technology for the electric generation sector;
- The unstable market prices could cause unnecessary damage to the California economy and erode political support for the program;
- Price stability and predictability allows effected market participants to conduct long range planning with a higher degree of confidence.

Stakeholders have expressed concern about the negative economic impacts a GHG cap and trade program could have on consumers and businesses. While the inclusion of a price signal for GHG emissions is important to promote behavioral change, extreme economic impacts could undermine the support for the program. In addition to the cost control mechanisms outline in the Preliminary Draft Regulation (3 year compliance period, banking, allowance reserve, and use of offsets to meet compliance obligation) NextEra Energy supports implementation of the following cost containment mechanisms:

- An increasing price ceiling and floor on the price of auctioned allowances (price collar);
- A safety valve mechanism triggered under extreme potentially harmful economic circumstances that would allow the purchase of allowances from future compliance periods.

In order to guard against extreme economic impacts to consumers and business owners, ARB should implement a gradually increasing price ceiling on the price of auctioned allowances. It is critical to set the ceiling high enough for the price signal of GHG emissions to promote changes in behavior but low enough to prevent catastrophic economic impacts and political backlash. The upper limit of the price should gradually increase over time in order to give consumers and regulated entities an opportunity to adapt and therefore potentially avoid any harmful economic consequences. A pre-

determined price ceiling will limit the potential "rate shock" to consumers while allowing the price of GHG emissions to filter into the economy. In addition, a price ceiling defines the potential worst case cost scenario. This allows investors to more accurately identify potential risk involved with developing new electric generation projects.

In addition to a price ceiling, NextEra Energy recommends the establishment of a price floor for auctioned allowances to facilitate investment in GHG emissions reduction projects. A minimum price for GHG allowances will give investors in clean generation technologies and offset projects some level of confidence their product will maintain value in the future market. Establishing a guaranteed value for GHG emissions reductions will limit risk to investors that could otherwise impede the development of reduction projects and new technologies. This price floor should be increased in parallel with the price ceiling to bracket the cost of auctioned GHG allowances. NextEra Energy supports the utilization of a price floor cost control mechanism as a means to bolster investment in GHG reduction projects and offset projects.

Collaring the cost of GHG allowances may not be enough. Inclusion of a safety valve triggered under extreme potentially harmful economic circumstances that would allow purchase allowances from future compliance periods should be an essential element in the cap and trade program. If the cap is too stringent there may not be enough viable emissions reduction options or offsets available to enable emitters to meet their compliance obligations. This shortfall in carbon allowances would drive up the cost of carbon without any assurance that emission sources could meet their compliance obligation.

Since commercial scale emissions control technology is not yet available, some emitters may have no choice but to either stop production or incur non-compliance penalties. A safety valve would allow a temporary expansion of the cap for a given compliance period by allowing for the purchase of carbon credits from future compliance periods. If the safety valve is triggered, the cap in future compliance periods would be adjusted so that reductions would stay on a glide path to reach the 2020 carbon reduction goals and, ultimately, the 2050 long term goal. A safety valve must never be used as a crutch that allows emissions sources to arbitrarily shirk compliance obligations. Therefore, the conditions to allow the triggering of this safety valve must be well defined and rigorously monitored. A cost control mechanism incorporating a safety valve would provide compliance flexibility in the event the emissions cap level is not reasonably attainable. Additionally, a safety valve protects emissions sources against unpredictable and unavoidable shortfalls in the availability of carbon emission allowances and therefore further insulates California's economy from severe economic impacts.

Allow competitive market structure to benefit consumers

In theory, a cap and trade program facilitates the implementation of the lowest cost emissions reduction options first while excess allowances are made available for purchase to cover the emissions liability of the entities where reductions would be more costly. The price point of allowances drives decisions to install newer technologies or

employ lower emitting alternatives. In other words, compliance costs drive behavior change. In addition, consumers make changes in their consumption patterns as price of good and services with a higher carbon intensity increase. They key is to facilitate the implementation of the lowest cost solutions first. In order to insure that the lowest cost options are fully developed, it is important that the market maintains its competitive nature. If one market participant is given an unfair advantage over another, it can distort the benefits of employing a competitive market. Also, maintaining the competitive nature of the market ultimately benefits the consumer. As entities compete in the marketplace with the price of GHG emissions included into the production of goods and services, those that can produce the lowest price and highest quality products should thrive. If not structured correctly there is potential for competitiveness issues in the cap and trade program. Two potential concerns for the electric sector include:

- Inability to pass through costs dues to fixed price contracts.
- Use of allowance value to create unfair market advantages.

As stated by several stakeholders in this process, fixed price contracting is a potential concern. There is a concern that some of the power purchase contracts that exist in California were established before the inception of AB32. Entities selling power under these fixed contracts would be saddled with a compliance cost they would be unable pass through with the sale of their product (electricity). This concern is probably limited to a small percentage of the electric sector; however, ARB should provide some relief to those entities until those contracts can be renegotiated. The relief can be provided in the form of an allowance allocation, an exemption from compliance obligation, or a reimbursement of costs incurred from purchasing auctioned allowances. The free allocation of allowances is probably the easiest to implement both politically and administratively. However the ARB chooses to make those entities whole, the measure should be temporary and ensure that entities receiving that relief are not being over compensated.

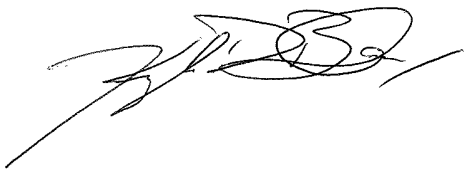
ARB has expressed a desire to distribute of a portion of the allowance value to consumers in order to mitigate the higher costs associated with renewable energy. This is exactly one of the types of initiatives that can help build the infrastructure necessary for a low carbon economy. As long as the distribution of the allowance value does not harm the competitive process of developing the renewable projects, NextEra Energy fully supports this element of the program. The competitive nature of developing new projects must be maintained in order for the market to facilitate the development of the least cost renewable energy projects. The use of allowance value to mitigate the cost of renewable energy must be limited to rate relief or infrastructure improvement. NextEra Energy does not feel that any entity receiving allowance value should be able to gain an unfair advantage in the process of bidding on the right to develop new projects. Allowance value awarded to utilities and municipal electric service providers should only be used for the designated purpose of rate relief and should not be used to subsidize “in-house” development projects. This will maintain the competitive nature of the market and help to facilitate development of new renewable projects at the lowest cost. One way to avoid potential market distortions is to distribute allowance value directly to consumers in the form of a rebate.

Use allowance value to build infrastructure for low carbon economy

The use of a portion of the allowance value can and should be invested projects that will establish California as a worldwide example of a sustainable low carbon economy. Investment made today can provide fertile atmosphere for the development of emerging and groundbreaking technologies and solutions to global climate change. A portion of the allowance value needs to be used to build the infrastructure that will allow for an easier and smoother transition to an economy that will thrive in a carbon constrained world. Without actively planning investment in a way that will facilitate the expansion of horizon technologies, California will limit their flexibility to adapt to new solutions. With respect to the electricity sector, some of the investments that NextEra Energy feels ARB should make a priority include but are not limited to:

- Expanding transmission capabilities to deliver more renewable energy to customers in California
- Identification and designation of zones or areas where the development of future renewable energy is the most favorable
- Investment in commercial scale carbon capture sequestration projects
- Expansion of nuclear electric generation fleet
- Investment in R&D projects for new generation technologies

It is necessary for ARB to take both political and practical implications of their decisions into consideration when developing their cap and trade program. In order for AB32 to be implemented at the least cost to consumers, it is necessary to maintain market competitiveness, place safeguards into the program to protect against extreme adverse economic impacts and invest in the framework on which to build a low carbon economy without placing unwarranted strain on the California economy. In order to help facilitate this, NextEra Energy urges ARB to institute cost control mechanisms including a price collar, limit renewable cost mitigation to rate relief, and invest allowance value in emerging technology development and improvement to the electric grid. 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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