Colorado**Energy**Management, LLC
A Bicent Power Company

July 31, 2008

Mary Nichols, Chairman
California Air Resources Board
1001 'I' Street
Sacramento, Calif. 95814

Dear Chairman Nichols,

Thank you for the opportunity to submit comments on the June 2008 California Climate Change Draft Scoping Plan. While Colorado Energy Management (CEM) is based in Lafayette, Colorado we provide operational and maintenance support to facilities in California and your neighboring states. I hope you will consider CEM's perspective as the California Air Resources Board works to produce a final Scoping Plan to implement California's global warming law, AB32.

For the last 20 years, independent power producers across the United States have relied on the expertise held by Colorado Energy Management personnel in combined cycle, cogeneration, coal and gas-turbine technologies to help ensure the success of their businesses. CEM provides analysis, design, construction, refurbishment, relocation, and operation and maintenance expertise for our clients with the knowledge required to turn innovative ideas into reality. Currently, CEM has operations and maintenance contracts with nine power plants with five different owners in five western states including California's San Joaquin Cogen Plant and the Malburg Generating Station.

Part of our business model is to assist power plants to run more efficiently and effectively in order to produce more energy per unit of fuel. Thus, operations are less carbon intensive and more cost efficient. We are proud of our work assisting these facilities to become more successful with less impact on the environment. We look forward to providing guidance to you and your staff as you work with industry on methods for improving the way California meets its growing energy demands.

Recommendations

CEM appreciates this opportunity to provide input at an early phase in the development of policies and procedures to curb carbon emissions. In addition to our below specific recommendations to CARB, CEM urges California policymakers to ensure that policies that impact power generators are user-friendly, transparent, and fairly enforced. As many industries prepare for upcoming greenhouse gas reduction policies, it is vital that opportunities to "game" the system and avoid intended compliance are eliminated. CARB must also consider the transaction costs for fulfilling the new obligations and minimize additional cost burdens to already-over-stretched energy dollars of Californians and California businesses. This will strengthen the system as well as trust in the efficacy of these groundbreaking rules. While these points are particularly important to the cap-and-trade system, they pertain to all new regulatory structures under consideration by CARB.

Current Contract Price Settings

Utilities currently under contract will be unduly burdened by new policies that significantly increase the cost of generating power without allowing for a portion of the additional costs to be shared by energy users. The Draft Plan clearly notes that its intent is to allow for a sharing of the cost burden through market mechanisms as well as regulatory approaches. If utilities are unable to pass a portion of their compliance costs to their customers due to current contracts, however, the financial burden will be too great.

CEM recommends that the Draft Plan explicitly call for a review of contracts to allow for additional price fluctuation to meet the new requirements.

Transparency and Engagement on Emissions Reduction Schedule

CEM urges California to continue to make transparency and industry engagement a top priority as these policies mature. In particular, there are many undetermined details of the cap-and-trade program where industry should have input. While there are ultimate targets, a schedule for the emissions reductions deserves careful consideration not only by the state government but by the impacted facilities. As it is unknown the method and quantity of allowance distribution, it is impossible for generating facilities to understand and prepare for the impact of the new program. It is important that impacted industries have significant notice and advance input on the schedule of emissions reductions to avoid unnecessary financial hardships.

Linking of Market Drivers Within and Outside the System

CEM is concerned that the development of overlapping and potentially contradictory market drivers would fail to capture the full ability of market mechanisms to reduce greenhouse gas emissions. These concerns arise in two areas: 1) the promotion of a complementary carbon fee program and 2) lack of explicit links with regional, federal, and international programs.

Regarding the carbon fee program outlined in the Draft Plan, to institute this program, even for the mere administration of the program, in conjunction with a cap-and-trade program would provide too great a cost burden on California's consumers and lead to double-penalties for emitting entities or products. CEM recommends that no carbon fee be levied to provide more clarity to the program design. The modest auction of allocations should be sufficient. Should a carbon fee be instituted it should follow the approach adopted by British Columbia to impose a fee as part of a transition to a regional cap-and-trade system rather than a permanent measure.

In addition, as California continues to develop its program, we strongly urge the state to keep in mind that climate change is a global problem that will ultimately require coordinated regional, national and international action. The trading of emissions allowances provides economic efficiency, helps consumers and businesses, and provides greater environmental benefits. Costs are reduced through the use of larger markets, including linking between different markets, since larger markets are inherently more efficient, liquid, and competitive with a greater variety of low-cost emissions reductions.

CEM is pleased that California is working with other states, as well as Canadian provinces and Mexican states, in the WCI to develop a regional greenhouse gas trading program. We are further pleased that the Draft Plan has set an explicit goal of linking the California program with other WCI partner programs to create a regional market. Although the Draft Plan makes reference to a potential federal program, we recommend that California include a similarly explicit recommendation that the state and regional programs set a goal of ultimately merging into a federal program

Incentive Programs

Following the example of states within the Regional Greenhouse Gas Initiative and federal proposals (S. 3036 Lieberman-Warner Climate Security Act of 2008), California should consider allocating and auctioning a portion of its emissions for energy efficiency programs. These programs could not only assist consumers with the information needs outlined in the Draft Plan, but could also provide valuable assistance to generating facilities struggling to meet efficiency and design upgrades in time for program implementation.

Credit for Early Action

Power plants that have already worked to achieve high-efficiency goals and reduce emissions in recent years should be rewarded and not penalized for their early action that reduced emissions. Recognizing early action promotes immediate emission reductions while also helping control the initial costs of the program. The eligible "start" for early action should be announced as soon as possible to foster certainty for new capital investments, promote prompt reductions, and ensure baseline protection.

Banking and Borrowing

CEM is pleased to see that "banking" of emissions is projected to be allowable under the California cap-and-trade scheme. This will encourage early compliance and allow facilities to make large capital investments in early years and use their over-compliance for future year requirements. CEM also encourages CARB to consider "borrowing" of emissions and allow companies who are out of compliance in early years to borrow emissions from future years. This would provide additional flexibility to facilities that need more time to design, invest, and implement advance systems to meet the new requirements.

CEM appreciates the opportunity to provide comments at this initial stage in climate policy development and we look forward to providing additional comments upon the release of the Proposed Plan in October 2008, when it is reviewed by the California Air Resources Board in November 2008, and throughout the regulatory process in 2009 and beyond. CEM supports these efforts and views California's Draft Scoping Plan as an important vehicle to reduce greenhouse gas emissions in the western region and we congratulate the State for its leadership and action.

If you have any questions or comments about CEM or our position, please do not hesitate to contact me directly at: rproctor@coloradoenergy.com or (303) 442-5112.

Sincerely,

Rodney G. Proctor

Rodney G. Proctor
Senior Director Environmental
Colorado Energy Management