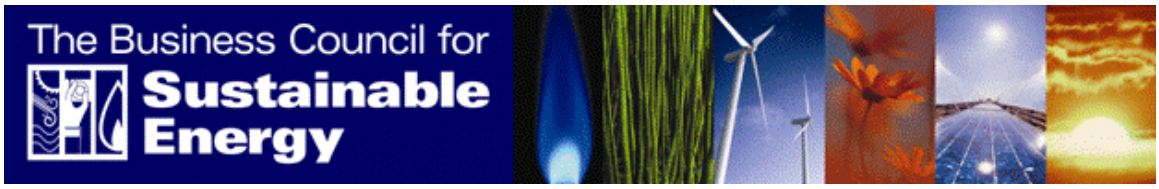

To: Western Climate Initiative

Date: August 13, 2008

Regarding: BCSE Comments on WCI Draft Design of the Regional Cap-and-Trade Program

Submitted: Via the WCI Website

The Business Council for Sustainable Energy ("BCSE" or the Council) commends the Western Climate Initiative (WCI) partners for establishing an ambitious goal to reduce greenhouse gas emissions by 2020, and we recognize the significant effort that has gone into developing the July 23, 2008 WCI Draft Design of the Regional Cap-and-Trade Program.

The Council believes that all technologies at our disposal will be required to tackle the challenge of global climate change. However, between now and 2020, existing clean energy technologies such as renewable energy, energy efficiency and natural gas are the first phase solution for the region to meet increasing energy demand and reduce greenhouse gas emissions.

While the Draft Design of the Regional Cap-and-Trade Program contains a broad, regional plan, there are many details that are yet to be provided. The Council believes that these details need to be made available before the program can be finalized. In an effort to provide the information needed by the public and policy makers, while allowing for an open, transparent public process, the Council recommends the following:

1) The Council would like to offer our assistance in sponsoring issue forums that could help the WCI and WCI Partners design a market program that would direct allowances and auction proceeds toward existing clean energy sources and technologies, such as renewable energy and supply-side and demand-side energy efficiency. The Council has significant experience in this area and has sponsored important issue forums in a number of states involved in the Regional Greenhouse Gas Initiative (RGGI) including New York, New Jersey, Connecticut, and Maryland. The Council could provide additional expertise and guidance to WCI Partners as we have done with the RGGI states.

2) The Council offers a number of recommendations to ensure that the WCI Regional Cap-and-Trade Program includes a robust, environmentally sound offset program.

Of note, as a diverse business coalition, not all Council members endorse or take positions on the set of recommendations listed below.

Introduction

The Business Council for Sustainable Energy is an industry coalition that includes businesses and trade associations representing the suite of currently available technology options for reducing emissions of greenhouse gases that contribute to global climate change. They include: advanced batteries, biomass, biogas, fuel cells, geothermal, hydropower (including new waterpower resources such as ocean, tidal and instream hydrokinetic), solar, wind, and supply-side and demand-side energy efficiency. The coalition supports the establishment of market-based programs for clean energy technology innovation, economic efficiency and enhanced energy security.

The Council and its members have been working consistently with state, federal and international policymakers on market-based measures to reduce greenhouse gas emissions since its inception in the early 1990s. The Council was the first industry coalition to support a binding multilateral

regime to address climate change; we have been actively involved in the congressional debate over climate change legislation and have been invited to provide testimony to congressional committees; we have also been active in the Regional Greenhouse Gas Initiative (RGGI) and in the development of California's AB 32 law.

In all the areas of our work, the Council focuses on the development of efficient market design that recognizes past investments, and provides forward signals to investors in clean energy technologies. We also emphasize the vital role of energy policy in the development of climate change programs.

WCI Draft Design Recommendations

The WCI jurisdictions have recommended a design for a broad cap-and-trade program as part of a comprehensive effort to reduce emissions of global warming pollution to achieve the WCI 2020 regional goal. Elements of the design include:

1. Scope
2. Point of regulation
3. Thresholds for coverage under the cap-and trade program
4. Program expansion
5. Role of other policies
6. Setting the regional cap
7. Apportionment
8. Distribution of allowances
9. Offsets, and allowances from other systems
10. Reporting
11. Start date for cap-and-trade
12. Compliance and enforcement, and
13. Regional organization and new partners

The Council commends the WCI for establishing this ambitious goal and for outlining the aspects of the plan that are needed for implementation. The Council believes that as outlined in the 10-page draft design recommendations, however, the WCI has covered a very broad list of issues, but many of the details of the plan are not provided or are not fully articulated. The Council fully supports the WCI process and wants it to succeed. To that end, we would like to offer our assistance in helping the WCI provide the specifics that would enable stakeholders to have a full vetting of the issues with more focused input, and would answer the questions that state legislators may ask as they consider enabling legislation that will allow the plan to move forward.

Distribution of Allowances

Depending on the design, a market-based program can spur unprecedented levels of supply-side and demand-side energy efficiency, and renewable energy.

Market-based approaches to reduce greenhouse gas emissions – such as green pricing programs, allowance trading, and emissions or renewable energy credit trading – consist of voluntary or mandatory efforts that affect demand and supply for environmental commodities through price, regulation, or information. In contrast to traditional regulatory models that mandate specific control technologies for compliance, market-based programs internalize the environmental costs of a given activity and create a financial value for over compliance. Market-based programs take advantage of economic efficiencies and provide flexibility that permits entities to choose the best control option to achieve results – in many cases at a lower cost than traditional methods. Further, market-based programs can lead to technological innovation because of the function over-performance plays in creating financial incentives.

Section 8 of the WCI Draft Design of the Regional-Cap-and-Trade Program contains recommendations regarding the distribution of allowances. Section 8.1 of the recommendations

states that, "[o]nce the allowance budget has been established for each Partner, allowances will be issued by each Partner within its own jurisdiction."

Leveraging the experience of our members in the clean energy technology business sectors, the Council would like to offer our assistance to ensure that the design of the WCI market-based program achieves the above objectives and is linked to other regional, national and international programs.

To this end, the Council proposes convening one or more issue forums on the use of allocations and auction proceeds. The model for these issue forums would be based on a series of issue forums the Council has sponsored in RGGI states, during the RGGI program design phase.

In the RGGI process, the Council provided extensive industry expertise, centering on how RGGI implementation could expand clean energy investments in the region. We worked directly with commissioners and key staff and offered recommendations on how RGGI allowance value could be best directed to deploy clean energy technologies. The Council based its recommendations on current state and regional energy markets and state and regional clean energy deployment programs and priorities. The Council also facilitated several public issue forums in key RGGI states exploring issues of allowance allocation and how to direct auction proceeds to supply-side and demand-side energy efficiency and renewable energy.[1]

For your reference, a copy of an agenda from a previous RGGI Issue forum is attached (Attachment A).

The Council believes that similar issue forums could be used in the WCI partner states to help educate stakeholders and policy makers about the design of a greenhouse gas market program, and how such a program can stimulate investments in existing clean energy sources and technologies, while providing economic opportunities and green jobs for the region.

Offsets, and Allowances from Other Systems

Section 9 of the WCI Draft Design of the Regional Cap-and-Trade Program addresses offsets and allowances from other systems.

The ability for entities to generate and purchase offset allowances is an essential feature of a market-based approach to reducing greenhouse gas emissions due to its cost containment characteristic. Under a compliance offset program, covered entities are permitted to help meet some portion of their obligation to reduce GHG emissions by purchasing offset allowances generated from projects or activities that fall outside the scope of an emissions cap. This flexibility provides covered entities with the ability to achieve needed emission reductions at the lowest cost given their own economic situation.

While the Council encourages covered entities to undertake internal emission reduction activities such as deploying renewable energy and energy efficiency to the greatest extent possible, our members recognize offset purchases as an important complementary tool to help covered entities manage compliance costs, widen the scope of environmental benefits, deploy existing and new clean technologies that have not yet achieved market penetration, and lower economic costs for all energy consumers.

As with other aspects of market-based initiatives to address climate change, the details and structure of a compliance offset program will play a critical role in determining successful implementation, as well as achieving desired greenhouse gas emission reductions.

[1] For an example of how allowance value can be directed towards building efficiency, please see the Efficient Buildings Allowance Program included in S.3036, Title VIII, Subtitle A, Sec. 801

Therefore, in addition to the issue forums on allocations and auction proceeds mentioned above, the Council supports the establishment of an offset advisory committee as proposed by the Climate Trust and others. The Council believes the establishment of such a committee could help the WCI develop a coordinated, comprehensive and effective greenhouse gas offset system. Such a Committee would be comprised of a diverse cross-section of the offset market and would provide recommendations to the WCI partners on the design of a robust regional offset system. Further, we strongly encourage active participation by the business community in such a committee to fully understand how offset program rules interplay with project development and finance.

This Committee, which would serve an advisory role, would conduct its work in an open and transparent manner to ensure that stakeholders have the opportunity to provide input and additional expertise into the development of the recommendations. The end product would be a set of recommendations addressing a number of the most important technical issues facing WCI in the design of a robust and workable offset program.

If as time goes on, however, it appears the offset advisory committee is hindering progress or complicating the development of an offset market, the Council may wish to reconsider its support for the advisory committee.

Council Position on Design and Implementation of an Offset Program

The Council offers the following recommendations to ensure the utmost integrity with respect to the design and implementation of an offsets program:

- Emissions offsets must be real, additional, permanent, independently verifiable, enforceable, measurable, and transparent
- Promote broad eligibility for offsets across project types, sectors and activities
- Permit broad use of emissions offsets by entities with compliance obligations
- Reward early action to reduce greenhouse gas emissions with offsets
- Promote linkages with other domestic and international offset programs, and permit fungible use of eligible offsets generated from within such programs
- Utilize a standards-based approach for offset projects while allowing for case-by-case review of projects without pre-approved methodologies[2]
- Employ multiple tests for demonstration of offset "additionality"[3]
- Utilize standardized emission factors

While many offset projects deliver co-benefits (such as reductions in conventional air pollutants, improvements in sustainability and biodiversity, and economic development for disadvantaged communities), the focus of climate change policy should remain on reducing greenhouse gas emission. Co-benefits therefore should not be required for the approval of offset projects.

[2] The Council supports using a standards-based offsets program in lieu of a case-by-case review of individual offsets projects, which has caused issues with efficiency and consistency in the case law approach used by the Clean Development Mechanism.

[3] In developing standards for additionality, the Council wishes to caution against the use of pure financial additionality tests in determining offset project eligibility. Financial additionality can be part of a range of factors, but it should not be the only way of proving additionality, nor should it be weighted more than other additionality tests. In our experience, financial additionality tests alone deter good projects and weaken the credibility and market power of offset programs. Further, financial additionality tests are subject to gaming and cannot reasonably account for market behavior. Instead, we recommend practical application of a number of "barriers tests," as is recommended by the World Resource Institute's Greenhouse Gas Protocol for Project Accounting at:
http://www.ghgprotocol.org/DocRoot/m1Tv5lnUuFTjYZx3x1ev/GHG_Project_Protocol.pdf

Offset Project Types and Protocols

Section 9.3 of the Draft Design of the Cap-and-Trade Program includes a list of project types as a priority for investigation and development to participate in the offset system. The list includes:

- Agriculture (soil sequestration and manure management);
- Forestry (afforestation/reforestation, forest management, forest preservation/conservation, forest products); and
- Waste management (landfill gas and wastewater management)

The Council recommends that every effort should be made to decide upon a more exhaustive list of approved project types, possibly including approved baseline and monitoring methodologies. The WCI should draw upon existing methodologies utilized by the Regional Greenhouse Gas Initiative (RGGI), the California Climate Action Registry (CCAR), EPA's Climate Leaders Program, and the Clean Development Mechanism (CDM), which should allow for the timely development of an offset system. The Council supports using a standards-based offsets program in lieu of a case-by-case review of individual offsets projects, which has caused issues with administrative efficiency and consistency in the case law approach used by the CDM.

While the Council believes the three types of eligible offsets which are included in the Draft Design of the Regional Cap-and-Trade Program are a good start, they would not allow for a broad enough offsets program. The Council recommends that WCI consider the more exhaustive list of project types proposed in comments submitted by EcoSecurities.[4]

In addition, the Council would like to lend its support of the revised livestock methane project protocol that is being developed by the California Climate Action Registry (CCAR), which is expected to be approved by the California Air Resources Board at its November Board meeting. The WCI will need to move quickly to approve offset project protocols; inasmuch as each of the WCI Partners has committed to using the California Climate Registry, the Council believes the revised livestock methane project protocol is worthy of support.

Overly Restrictive Limits on the Use of Offsets as Compliance Tool Should be Avoided

BCSE supports policies which encourage regulated entities to directly reduce emissions. However, the Council does not believe that the WCI should place overly restrictive limits on the use of offsets for compliance by regulated entities. Regulated entities should be able to supplement and control costs in achieving GHG emission reduction requirements through the reasonable use of offsets.

Geographic limitations on offsets could significantly affect the availability of low-cost offsets within the region, ultimately causing an increase in compliance costs, hindering the development of the offset market, limiting opportunities for offset developers to invest in the deployment of clean technologies and possibly putting the region's affected entities at a competitive disadvantage compared with affected sources in other offset markets.

Additionally, a banking feature should be included allowing entities to "bank" unused credits for future years.

Offset Program Administrative Structure and Function

The Council recommends selecting or developing a centralized offset registry to ensure integration with the emissions reporting and allowance tracking system of the cap and trade system. To ensure the integrity of the carbon markets and prevent double-counting, the Council

[4] For a complete list of offset project types, please refer to the list included in the comments to the WCI submitted by EcoSecurities dated August 13, 2008 and June 6, 2008.

believes each greenhouse gas emission credit should be uniquely identified and registered in one or more registries that have adequate measures to ensure transparency and accountability.

The WCI should establish linkages with other state and international greenhouse gas initiatives. These linkages should demonstrate comparability, and should be verifiable and transparent. The program should be designed to permit trading with compatible cap-and-trade programs and project-based initiatives elsewhere in the U.S. at the state, regional or federal level, as well as in other parts of the world.

Further, the Council encourages the WCI to consider an early action program that may include offsets from other regulatory offset schemes and/or high-quality voluntary schemes.[5]

Conclusion

The Council applauds the WCI for moving forward with its design of the regional cap-and-trade program. We welcome the opportunity of working with you to further refine the program while providing for an open and transparent public process, and to ensure its success.

Sincerely,

Lisa Jacobson,
Executive Director

[5] Early action programs such as those supported by state public utility commissions and other regulatory agencies (i.e.,The Climate Trust in Oregon).

Attachment A

The Business Council For Sustainable Energy

An Energy Agenda for the 21st Century

Incorporating Clean Energy and Energy Efficiency into New York's RGGI and CAIR Set-Aside Programs

Issue Forum
Tuesday, October 3, 2006
300 Madison Avenue, New York City- A Brookfield Properties Building
2:00 – 4:30pm

AGENDA

2:00 pm **Welcome and Opening Remarks**
Charles Fox, *Deputy Secretary to the Governor for Clean Energy*

2:20 pm **Opportunities for Using the RGGI and CAIR Set-Aside to Expand Clean Energy in New York**
New York's Perspective on the RGGI Set-Aside, Franz Litz, *New York Department of Environmental Conservation*
New York's Clean Energy Programs and Market Trends, Tina Palmero, *New York Public Service Commission*

2:50 pm **Designing Effective Set-Aside Programs**
Incorporating Clean Energy Solutions, Lisa Jacobson, *Business Council for Sustainable Energy*
Establishing Criteria for Set-Aside Use, Art Smith, *NiSource*

3:10 pm **Set-Aside Value as a Driver for Energy Efficiency and Renewable Energy**
Increasing Energy Efficiency, Kara Rinaldi, *Alliance to Save Energy*
Accelerating Deployment of Renewable Energy, Julie Smith Galvin, *Enel North America*
Encouraging Small, Clean Generation and Supply-Side Efficiency, Dave Schnaars, *Solar Turbines*

3:45 pm **Respondents and Group Discussion**
Luis Martinez, *Natural Resources Defense Council*
Thomas Congdon, *NYS Office of the Attorney General*
Kristin Sullivan, *Community Energy*
Colin Murchie, *Sun Edison, LLC*

4:30 pm **Closing Remarks and Adjournment**

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