



August 18, 2008

The Honorable Don Perata
California Senator
State Capitol, Room 205
Sacramento, CA 95814

SUBJECT: BCSE Views on SB1762 and AB1851 and their Impact on Voluntary Renewable Energy Credit (REC) and Offset Markets

Dear Senator Perata:

The Business Council for Sustainable Energy (the Council), a coalition of clean energy, natural gas and energy efficiency businesses and trade association interests, has many members who are active in the California voluntary offset and renewable energy markets. We applaud the efforts of the California legislature and Governor Arnold Schwarzenegger in confronting climate change as well as consumer protection. Reliable and verifiable carbon offsets are an integral part of this effort. However, we are concerned that SB1762 and its Assembly companion bill, AB1851, will have a detrimental effect on the robust voluntary offset market in California. Additionally, this bill may have the unintended effect of regulating the marketing and distribution of voluntary Renewable Energy Credits (RECs) in the same manner, raising similar issues and failing to acknowledge the differences between these markets.

Carbon Offset Standards

The language of the bills appears to require carbon offset providers to adhere to a narrow and potentially inconsistent set of project protocols adopted by the California Climate Action Registry (CCAR) or to be defined by the California Air Resources Board (ARB), or demonstrate publicly that the emission reduction is quantifiable, measurable, additional and enforceable by a state, regional, or local agency within the State of California. These terms may not have universally accepted definitions at this time and may result in legal ambiguity. Further, providers of offsets that do not comply with these terms may be subject to liability under a citizen suit provision, which may deter California companies from taking on voluntary offset commitments. Ultimately, this threatens to slow the development of California's voluntary climate change efforts.

Many offsets currently marketed in California are certified under rigorous standards of third-party verifiers such as the Voluntary Carbon Standard, U.S. EPA's Climate Leaders program, and the UNFCCC Kyoto Protocol's Clean Development Mechanism. Under this bill, such credits may be ineligible for sale in the State of California to the detriment of offset developers and marketers, as well as consumers who rely on these services for the reduction of their carbon footprints. At this time, CCAR has only approved three project methodologies, limiting the number of available projects under this provision. Moreover, the reporting requirements in this bill may create a significant burden for project developers.

The Council would also emphasize the need for California's voluntary offset market to be easily integrated with such markets in other states. The restriction of the market to a narrowly circumscribed set of standards may have the unintended effect of isolating California's voluntary carbon offset market in the future. Moreover, terms used in the context of voluntary markets should be defined in a way that does not preclude different statutory definitions in the context of compliance-based markets, such as AB32 or the Western Climate Initiative, in the future.

Renewable Energy Credits

The language of the bill also seems to implicate the market for voluntary RECs. Although RECs are fundamentally different instruments from carbon offsets, the language of the bill seems to regulate them in the same way and according to the same standards. This approach has the effect of discouraging worthy

projects and damaging the voluntary offset and renewable energy markets that California consumers rely on to reduce their greenhouse gas emissions.

The voluntary market for green power, renewable electricity and independently marketed RECs grew by 62 percent in 2004, 37 percent in 2005, and 40 percent in 2006. The markets for voluntary sales are now driving as much renewable energy technology development as the markets created by statutory compliance obligations. This voluntary market allows electricity consumers to independently reduce their carbon footprint associated with electricity consumption, a practice widely recognized through voluntary GHG accounting and reporting platforms such as U.S. EPA Climate Leaders, California Climate Action Registry, and the U.S. EPA Green Power Partnership. This emission reduction benefit may be compromised by SB1762/AB1851 in their current form.

California is a leader in the voluntary REC market, with more corporate customers of voluntary renewable energy enrolled in the U.S. EPA Green Power Partnership than any other state with the exception of Texas. Because California now holds such a critical position in the voluntary REC market, any measure which jeopardizes this market is likely to have national and international impacts

The Council appreciates your leadership on climate change and the important work that your office is doing to secure sustainable energy opportunities in California. However, for the above reasons, the Council cannot support SB1762/AB1851 without significant changes to recognize the validity of rigorous third-party certifiers and recognize other legitimate carbon offset protocols, and to clarify the measure's posture towards voluntary RECs.

Sincerely,



Lisa Jacobson
Executive Director

cc: Governor Arnold Schwarzenegger
Kip Lipper, Office of Senator Don Perata
Members of California State Senate