

REMA Comments on New Mexico's Draft Greenhouse Gas Cap and Trade Regulation

May 28, 2010

The Renewable Energy Markets Association (REMA) appreciates the opportunity to offer the following comments regarding the New Mexico Draft Greenhouse Gas Cap and Trade Regulation. REMA commends New Mexico for its initiative on this important issue.

REMA represents the collective interests of both for-profit and nonprofit organizations that sell or promote renewable energy products through voluntary markets, including renewable electricity and renewable energy certificates (RECs), to individuals, companies and institutions throughout North America.

We would like to submit for consideration comments focusing on the need to ensure that cap-and-trade implementation strategies support the continuing vitality of the voluntary market for renewable energy and the reductions in carbon emission that result from that market.

With respect to the design of a carbon cap-and-trade program, REMA's primary objective is to ensure that any cap-and-trade program supports the ability of voluntary renewable energy demand to continue reducing emissions. To accomplish this objective, voluntary demand for renewable energy must result in either retirement of allowances or in lowering of the cap.

There exists today a vibrant market for individual and corporate customers to voluntarily purchase renewable energy in order to encourage the development of renewable energy resources and to reduce greenhouse gas emissions.

The Voluntary Market for Renewable Energy is Significant

According to the National Renewable Energy Laboratory (NREL), there are currently 85 marketers actively selling to small and large customers, and 17 environmental brokers that facilitate REC transactions between buyers and sellers across the U.S. These providers are in addition to utilities that sell renewable electricity differentiated from standard electricity. There are also thousands of photovoltaic (PV) providers in the U.S. who sell PV systems and associated RECs directly to end-use customers.

The market for green power (renewable electricity and RECs sold independently of electricity) is strong and growing. In 2008, U.S. consumers made voluntary purchases of renewable energy totaling about 24.3 million MWh. For market credibility reasons, voluntary demand is served almost exclusively by new renewables, meaning renewable generation that began commercial operation since the beginning of 1997. Further, voluntary purchases of renewable energy have

grown at an average annual rate of 41% since 2004.¹ These data demonstrate that the voluntary market for renewable energy is larger than most people recognize.

Cap-and-Trade Can Have a Significant Impact on Voluntary Demand

Depending on how it is implemented, a greenhouse gas cap can have a significant impact on voluntary renewable energy sales. Specifically, the treatment of renewable energy under a cap-and-trade program could undermine the voluntary green power market. A primary motivation for voluntary renewable energy purchases is to reduce the buyer's greenhouse gas (GHG) footprint. This benefit—the ability of individuals, companies, government entities and nonprofits to reduce electric sector GHG emissions—would be eliminated if voluntary market purchases of renewable electricity and RECs are not somehow linked to the retirement of allowances or the reduction of the cap.

Our concern is that carbon regulations that prevent green power purchases from affecting GHG emissions levels may be adopted, undermining the environmental objectives of customers who voluntarily purchase renewable energy. A robust market for renewable electricity, RECs and distributed renewable energy generation already operates in the State of New Mexico. According to the U.S. Department of Energy's Green Power Network, a number of utilities, such as Public Service of New Mexico, Tri-State Generation & Transmission, and Xcel Energy, currently offer green pricing programs in the State of New Mexico.

Without an explicit provision recognizing the GHG reduction benefits from renewable energy purchases, the voluntary renewable energy market may cease to exist. The leading market driver – the ability to make a difference in reducing GHG emissions through consumer choice tied to market forces – will have been eliminated.

A Cap-and-Trade Program Can Be Designed to Recognize and Credit Voluntary Demand for Renewable Energy

If, because of the design of the cap-and-trade regime, no direct reduction in GHG allowances can be attributed to new clean renewable generation sold to voluntary buyers, it is not only retailers of RECs, but also developers and owners of renewable energy facilities, whose effect on emission reductions would be ignored. Eliminating the role of voluntary renewable markets in reducing emissions is an unnecessary casualty of a poorly designed cap-and-trade system and represents a missed opportunity for non-covered entities (renewable energy generators) to cost-effectively lower the overall level of emissions through voluntary action.

A well-designed cap-and-trade regime can ensure a “best of both worlds” outcome where voluntary markets are additive to compliance targets. This is desirable because not all actors in the economy will be covered by the cap and because it respects the voluntary choice of corporations and individuals to reduce GHG emissions under the cap.

¹ L. Bird, C. Kreycik and B. Friedman. *Green Power Marketing in the United States: A Status Report (2008 Data)*. NREL/TP-6A2-46581. Golden, Colorado: National Renewable Energy Laboratory. September 2009

Example Provisions to Protect the Voluntary Renewable Energy Market

Protecting the integrity of the voluntary renewable markets in a cap-and-trade program is not unusual, and there are detailed examples in other state rules. The Regional Greenhouse Gas Initiative (RGGI) protects the carbon integrity of voluntary renewable energy purchases through its off-the-top allowance rule—an approach that can work everywhere. This is one of several simple ways to ensure that climate legislation protects the voluntary market. Any design proposal should include explicit language that indicates its specific intent to ensure that the voluntary market for renewable energy will play a role in greenhouse gas emission reductions.

In addition, the WCI released a document on January 14, 2010 entitled “Voluntary Renewable Energy Market: Issues and Draft Recommendations” that specifically addresses the challenges associated with cap-and-trade program design and its potential direct negative affect on voluntary renewable energy markets. This paper is available from the WCI website: http://www.westernclimateinitiative.org/components/com_publiccomments/documents/Final_VRE_Issues_Draft_Rec_Paper_Jan14_2010.pdf

As an example of action in another state, the California Air Resources Board released its “Preliminary Draft Regulation for a California Cap-and-Trade Program” on November 24, 2009 (available <http://www.arb.ca.gov/cc/capandtrade/meetings/121409/pdr.pdf>). Section 95910 of this preliminary draft regulation specifically addressed adjustments to account for voluntary investment in renewable sources of electricity generation:

§ 95910 Modifications to the Annual Base Budgets

(b) Adjustments to the Base Budgets to Account for Voluntary Investment in Renewable Sources of Electricity Generation.

Discussion of Concept – Adjustments to the Base Allowance Budgets for Voluntary Investment in Renewable Sources of Electricity Generation

For each compliance period, an estimate of voluntary renewable electricity purchases could be determined and the base allowance budgets adjusted according to the following steps:

- **Ex-ante Estimate of Budget Adjustment Needed:** For each compliance period, an estimate of voluntary renewable energy expected to be generated in California could be determined by ARB using National Renewable Energy Lab (NREL) data. To do this, ARB could calculate a commensurate amount of allowances representing reduced emissions due to this expected level of operation of voluntary renewable energy projects. This amount of allowances could then be withheld from the base budget (earmarked and held in ARB’s Holding Account).
- **Submission of Claims:** During the compliance period any party could be allowed to submit a claim of investment in voluntary renewable electricity including an estimate of megawatt hours produced for a given compliance period. This information could be verified by ARB using the Western Region Electricity Generation System (WREGIS) and tracking of California generated

Renewable Energy Credits (RECs). ARB could determine a methodology for calculating the amount of emissions displaced by the claimed megawatt hours of voluntary renewable electricity.

- **Ex-Post True-up of Budget Adjustments:** At the end of a compliance period ARB could retire (from the earmarked allowances in its Holding Account) an amount equivalent to the displaced emissions from the claimed amount of renewable electricity generation. In no event could the size of this adjustment exceed a pre-determined percent of the total allowances from the compliance period in question. Any earmarked allowances that resulted from the overestimation of expected reductions vs. claimed reductions could be released in the subsequent compliance period.

Following CARB's release of this preliminary draft regulation language, REMA submitted detailed comments (available from our website: http://www.renewablemarketers.org/pdf/file_104.pdf) recommending they provide further detail in these six areas:

1. The administrative adjustment to the budget should be done annually rather than for a three-year compliance period.
2. The ex-ante estimate of budget adjustment needed should be based on WREGIS data.
3. Any voluntary purchase from an eligible California generator should be counted in the administrative adjustment to the budget, and should result in retirement of allowances.
4. Claims on the adjustment should be based on WREGIS reports.
5. The ex-post true-up of budget adjustments should true-up in both directions.
6. There should be no cap on the budget adjustment for voluntary renewable energy.

We believe the CARB's preliminary draft regulation, especially if combined with REMA's additional comments, provides a useful example for how the NMED can protect voluntary renewable energy markets as it continues to develop its cap-and-trade provisions.

Conclusion

The Renewable Energy Markets Association appreciates this opportunity to comment. We stand ready to assist the NMED in developing measures that can protect the voluntary renewable energy market as it continues to advance its planning for a cap-and-trade program.

Respectfully submitted,

The Renewable Energy Markets Association