



August 13, 2008

Western Climate Initiative Partners

Re: APX Comments to the WCI Partners regarding the July 23, 2008 Draft Design

APX Inc. thanks the Western Climate Initiative's (WCI) Partners regarding this opportunity to submit comments on its July 23, 2008 draft design document. We commend the Partners for their efforts to date on this comprehensive, broad-based regional program.

APX is the leading infrastructure provider for environmental and energy markets in renewable energy and greenhouse gases including carbon commodities. Providing a bank and mint for environmental commodities, the APX Environmental Market Depository™ is trusted to create, track, manage, and retire renewable energy certificates (RECs), energy efficiency and conservation certificates, carbon offset credits such as verified emissions reductions (VERs), and greenhouse gas emission allowances.

The company is the system of choice for every major renewable energy market in North America and greenhouse gas markets worldwide. APX also provides the highest quality transaction and data infrastructure for the tracking of offsets and allowances, including such systems as the California Climate Action Registry, the Voluntary Carbon Standard and The Gold Standard. In addition, APX provides technology, strategic consulting, and expert operational services to assist wholesale power market participants reduce costs and improve performance in power scheduling, settlement, market operations, system operations support, and demand response programs. A privately held company, APX is headquartered in Santa Clara, CA.

1. Scope: APX supports WCI's proposal to require broad multi-sectoral coverage for the cap and trade program. We strongly believe that broad coverage is critical for market liquidity, and more importantly, to attain the greatest emissions reductions possible.

4. Program Expansion: APX agrees that it is essential to design a system that easily allows future jurisdictions to join over time. Our experience from the U.S. REC markets is that adding jurisdictions can be done in a straightforward manner if the underlying rules, architecture and technology are primed to support such changes ahead of time.

7. Apportionment

7.5 APX agrees that Partners should recognize within their own jurisdictions allowances issued by other Partners so that all WCI allowances are of equivalent use

and fungible throughout the region. Technology exists that can allow for the easy transfer and tracking of allowances across jurisdictions, including the implementation of multiple classes of allowances (or offsets) where some certificates may fall under certain state rules but not others. We have witnessed several regional U.S. REC markets develop this way successfully over time.

8. Distribution of Allowances

While APX has no policy position regarding what percentage of allowances should be auctioned or distributed by other means, nor which sectors should be treated uniquely from others, we do feel confident that systems and technology exist that would support a dual system whereby allowance budgets are established regionally but distributed on a state-by-state/provincial basis, with variances by sector. Such a complex system will necessitate sophisticated accounting mechanisms to adequately track, distribute and retire allowances but also be simple to utilize for regulators and market participants alike.

9. Offsets and Allowances from Other Systems

9.1 APX supports the WCI's proposal to include a "rigorous" offsets system. We agree that offsets play a critical role in ensuring the greatest reductions in as cost-effective manner possible.

9.2 APX believes the main focus the WCI should place on offsets is quality, and the process and criteria to ensure quality. In this regard, we draw the WCI's attention to the excellent work done by the Offset Quality Initiative. While APX also believes that the benefits of a robust offset market outweigh any risk from their expansion, and that therefore there should not be an ultimate limit on the percentage of offsets available for compliance, we appreciate that there are strong arguments for initially limiting offsets to a defined percentage until the WCI gains more experience from their use.

9.4 We strongly endorse the WCI's plan for tight coordination amongst its Partners in reviewing, developing and approving appropriate protocols and criteria. As we have submitted in the past, great work has been done already in this arena, and there are many high quality offset programs and protocols that have been developed around the US and the world, including the California Climate Action Registry, The Gold Standard, and the Voluntary Carbon Standard – all three of which are powered by APX technology to ensure system integrity. There is no need to reinvent the wheel, but rather a prime opportunity to build upon the work that has already been done. We also support the WCI's plan to establish a process to coordinate the review and approval of additional project types proposed by project developers. We urge the WCI to approve such protocols, project types and criteria as soon as possible in order to ensure the highest number of qualifying projects and the earliest reductions in emissions. An early start date will also help ensure the availability of a sufficient supply of credits when the program begins.

9.5 We urge the WCI Partners to approve and certify projects located outside the WCI jurisdiction, as your draft design document states – again with the prerequisite being comparable and rigorous oversight, validation, verification and enforcement.

9.6 We strongly agree that rigorous criteria that preserves the environmental integrity of the cap-and-trade program is a linchpin of this proposed regional system.

9.8 APX applauds the WCI Partners for looking closely at allowing regulated entities or facilities to use tradable units from other government-regulated GHG emission trading systems that meet similarly rigorous criteria for environmental integrity. Technology exists to thoroughly track and audit such cross-jurisdictional trades and movements of credits, whether across state, regional or national boundaries. While we support the concept of co-benefits within the WCI, we also recognize the dire need for emissions reductions all around the US and the world, particularly in developing nations. We believe there is a place and need for all such offset projects and reductions, so long as they are of the highest quality and can be adequately verified and enforced.

9.9.2 While we have no position on the WCI's statement that it does not intend to regulate or restrict existing voluntary markets, we do believe such voluntary markets will continue to expand, alongside the compliance market, which we have seen in the EU. The EU's voluntary offsets market has continued to grow threefold during the exponential growth of the compliance market. We also believe it is critical that quality control occur in the voluntary offsets market, and strongly commend the work of the Offset Quality Initiative in that regard.

10. Reporting

APX supports frequent reporting, such as monthly or quarterly reporting. Shorter time periods for reporting will lead to greater transparency and more up-to-date information, and less opportunities for market manipulation. Having access to up-to-date information on market conditions is important to enable capped and other market participants to forecast allowance demand and to plan for compliance. Such information includes facility and program-wide emissions, allowance and credit prices and volume of trading. The timely availability of this information provides greater confidence and certainty in the market and allows regulated entities and regulators to make more informed decisions. Greater transparency also will help build important public support for the workings of these new markets. Finally, we believe that through automation and information technology, regular reporting of market information can be implemented so that it is no more costly or burdensome than annual reporting.

We see emissions reporting as separate and distinct from the creation, verification, serialization, reporting, tracking, trading, and retirement of emission allowances and offset credits. Since Section 10 of your draft design document entitled "Reporting" appears to solely focus on emissions reporting, we raise this distinction.

The treatment of offsets and allowances is inherently transactional in nature and requires very different core technology competencies than the emissions reporting of static time stamped information. Both offsets and allowances are tracked using serial numbers; both have market value; both are traded and transacted; and both are retired. Further, market oversight requirements will likely emerge in a cap and trade world that will necessitate the potential tracking of transaction prices, volumes, positions, trading limits or position limits, tracking of intermediate transactions between counterparties, the potential need to report exchange transactions, forensic reporting and full audit trail capabilities for every transaction for the lifetime of the program, and the ability to

investigate the possibility of fraud or manipulation in the marketplace via queries and reports of historical information.

To be sure, emissions reporting systems must work hand in hand with offset and allowance tracking systems, and we believe strongly that this can be achieved to provide an integrated market system for WCI.

12. Compliance and Enforcement

APX places high importance on the critical need for strict compliance and enforcement, including strict accounting systems to prevent double counting and to ensure maximum transparency for regulators, stakeholders and market participants. APX believes that evolving GHG markets will likely require greater transparency and greater market oversight than prior air markets because the scale and value of the GHG markets is projected to be much larger and will impact many sectors of the economy. Establishment of an oversight entity and systems to monitor market conditions would provide a mechanism to identify and respond to attempts at market manipulation or to intervene in the event of unacceptable allowance prices.

12.3 While APX does not have a specific view regarding the exact formula to use in computing penalties, APX does believe that penalties for non-compliance should “make the atmosphere whole” (e.g., result in the required emission reductions over time) and must be set at a level that is substantially higher than the market price of allowances. Otherwise, capped entities may choose to buy their way out of compliance rather than purchase allowances or offset credits.

For example, to ensure that the costs of noncompliance are higher than the costs of compliance, and that the environmental target is not breached, the US Acid Rain program imposes a significant financial penalty for each ton of excess emissions and deducts the equivalent quantity of allowances from the entity’s allocation in the subsequent compliance period. Under the NOx budget program, the non-compliance penalty is a deduction of allowances at the rate of 3:1 for each ton of excess emissions – similar to what the WCI Partners propose in your draft design document.

12.5 APX strongly applauds the WCI for its recognition that it must include rigorous tracking and accounting systems to ensure the system’s highest integrity and strict compliance for both public and regulator oversight. This is absolutely critical.

13. Regional Organization and New Partners

13.1 APX supports the creation of a regional administrative entity that will coordinate the regional auction of allowances, coordinate review and adoption of protocols for offsets, coordinate the issuing of offsets credits, monitor and report on market activity, etc. We strongly urge the WCI to think now about the necessary underlying accounting, auditing and serialized tracking system that will be essential to carry out these highly complex, multi-jurisdictional functions. Public support for a future WCI will depend on how trustworthy, secure and transparent this new system is.

APX is pleased to draw on its broad experience in developing transactional-based certificate tracking and reporting systems to provide these comments, and looks forward

to our further participation in the WCI stakeholder processes. Please feel free to email with any questions: jmelby@apx.com or gguzy@apx.com. Thank you.

Sincerely,

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