Comments submitted by NextEra Energy Resources[1] in Response to the California Air Resources Board March 23, 2009 "Implementing a Quantitative Limit on the Use of Offsets in a Cap and Trade Program" Workshop

The following comments of NextEra Energy Resources (formerly FPL Energy) are respectfully submitted to the California Air Resources Board (CARB) in response to specific questions posed during their March 23, 2009 workshop entitled "Implementing a Quantitative Limit on the Use of Offsets in a Cap and Trade Program".

NextEra Energy Resources (NextEra) supports the use of offsets to meet compliance obligations under a GHG cap and trade program. In fact NextEra supports the unlimited use of offsets for compliance as long as the reductions in GHG emissions are verified as real, additional, and quantifiable. NextEra feels offsets are a key element to obtaining compliance with the goals set forth in AB32 because there are no emissions controls available to remove CO2 on a commercial scale. Even if technologies are developed in the next few years, their implementation on a commercial scale will probably be cost prohibitive for immediate implementation. The technology simply will not be developed in time to significantly impact GHG emissions on the scale to meet CARB's 2020 goal. Offsets supply a bridge to those developing technologies and can be a relatively low cost option for emitters to satisfy compliance obligations. For some entities offsets may be the only option available to significantly and economically reduce GHG emissions in line with California's and WCI's 2020 goals. Installing back end controls at a large industrial complex is very capital intensive. It would be unwise for any company to invest 10's of millions of dollars in emissions control technologies until those technologies are proven effective and the costs of these large investments are justified from a business perspective. NextEra understands several stakeholders concerns about offsets and agrees with those that feel offsets need to be real reductions. There are legitimate concerns surrounding offsets but they can be adequately addressed through a stringent certification program that will ensure offsets are real and lasting reductions in GHG emissions.

Offset Limitation Options

If CARB and WCI insist on moving forward with the limitation of offset use for compliance, NextEra feels the best option is to **limit the use of offsets submitted to meet an entity's compliance obligation.** This option could limit offset use by placing a

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maximum or cap on the amount of offsets that could be used to satisfy an entities compliance requirement. This is most effectively accomplished through setting a percentage limit. The other limit options proposed by CARB include: (1) regulating the supply of offsets through a first in-first out methodology (FIFO) and (2) a hybrid option in which CARB auctions the certificates for offset eligibility. This hybrid option would essentially limit offsets on the supply side. Of the three options proposed by CARB staff, NextEra supports the usage limit for the following reasons:

1. Choice to pursue least cost option

The usage limit allows those entities that wish to use offsets to purchase those offsets in a secondary market, form a bilateral agreement with an offset provider, or directly invest in the development of offset projects. In all three cases the entity with the compliance obligation has the opportunity to find the least cost offset and therefore the least cost GHG reduction option. In addition, if an entity invests in a project that will produce offsets in a future year, the purchaser would be assuming some element of risk these offsets will be eligible for use in California. This risk will force a project to offer offsets at a price lower than the projected cost of GHG allowances in future years, further reducing compliance costs for entities.

Limiting offsets on the supply side through the FIFO methodology does not ensure the least cost option is being pursued. Once CARB's offsets allotment is full of allowances, any additional offsets generated have no value with respect to CARB's GHG reduction program. This would cause the value of offsets in the CARB que to increase. Their supply is limited and therefore their cost will go up. Also, just because an offset is the first to enter the program doesn't mean it is the most economical choice or it produces any secondary benefits. How will CARB determine their offsets are the best value and how will they set the price? In addition, the supply limit could cause fewer offset projects to be developed because of the uncertainty in viability of offsets produced by that project. Project investors would be assuming a greater amount of risk in developing any offset project. There is a reduced certainty they will have a buyer. In order to limit their exposure to this risk, investors will develop fewer projects. CARB should choose an offset limiting scheme that encourages more offsets projects are developed and allow these projects to compete in order to facilitate the lowest cost offsets are offered to entities with compliance obligations.

2. Access to offsets and flexibility of compliance options

Under the supply limit option, once the offsets in CARB's system are gone, this option is eliminated for any additional entities. If several entities purchase all the offsets, other entities wishing to buy these offsets no longer have that option available. The usage limit methodology provides ample opportunity for all entities with a compliance obligation the option of finding their own offsets to meet a portion of their compliance obligation. This assumes of course producers of offsets will provide the needed offsets into the market for entities wishing to purchase them. This demand for offsets could

actually drive the development of more offset projects than are needed and even further reduce the cost to the purchasers of offsets. Also, allowing regulated entities the flexibility to choose the offsets they wish to purchase also allows entities to choose the types of projects in which they invest. There may be opportunities for offset projects in local communities or offsets projects with secondary benefits that are more attractive to entities for reasons independent of a GHG compliance program. Entities investing in offsets should be allowed the flexibility to decide which offset projects they are financing. CARB should not limit the types or scope offsets available for compliance mitigation through a crude and inflexible FIFO system.

3. Allows entities surety in planning

Finally, the usage limitation methodology allows entities to plan future investment options with a greater degree of surety. The use of a supply limitation injects an unnecessary degree of uncertainty into the system. As stated earlier, entities with a compliance obligation are not assured access to offsets in future compliance years under the supply option. With the future availability of offsets incurring this added element of uncertainty, investment options and planning for compliance assumes a higher degree of risk. Entities with a compliance obligation want to know as far in advance as possible their potential future liabilities. This allows for business decisions for future investments to be made with a higher degree on confidence. Informing a business of their potential future cost exposure enables them to plan to meet that obligation with a higher degree of certainty. The supply limit makes that determination of future liability more difficult and hurts business development and planning.

Other Questions:

How Should the Limit be Calculated and Applied Across the WCI?

NextEra feels there should not be limit placed on the use of offsets to meet compliance obligations; however, if any offset limitations are applied in California they should be applied consistently across WCI. Any difference in policies and requirements between states presents opportunities for competitive advantages and disadvantages. One reason to implement a regional GHG program is to standardize the program across the region. Applying different limitations across the WCI members damages the continuity of the program and NextEra does not promote varied degrees of regulation across WCI.

Should the Offset Limit Change Through Time?

NextEra feels an offset limit should not be implemented in the first place; however, if one is implemented it should not be changed over time. If offsets are certified as real reductions in GHGs, the level of availability needs to be maintained. With a reducing cap, the only possible change that would be warranted is a relaxation of the limit. If any changes are to be made to the limit, CARB must decide that limit prior to the program implementation. Changes to the limits after program implementation

make any market and planning decisions made by companies in the early phases of the program invalid and should not be allowed.

Conclusions

- NextEra supports unlimited use of offsets for compliance
- If an offset limit must be set, CARB should implement a usage limit
- Any changes to limitations must be established prior to program implementation
- Offset limitations should be uniform across WCI

If you have any questions regarding these comments, please feel free to contact me directly or contact Diane Fellman, NextEra Energy Resources, Director, Western Region, Regulatory Affairs (415) 703-6000.

Thank you,

(signed copy on file)

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