



The Business Council For Sustainable Energy

An Energy Agenda for the 21st Century

March 19, 2007

To: **Senator Jeff Bingaman,**
Chairman, Senate Committee on Energy and Natural Resources

Senator Arlen Specter

Regarding: **BCSE Response to Discussion Draft on Federal Greenhouse Gas Legislation**

Submitted Via Email: Climate_Draft@energy.senate.gov

On behalf of the members of the Business Council for Sustainable Energy (the Council), thank you for your leadership in developing a Discussion Draft that has sent a strong and timely signal on the viability of a cost-effective national program to reduce greenhouse gases.

The Council appreciates the opportunity to respond to this important proposal and is pleased to submit the following comments on the Discussion Draft for consideration by the Senate Committee on Energy and Natural Resources. The Council also requests the opportunity to share its views in greater detail during any future Committee-sponsored hearings or conferences on this topic.

The Council would like to offer two general comments: First, the proposals put forward over the past year by Senators Bingaman and Specter, among others, as analyzed by the Energy Information Administration, clearly demonstrate that greenhouse gas reductions can be achieved at a modest cost to the U.S. economy. This is very important for building a broad-based coalition in support of a national climate change program.

Second, while the Council appreciates that the current draft aims to address clean energy technology deployment, we recognize that several opportunities remain untapped to make clean energy more central to program design. This is of critical importance because clean energy deployment is a key element of keeping the cost down of any climate change program. As outlined below, greater emphasis on clean energy deployment can be achieved through a variety of program design elements, including cap levels and timetables, allocation policy and economic relief measures, among others. As the Committee moves forward in reviewing this Discussion Draft, we look forward to working with you on these areas.

Introduction

The Business Council for Sustainable Energy is a broad-based industry coalition of energy efficiency, natural gas and renewable energy interests that advocates energy and environmental policies that promote markets for clean, efficient and sustainable energy products and services. The Council's coalition includes power developers, equipment manufacturers, independent generators, green power marketers, and gas and electric utilities, as well as several of the primary trade associations in these sectors. *Please see Appendix A for a select list of the Council's members and supporters.*

The Council and its members have advised legislators and regulators on the development of domestic and international clean energy, clean air and climate change initiatives for over a decade. The Council and its members represent available technologies that offer vastly deployable solutions to climate change.

The Council's members support and encourage voluntary measures to reduce greenhouse gas emissions. Nevertheless, with state and regional efforts in the U.S. mandating the reduction of greenhouse gas emissions, the Council supports a national climate change program that creates market drivers for clean energy technology innovation, economic efficiency and enhanced energy security.

The Council's Views on Federal Greenhouse Gas Legislation

The Business Council for Sustainable Energy supports the enactment of federal climate change legislation that provides long-term market signals for clean energy deployment and energy efficiency. From an industry perspective, it is essential to have regulatory certainty and consistency to effectively tackle the challenge presented by global climate change.

To be most effective, a federal program should integrate energy and environmental policy. This will maximize energy sector and emission reduction investments. Further, the Council believes that any federal climate change program should place existing clean energy technologies at the center of compliance strategies. This will reduce compliance costs, mitigate fuel price increases and achieve the complementary objective of enhanced energy security. In addition, it is important for federal climate change policy and clean energy policy to move forward together, whereby design elements are developed with an integrated approach and within the broader context of existing federal and state energy policy.¹

More specifically, the Council supports a federal climate change policy that:

- 1) **Is national in scope.** A federal program is preferable to the current patchwork of state and regional programs, both regulatory and voluntary. Such a program would enlarge the pool of participants, thereby lowering compliance costs, creating stronger price signals for clean energy options and offering greater compliance flexibility while advancing national security objectives.
- 2) **Expands alternative energy resources from clean energy technologies** including wind, solar, hydropower, biomass, geothermal, fuel cells, advanced battery systems, and natural gas.
- 3) **Expands the development and use of energy efficiency and natural gas technologies,** including the direct use of natural gas, on-site generation from combined heat and power, and energy efficiency for demand reduction.
- 4) **Recognizes improvements in energy efficiency.** A federal program should reward energy efficiency in existing and replacement energy infrastructure to fully maximize market-driven incentives for energy and environmental improvements.
- 5) **Incorporates a mandatory, economy-wide and market-based approach.** A federal program should include a cap-and-trade and project-based approach that efficiently achieves both energy and climate objectives. These types of approaches provide long-term signals to the economy and also offer compliance flexibility.
- 6) **Establishes near-term and long-term targets** that are consistent with investment cycles to signal the marketplace and drive technology investment and innovation.
- 7) **Promotes compatibility with voluntary renewable energy, energy efficiency, and greenhouse gas markets** so non-capped businesses and households can continue to support markets that result in actions that are above and beyond mandatory obligations.
- 8) **Establishes linkages with international programs.** The federal program should establish international linkages at the outset of the program. These linkages should demonstrate comparability, and should be verifiable and transparent. The program should permit trading with compatible cap-and-trade programs and project-based initiatives in other parts of the world.

It is widely recognized that the development of new technology will be an integral part of achieving climate change goals cost-effectively.² There are many solutions available today that should be explicitly encouraged in any climate change program to achieve early emission reductions, reduce our nation's future carbon liability, and mitigate the cost of achieving long-term reduction goals. Addressing global climate change by promoting clean energy technologies that emit

¹ For example, federal climate change policy should work together with other programs designed to reduce greenhouse gas emissions, such as renewable and energy efficiency portfolio standards, and extension of the Production Tax Credit, among others.

² It should be noted that while new technology development is a vital component of climate change solutions, the U.S. Department of Energy R&D budget for such technologies has decreased by 85 percent between 1978 and 2005, according to a December 2006 Government Accountability Office report, available at <http://www.gao.gov/new.items/d07106.pdf>.

fewer greenhouse gases provides an opportunity to create jobs here at home and improve our environmental, national, and global security.

Specific Responses to Discussion Draft on Federal Greenhouse Gas Policy

Allocation Approach [Sec. 1613-1614]

A successful federal allocation policy will drive clean energy investments and promote cost-effective emissions reductions. The design of allocation measures in the Discussion Draft could be strengthened in this respect by placing greater emphasis on the deployment of clean energy and energy efficiency. Incorporation of additional measures to catalyze clean energy deployment will be critical to keeping program costs low. To achieve this objective, the Council urges consideration of the following allocation criteria for the Discussion Draft:

1. Allowance allocation should reduce the carbon intensity of electric generation;
2. Allowance allocation should reduce energy demand;
3. Allowance allocation should provide benefit to the economy; and
4. Allowance allocation should promote private investment through partial funding of investments.

These recommendations are consistent with the Council's recommendations on federal climate change policy to the House Committee on Energy and Commerce, as well as to states developing a carbon cap-and-trade program in the Northeast U.S. under the Regional Greenhouse Gas Initiative (RGGI) and states implementing the Clean Air Interstate Rule (CAIR).

The Council believes that any allowances distributed under federal climate change legislation should be allocated by using an output-based methodology. An output-based approach focuses on carbon-energy efficiency and promotes clean generation – including renewable energy – since distribution is based on the amount of electricity generated, not on the amount of fuel used or a facility's historic emissions. The Council recommends a fuel-neutral, updating, output-based allocation that rewards greater efficiency and encourages investment in new generating technologies. Output-based policies send a clear signal to the marketplace – lower-carbon emitting energy options receive direct, clear, consistent and bankable value.

In addition, output-based allowance allocation accommodates the carbon dioxide emission reduction claims associated with renewable energy generation, allowing the federal climate change program to encourage voluntary markets for renewable energy. Given the strength of the U.S. voluntary renewable energy credit market and its significant potential for growth, the Council recommends that federal climate change legislation adopt an approach that allows the voluntary market to continue to create surplus emission reductions and meet consumer demand. This can be done easily through the output-based allocation approach, as recommended by the Council, which would allow renewable generators to transfer or retire allocated allowances to or on behalf of their end-use customers to enable those customers to make surplus emission reductions. If a free allocation approach is not adopted in a future federal program, there are other approaches that can make a cap-and-trade system compatible with voluntary markets.^{3 and 4}

At present, the Discussion Draft limits the federal electricity generation allocation pool to fossil fuel-fired electricity generators (Sec. 1614 5Di, p. 17 of Discussion Draft). While clean generators will likely receive allocation of allowances under Sec. 1614 6B (p. 22 of the Discussion Draft and its possible substitute language on pp. 23-25), the determination of the total number of allowances to this sector is left for States or the President to decide, allowing for the possibility of a patchwork of allowance policies that could change on an annual basis. This could result in distortion of price signals. Further, there would be uncertainty for clean energy generators from year to year on allowances, limiting their ability to incorporate the allowance value into project finance.

Alternative Vehicles to Direct Allowance Value to Clean Energy and Energy Efficiency

In addition to allocation policy, there are other ways to spur deployment of clean energy and energy efficiency technologies with allowance value, including auction revenue and establishment of set-aside programs.

³ For example, 1) Allowances can be retired on behalf of the voluntary renewable energy credit market, the approach adopted by the RGGI Model Rule; and, 2) Set-aside allocations can also be made to renewable generators based on a percentage of the total allowances, (i.e., 5-10 percent).

⁴ For example, a Voluntary Renewable Energy Credit Set-Aside Allocation could follow recommendations outlined on pages 47-50 of the RGGI Model Rule at: http://www.rggi.org/docs/model_rule_corrected_1_5_07.pdf.

The Council has compiled the following list of criteria to ensure that allowance value is directed to provide the greatest benefit. These criteria include:

1. Reduce the carbon intensity of electric generation
2. Reduce energy demand
3. Provide benefit to the nation's economy
4. Promote private investment through partial funding of investments
5. Enhance complementary energy program benefits
6. Help establish new energy programs
7. Increase the market potential of new technologies

Clean Development Mechanism Certified Emission Reductions [Sec. 1615h, p. 33 of Discussion Draft]

The Council appreciates the design element that establishes linkages between federal greenhouse gas program allowances and the Clean Development Mechanism's certified emission reductions. The Council has long recognized that international linkages should be established at the outset of a federal greenhouse gas program, provided such exchange is comparable, verifiable and transparent and maintains the environmental integrity of projects and programs. Further, the Council welcomes the inclusion of future foreign credits in the federal greenhouse gas program, upon interagency review of comparable programs in select countries (Sec. 1622 d1-2, pp. 47-48 of Discussion Draft).

Offsets [Sec. 1619, p. 37 of Discussion Draft]

The Council supports the establishment of an emissions offset program as a design element under a national greenhouse gas program and encourages the expansion of eligible streamlined offset projects as outlined by the Discussion Draft to include a greater variety of clean energy sources.⁵ A well-designed offset program will offer the possibility of lower compliance costs and encourage technology innovation and deployment. Ensuring the environmental integrity of an offset program is essential; therefore, eligible offsets should be real and verifiable.

In the Council's recommendations to RGGI and the Kyoto Protocol's Clean Development Mechanism (CDM), it has urged objective and standardized eligibility criteria for offset projects. The Council is concerned about the efficiency and consistency of the case law approach adopted by the CDM that looks at each project individually or on a project-by-project manner.⁶

Overall, however, it may be overly optimistic to expect establishment of sector-by-sector standards in a timely fashion and commensurate with the urgent need for action. Therefore, the Council supports a case-by-case program that builds on the experience of the CDM Executive Board and processes, while at the same time devoting resources to eventual establishment of technical standards for key sectors. As a national greenhouse gas offset program is executed, standardized mechanisms/methods, such as performance standards or benchmarks, can be integrated into the case-by-case project approach.

The Council cautions against the use of pure financial additionality tests in determining project eligibility. 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.⁷

Early Technology Deployment [Sec. 1627, p. 54 of Discussion Draft]

The Council welcomes the inclusion of the Climate Change Trust Fund as a financial mechanism to advance deployment of zero- and low-carbon technologies, as well as advanced energy technologies. However, the Council cautions against making new renewable energy resources ineligible for funding under the Climate Change Trust Fund program should

⁵ The Discussion Draft currently limits eligible streamlined offsets to geologic sequestration, landfill methane, animal waste or municipal wastewater methane, SF6 emission reductions and projects to destroy HFCs.

⁶ Of particular concern are post-facto changes to previous "final" regulatory decisions, which have occurred in a few cases reviewed by the CDM Executive Board. An ability to change regulatory rulings creates direct and intolerable risk to investment decisions.

⁷ See the WRI Greenhouse Gas Protocol for Project Accounting at:
http://www.ghgprotocol.org/DocRoot/m1Tv5InUuFTjYZx3x1ev/GHG_Project_Protocol.pdf

those projects receive renewable energy credits under a federal renewable portfolio standard (RPS) (Sec. 1627 3C, p. 60). In the interest of clean energy deployment, renewable energy projects should benefit from a variety of forms of funding support, including, but not limited to, RPS/renewable energy targets, market-based renewable energy instruments, tax incentives and other forms of government financial support.

Conclusion

Thank you again for the opportunity to provide input toward the Discussion Draft. Per your request, you will also find attached the Council's submission to the House Committee on Energy and Commerce regarding the development of federal climate change legislation. If you have any questions or comments please feel free to contact me at the Council's offices (202-785-0507) or via email at ljacobson@bcse.org.

Sincerely,



Lisa Jacobson
Executive Director

Attachment

Business Council for Sustainable Energy March 19, 2007 Letter to Rep. John Dingell and Rep. Rich Boucher – BCSE Recommendations for Federal Climate Change Legislation

Appendix A – Select List of BCSE Members 2007

American Gas Association
American Standard/Trane
American Wind Energy Association
Bergey Windpower
Brookfield Power
Calpine
Center for Energy, Economic & Environmental Policy, Rutgers University
Econergy International
EcoSecurities
Enel North America, Inc.
Energy Conversion Devices, Inc.
First Environment, Inc.
GE Wind
Green Mountain Energy Company
Green Strategies, Inc.
Ideal Jacobs Corporation
Jupiter Oxygen Corporation
National Hydropower Association
NiSource
North American Insulation Manufacturers Association
PG&E Corporation
3 Phases Energy Services
Plug Power
Polyisocyanurate Insulation Manufacturers Association
PPM Energy
Public Service Enterprise Group
Sacramento Municipal Utility District
Sempra Energy
Solar Energy Industries Association
Solar Turbines
Sun Farm Network
The Energy & Security Group
The Stella Group, Ltd.
TowPath Renewables
Trexler Climate & Energy Services, Inc.
Winrock International
Worldwatch Institute
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