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Gavin J. Donohue, *President &
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December 3, 2010

Via email to info@rggi.org

Mr. Jonathan Schrag
Executive Director of RGGI, Inc.
Regional Greenhouse Gas Initiative, Inc.
90 Church Street, 4th Floor
New York, NY 10007

Dear Mr. Schrag:

The Independent Power Producers of New York, Inc. (IPPNY) is a not-for-profit trade association representing the independent power industry in New York State. IPPNY and its members participated actively in the development of the Regional Greenhouse Gas Initiative (RGGI), at both as the regional and New York State levels.

IPPNY's members are companies involved in the development of electric generating facilities, the generation, sale, and marketing of electric power, and the development of natural gas facilities in the State of New York. The companies generate almost 75 percent of New York's electricity using a wide variety of generating technologies and fuels, such as hydro, nuclear, wind, coal, oil, natural gas, energy-from-waste, and biomass. All of the views expressed in IPPNY's comments do not necessarily represent the positions of each of our members. Since IPPNY represents a broad spectrum of companies, we anticipate some of our members also may submit comments on their own. In addition, nothing in these comments should be deemed to waive any rights that IPPNY or any of its members may have to challenge the procedural or substantive legality of the RGGI program, any variation of the existing program, or any element thereof.

A second RGGI regional stakeholder meeting was conducted on November 12, 2010 to review the Integrated Planning Model's (IPM) assumptions, results for the Reference Case and Sensitivity Analyses completed to date, as part of the 2012 program review called for in the RGGI Memorandum of Understanding. IPPNY hereby submits comments on the subject areas noted below.

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I. IPM Model Reference Case and the United States Environmental Protection Agency's (EPA) Greenhouse Gas (GHG) Tailoring Rule

At the November 12 meeting, IPPNY asked how the EPA's GHG Tailoring Rule is being addressed in Federal Environmental Policy Assumptions and the Reference Case. The answer from ICF Consulting, the New York State Energy Research and Development Authority (NYSERDA) and the New York State Department of Environmental Conservation (DEC) is that the RGGI states are not including the Tailoring Rule in the modeling effort, because they do not know how to quantify Best Available Control Technology (BACT) on a plant specific basis. ICF, NYSERDA, and the DEC stated that they are looking for feedback on how that rule could or should be included in the modeling.

Section 19-0903 of the New York State Environmental Conservation Law defines "best available control technology" to mean "an emission limitation or equipment standard based on the maximum degree of reduction which the department determines is achievable on a case-by-case basis taking into account energy, economic, environmental and health impacts and other costs related to the source." Furthermore, New York's Codes Rules and Regulation's (NYCRR) Part 200.1 defines BACT as "an emission limitation or equipment standard based on the maximum degree of reduction of each contaminant emitted from stationary air contamination source which the department determines is achievable for such source on a case-by-case basis considering: (1) process, fuels and raw material available and to be used; (2) engineering aspects of the application of various types of control technology which has been adequately demonstrated; (3) process and fuel changes; (4) respective costs of the application of all such control technologies, process changes, alternative fuels, etc.; and (5) applicable state and Federal emission standards."

Currently, the DEC is in the process of initiating a state rulemaking process on the Tailoring Rule, which should include modeling of the impacts of the rule on facilities in New York State. Furthermore, the DEC has adopted two policies on GHG emissions: *Greenhouse Emissions and the State Environmental Quality Review Act* and *Climate Change and DEC Action*. The first policy includes the following mitigation measures that could be considered in an Environmental Impact Statement:

- Use of energy efficient boilers, heaters, furnaces, incinerators, or generators
- Use of process design efficiency for industrial process sources
- Incorporation of co-firing of biomass or use of bio-fuels
- Collection of biogas and use for power generation
- Use of biodiesel or bioheat for heating fuel or in vehicles / equipment
- Incorporation of on-site renewable energy sources into the project, such as wind or solar
- Incorporation of combined heat and power technologies
- Pursuit of carbon collection, capture, and reuse or sequestration

According to its fact sheet (<http://www.epa.gov/nsr/ghgdocs/ghgpermittingtoolsfs.pdf>), EPA points out that carbon capture and sequestration currently is an expensive technology and unlikely to be selected as BACT in most cases. As a result, IPPNY suggests that the RGGI states include modeling of the other mitigation scenarios in the Reference Case, to the extent that the DEC may consider them to be BACT in its implementation of the Tailoring Rule.

II. IPM Model Reference Case Sensitivities

A. **RGGI Allowance Prices and Price Collar**

In regards to the RGGI Allowance Price, the Reference Case and All Sensitivity Cases indicate that RGGI emissions are projected to remain below the cap in most cases over the time horizon of the analysis, so projected allowance prices in those cases are set by the auction price floor. Cases with emissions that exceed the cap in some years carry a sizable enough bank into those years to keep the price at the auction floor.

The issue of a price collar was mentioned at the November 12, 2010 meeting. According to the work of Resources for the Future (RFF) on issues involving a price collar (http://www.rff.org/News/Features/Pages/A_Symmetric_Safety_Valve.aspx), allowance prices would have a floor and a ceiling. However, despite IPPNY's recommendations during the development of the current RGGI program, the RGGI program planners refused to incorporate provisions to ensure that allowance prices do not go above a level that would harm energy consumers. Although RGGI allowance prices, at this point, are lower than originally projected when the program was established, RGGI program managers should take the opportunity to protect consumers from possible future allowance auction price escalations, by limiting the price of allowances in the RGGI auction. A RGGI allowance market now exists and should be the main vehicle for establishing the market price of RGGI allowances.

According to the modeling results that are the basis for the RGGI program, carbon dioxide (CO₂) allowance prices were predicted to be about \$2 per ton in 2009. Prices were modeled to rise to \$3 per ton in 2015 and to \$4 per ton in 2018. Accordingly, these projected allowance prices should serve as the allowance auction price ceilings, and the current \$1.86 per ton allowance auction reserve price should remain as the price floor, as it would not make sense to increase the reserve price during these tough economic times. Specifically, IPPNY suggests the following allowance auction price floor and ceilings over the course of the program:

| <u>RGGI Program Years</u> | <u>(Dollars per ton) Auction Price Floor</u> | <u>(Dollars per ton) Auction Price Ceiling</u> |
|-------------------------------|--|--|
| 2010 - 2014 | 1.86 | 2.00 |
| 2015 - 2017 | 1.86 | 3.00 |
| 2018 | 1.86 | 4.00 |

The price collar's purpose, as proposed by IPPNY, would be to ensure that allowance prices derived from the auction remain in a reasonable range. Contrary to RFF's proposal that the provision of allowances be reduced when allowance prices were to fall to the level of the allowance auction price floor, allowances should continue to be made available for sale at the minimum reserve price of \$1.86 per ton. The RGGI program allows for unlimited banking of allowances, and the environmental integrity of the program is maintained by the emissions cap.

B. **Economic Growth Sensitivity Cases**

According to the paper on the *Relative Effects of Various Factors on RGGI Electricity Sector CO₂ Emissions, Comparing 2009 to 2005*, the analysis concludes that three categories of factors are the primary drivers of the decreased CO₂ emissions. Among the factors driving the reductions are lower electricity requirements, weather, and the economy. NYSERDA noted that the analysis shows the importance of looking at ranges of variables and the need to do sensitivities, in response to a question at the November 12, 2010 meeting about how the analysis will be used.

Interestingly, the paper notes that the estimated impact of the economy on electricity load (both proportion and absolute amount) would be far more substantial, if the analysis had been framed to compare 2009 to 2007, rather than 2005. 2009 exhibited the lowest amount of consumption compared to the previous eight years. From this alternative perspective, 43 percent of the load decrease is attributed to the economy, compared to 9 percent in the 2005 to 2009 period upon which this analysis is focused.

According to information provided by ICF about Sensitivities on the Reference Case, in terms of Assumptions and Results, the modeling includes Draft Specifications for Load Growth Sensitivity Cases. As IPPNY's comments (http://www.rggi.org/docs/IPPNY_comments_9-13-10_RGGI_mtg.pdf) suggested in follow-up to the first RGGI stakeholder meeting on September 13, 2010, modelers intend to run Sensitivity Cases with high and low load growth forecasts, with parameters for the economy and weather.

IPPNY urges that Sensitivity Cases examine the levels of economic growth that were projected to occur in 2005 through the period of 2018, when the RGGI program first was established, as well as the current projected economic development goals that New York State is trying to achieve for that time period. These scenarios would help establish reasonable upper bounds for associated energy demand levels and the resulting needed emissions range.

C. Reserve Margins and Local Reserve Requirements

Reserve Margins and Local Reserve Requirements for the NYISO are assumed to be 18 percent from 2010 through 2020. IPPNY suggests that the RGGI program planners also include Sensitivity Cases to model the potential impact of DEC regulations examined by the New York System Operator's (NYISO) 2010 Reliability Needs Assessment (RNA).

According to the NYISO's 2010 RNA, New York State's electric power resources (generation, transmission and demand-side programs) are expected to meet the state's electricity reliability needs through 2020, assuming energy efficiency programs and planned resource additions proceed as anticipated and no significant facilities are retired from service. However, the assessment also looked at several risk scenarios that adversely could impact electric system reliability, such as:

- A stronger than expected economic recovery could pose reliability risks in 2019, absent the projected impact of energy efficiency programs.
- The combined impact of proposed environmental regulations, including control technology requirements for nitrogen oxides as well as a proposed policy requiring power plants to utilize closed cycle cooling and other regulatory initiatives, could result in unplanned plant retirements that may impact reliability.

- The retirement of more than 1,000 megawatts (MW) of generating capacity from the Long Island, New York City or the Lower Hudson Valley regions would pose reliability risks. Additionally, specific plant retirements could cause transmission problems.

D. Imports from Quebec

A meeting participant asked a question about the role of a Hydro Quebec line and hydro imports from Canada. The RGGI state representatives answered that this scenario was not included in modeling work but should be addressed in written comments for consideration.

IPPNY suggests that the treatment of this issue by the NYISO's modeling is a reasonable standard by which to proceed. The NYISO's modeling efforts for its system planning does not include this project, as the project still is premature; accordingly, the project should not be included in the Reference Case for the RGGI modeling.

The project may be included as a Sensitivity Case, based upon a projected in-service date of 2015. According to the project's website (<http://www.chpexpress.com/about.php>), the Champlain Hudson Power Express project is being developed by Transmission Developers, Inc. and will bring up to 1,000 MW of wind and hydro power to the New York metro area, via a high voltage direct current cable to be placed in waterways or buried along railway routes from the U.S.-Canadian border to the New York metro area. The website states that the \$1.9 billion project would be one of the largest investments in New York State history and could create up to 200 construction jobs.

E. Natural Gas Prices

At the November 12, 2010 meeting, an IPPNY Member pointed out that natural gas prices are even lower than the assumption in the modeling by about 70 cents over the year, especially in relation to projections for 2012. Natural gas prices on the New York Mercantile Exchange are anticipated to remain close to \$4.00 per dekatherm.

F. Offsets Sensitivity Case

As IPPNY's comments in follow-up to the September 13, 2010 meeting suggested, a Sensitivity Case should be conducted to reflect that no RGGI offset projects currently are in place.

III. IPM Reference Case Results

A. Emission Levels

The IPM Reference Case results indicate that CO₂ emissions from RGGI compliance entities are projected to be less than the regional CO₂ allowance budget for the foreseeable future. IPPNY urges that the RGGI state representatives acknowledge that a main working principle for the RGGI program is that low program compliance costs are a good outcome that provides benefits to energy consumers and that the environmental stringency of the program ultimately is ensured by the emissions cap itself.

Having emissions levels that are 33 percent below the cap is a good outcome - not a bad one that warrants state action to change the program. This beneficial result does not need to be negated by having a negative business signal being sent by an even stricter cap, especially during trying economic times. The emission reductions are environmental benefits, and the program is working, since the cap has not been exceeded. Making the cap stricter in tough economic times would send a double negative business signal – not only is the economy bad, but, also, the cost of compliance with the RGGI program is increasing, during bad economic times.

B. Unsold Allowances

In determining whether to make changes to the regional CO₂ allowance budget, RGGI, Inc. is seeking guidance upon whether or not to retire unsold CO₂ allowances at the end of each control period. The RGGI program provides that unsold allowances can be made available for sale in the next auction. Furthermore, the RGGI program allows unlimited banking of allowances. A seeming surplus of allowances likely is temporary, given the amount of emission reductions that are driven by the declining economy. If allowances are removed from the program prematurely, how likely is it that they will be re-added later to the program, if the economy improves, energy demand increases, fuel prices increase, and /or weather is more severe than normal?

These drivers that have resulted in the emission reductions are variable and could trend higher than now in the future years of the program. Indeed, Slide 8 shows that RGGI CO₂ Emissions under the Reference Case and Load Growth Sensitivity Cases meet and exceed the RGGI cap in approximately 2022, under the Higher Load Growth Sensitivity Case. How will the RGGI program planners allow for that outcome and not make the RGGI cap too restrictive?

Additionally, RGGI, Inc. is seeking guidance upon whether or not to create a strategic reserve of CO₂ allowances, as a cost containment mechanism. Unused allowances at the end of each control period could be added to this reserve, instead of being retired. This idea would be preferable to allowance retirement, since unlimited banking already is allowed by the program.

C. Leakage, Federal Action and Another Program Review in 2015

RGGI planners need to evaluate what leakage will result, if the emissions cap is tightened further and / or if the program term is extended beyond 2018. How will associated competitive disadvantages for New York and the rest of the RGGI region be minimized? What is the compelling reason for lowering the emission cap (given the emission reductions that already have occurred), when the Federal Government still has not agreed on a cap and trade program? The RGGI states first should evaluate the impact of the EPA's Tailoring Rule on reducing emissions between 2011 and 2018, before deciding to change the RGGI program prematurely. Another program review (in addition to the one scheduled currently for 2012) could take place in 2015, especially to consider the status of the economy and Federal actions that may have occurred by then.

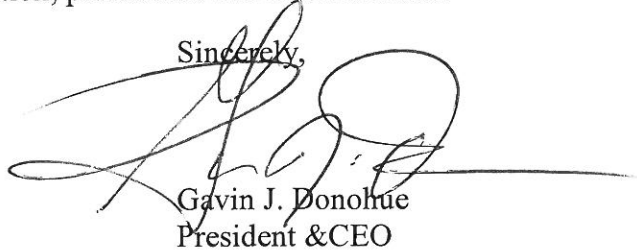
D. Additional Program Evaluation Options for the 2012 Review

The RGGI participating states expect to continue stakeholder dialogue throughout the RGGI program review process. RGGI, Inc. has invited stakeholders to propose options for potential program adjustment that the states should consider in the program review, such as changes to the program's procedures or scope, as well as how these options might be assessed. IPPNY will

discuss additional program review parameters in the attached letter that is specific to that purpose.

Thank you for the opportunity to provide these comments. IPPNY urges you to incorporate our recommendations into the RGGI states' decision-making process on the 2012 RGGI program review. IPPNY appreciates your taking the time to review and act on our comments. If you have any questions or need additional information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Donohue', with a long horizontal line extending to the right.

Gavin J. Donohue
President & CEO

cc: Governor Paterson's Deputy Secretary for Energy Thomas Congdon
DEC Acting Commissioner Peter Iwanowicz
PSC Chairman Garry Brown
NYSERDA President Frank Murray

Enclosure: IPPNY Letter on Additional 2012 RGGI Program Review Parameters