

COMMENTS OF ENTERGY CORPORATION ON THE REGIONAL GREENHOUSE GAS
INITIATIVE'S PROPOSED REFERENCE CASE AND SENSITIVITY ANALYSIS
ASSUMPTIONS FOR USE IN THE INTEGRATED PLANNING MODEL

OCTOBER 5, 2011

Introduction

Entergy Corporation and its direct and indirect subsidiaries (collectively, "Entergy") respectfully submit these comments in response to the Regional Greenhouse Gas Initiative's ("RGGI") development of proposed Reference Case and Sensitivity Analysis assumptions for the Integrated Planning Model ("IPM") to be used in the 2012 RGGI Program Review. By way of background, Entergy owns numerous electric generating facilities, producing over 30,000 megawatts ("MW") of electricity, and is the second largest owner and operator of nuclear power plants in the United States. With respect to its nuclear operations, Entergy companies own or operate eleven (11) nuclear units, five (5) of which are located in the northeastern United States. Within the RGGI Region (i.e., the states currently participating in RGGI - Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont – collectively, the "Participating States"), Entergy owns and operates: (1) Vermont Yankee Station, a 535 MW electric generation facility in Vermont, (2) Indian Point Units 2 and 3, and the James A. Fitzpatrick Station – three facilities located in New York, with a cumulative capacity of 2,775 MW, and (3) Pilgrim Nuclear Power Station, a 670 MW electric generating facility in Massachusetts.

During the September 19, 2011 Stakeholder Meeting, RGGI staff specifically asked for comments or suggestions on the results and assumptions of the Reference Case and Sensitivity Analysis for the IPM. As a major electricity provider in the RGGI Region, Entergy's comments provide informed insight into future electric generation in the RGGI Region.

**Comments on Reference Case and Sensitivity Analysis Assumptions: Firmly Planned
Generation and Retirement**

At the September 19, 2011 Stakeholder Meeting, RGGI staff presented on "RGGI Reference Case Assumptions." Presentation slide 21, entitled "Firmly Planned Generation and Retirements, Unit-specific Retirements in RGGI," included as a Reference Case assumption the retirement of Entergy's Indian Point Units 2 and 3 (collectively, "Indian Point") and Vermont Yankee Station at the end of their current licenses in 2013, 2015 and 2012, respectively. The Reference Case assumptions for Indian Point and Vermont Yankee are premature, unsubstantiated, and inconsistent with the core purpose of the RGGI program – to reduce emissions. These assumptions are a complete reversal of the basic assumptions under which the RGGI program and its current emission cap were first established, i.e. all existing nuclear generating facilities would continue operating. Entergy does not believe the retirement of Indian Point and Vermont Yankees is an appropriate Reference Case assumption.

According to the RGGI staff's September 19, 2011 presentation, "Firmly planned capacity additions and retirements are those that are far enough along in the process to be included in the Reference Case." RGGI Reference Case Assumptions Presentation, Slide 16. While the State of New York and the State of Vermont have taken public positions of their interest in shutting down the Indian Point and Vermont Yankee Stations, decisions on nuclear operating license renewal and closure are complex, not unilaterally made by the states, and primarily overseen by the United States Nuclear Regulatory Commission ("NRC") through its nuclear operating license renewal procedures, in which New York and Vermont are participating or have participated. As Vermont Yankee has received its operating license renewal and the Indian Point renewal process is on-going,¹ the Reference Case assumption is more appropriately based on the continued operation of Vermont Yankee and Indian Point, as both facilities are significantly far along in the operating license renewal process.

While Entergy understands that RGGI's IPM must consider uncertainty involved in acquiring operating license renewals, any uncertainty surrounding the Indian Point and Vermont Yankee license renewals is more appropriately considered as part of the RGGI Sensitivity Analysis—High Emissions assumptions. Instead, the continued operation of Indian Point and Vermont Yankee are properly included in the RGGI Sensitivity Analysis – Low Emissions assumptions. Inclusion of the Indian Point and Vermont Yankee retirements in the High Emissions assumptions is more appropriate than inclusion in the Reference Case assumption as it recognizes Entergy's commitment and progress toward the continued operation of the Indian Point and Vermont Yankee Stations while acknowledging that license renewals are not guaranteed.

The continued operation of existing nuclear facilities, such as Indian Point and Vermont Yankee, is essential for the prevention of increased carbon emissions in the RGGI Region. A 2011 report commissioned by the City of New York's Department of Environmental Protection highlights the importance of a single nuclear facility's generation in maintaining air emissions. The report found that any option to replace Indian Point's electric generating capacity would significantly increase air pollutants because Indian Point is able to provide 2,000 MW of generation with virtually no air emissions. *See* Charles River Associates, Indian Point Energy Center Retirement Analysis, Prepared for the New York City Department of Environmental Protection, 13 (Aug. 2, 2011). New York would see "approximately a 15% increase in carbon emissions under most conventional [Indian Point] replacement scenarios, with roughly a 7 to 8% increase in nitrogen oxide emissions." *Id.* at 13. The retirement of Vermont Yankee is likely to have parallel impacts on air emissions in Vermont. For this reason, the Reference Case assumptions should not include the retirement of existing nuclear facilities, as retirements will result in a significant increase in carbon emissions.

From RGGI's inception, Entergy has shared and supported the goal of addressing CO2 emissions in a manner that supports a reliable and affordable energy supply for the RGGI Region's

¹ On March 21, 2011, Entergy received its operating license renewal for Vermont Yankee from the NRC. In April 2007, Entergy applied to the NRC to renew operating licenses for Indian Point.

—citizens.² Entergy therefore appreciates RGGI's commitment to the 2012 Program Review and the opportunity to submit comments on the 2012 Program Review methodology. Please direct any questions regarding our comments to Elise Zoli at 617-570-1612.

² Entergy's prior comments in support of RGGI are attached for reference.

COMMENTS OF ENTERGY CORPORATION ON THE REGIONAL GREENHOUSE GAS
INITIATIVE'S PUBLIC REVIEW MODEL RULE DRAFT 03/23/06

Introduction

Entergy Corporation and its direct and indirect subsidiaries (collectively, "Entergy") respectfully submit these comments in response to the Draft Model Rule for the Regional Greenhouse Gas Initiative ("RGGI") that was provided for public comment on March 23, 2006 (the "Draft Rule").

By way of background, Entergy owns numerous fossil-fuel facilities, generating over 30,000 megawatts ("MW") of electricity worldwide, and is the second largest owner and operator of nuclear power plants in the United States. With respect to its nuclear operations, Entergy companies own or operate eleven (11) nuclear units, five (5) of which are located in the northeastern United States. Within the RGGI Region (i.e., the states currently committed to participating in RGGI - Connecticut, Delaware, Maine, Maryland, New Hampshire, New Jersey, New York and Vermont - collectively, the "Participating States"), Entergy owns and operates: (1) Vermont Yankee Station - a 535 MW electric generation facility in Vermont that produces approximately 72% of the electricity produced within the state, and (2) Indian Point, Units 2 and 3, and the James A. Fitzpatrick Station - three facilities located in New York with a cumulative capacity of 2,775 MW that collectively produce approximately 16% of the state's power. (Because Massachusetts played a role in the RGGI-development process, it is also noteworthy that Entergy owns and operates the 670 MW Pilgrim Nuclear Power Station in Massachusetts, which, according to the New England Energy Alliance, avoids approximately 1.6 million tons of carbon dioxide ("CO₂") a year - the amount that would be generated if the facility's output were to be replaced with the output of existing fossil-fuel generation facilities.) In addition to their critical contribution to the power supply, Entergy's nuclear facilities also provide an important and largely unrecognized environmental benefit to the RGGI Region. Since the 1970s, Entergy's and others' nuclear stations have demonstrated their value, not only by producing reliable base-load electricity, but by generating that electricity without emitting CO₂, sulfur dioxide ("SO₂"), nitrous oxides ("NO_x") or mercury. Entergy brings to nuclear operations an unparalleled expertise and a commitment to safe, secure and cost-effective energy production with significant environmental and public-health benefits.

As one of the largest producers of electric power in the United States, Entergy recognizes its leadership role in delivering power while protecting the environment and public health. In particular, Entergy is committed to improving air quality and helping to successfully redress climate change. For example, in 2001, Entergy made a public corporate commitment to stabilize company CO₂ emissions at 2000 levels through 2005. Cumulatively, through 2005, Entergy reduced emissions 23%, while increasing electric sales by 21% over the same period. On May 1, 2006, Entergy expanded its commitment to stabilize CO₂ emissions at a level 20% below the 2000 levels for the years 2006 through 2010. Examples of Entergy's climate-related undertakings in 2006 include transactions involving the acquisition of 300,000 metric tons of greenhouse gas ("GHG") emission reductions that Entergy will retire as part of its voluntary emission reduction initiative and participation in Massachusetts' development of a GHG emissions trading program. Furthermore, as you are no doubt aware, Entergy has been an active

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stakeholder in and vocal supporter of the multi-year development process of RGGI – consistent with Entergy’s support for mandatory CO₂ regulations. *See, e.g.*, CERES, “Corporate Governance and Climate Change: Making the Connection,” (March 2006) at pg. 87, *available at* http://www.ceres.org/pub/docs/Ceres_corp_gov_and_climate_change_0306.pdf (“Both Entergy’s CEO and Chairman have spoken publicly about the dangers of climate change . . . and the need for immediate government action.”). In addition to its nuclear-powered fleet and fossil-fuel facilities, Entergy is committed to advancing renewable-power generation, and already includes in its fleet wind-turbine projects (in Iowa and Texas) and several hydro-electric projects (in Arkansas and Texas).

Consistent with its commitment to climate-change initiatives, Entergy understands the complexities of creating a successful cap-and-trade program for CO₂ emissions – one that advances important environmental objectives without compromising an affordable, reliable and diverse supply of electricity in the RGGI Region.

Entergy commends the Participating States for recognizing the interactions between environmental regulations and energy policies and creating an Inter-State RGGI Staff Working Group (the “Working Group”) that includes representatives from the various public service commissions and their electric-system expertise. Entergy appreciates both the Participating States’ initiative in the arena of CO₂ regulations, and the time and effort, particularly of the Working Group, devoted to creating the Draft Rule. Entergy also appreciates the opportunity to submit these comments on the Draft Rule.

Comments

Entergy generally supports the objectives of the Draft Rule. In particular, Entergy concurs with the Participating States’ recognition of the importance of advancing air quality goals with appropriate sensitivity to public health, environmental, energy and related economic considerations. *See, e.g.*, RGGI Memorandum of Understanding (“MOU”) (“the [Participating] States each individually have a policy to conserve, improve, and protect their natural resources and environment in order to enhance the health, safety, and welfare of their residents consistent with continued overall economic growth and to maintain a safe and reliable electric power supply system.”). New, license extended and uprated nuclear facilities (“Nuclear Plants”) may uniquely contribute to meeting these goals of a reliable and affordable electric-system while improving air quality.¹

Nuclear plants provide a recognized and important base-load source of power that cannot be replaced with other non-emitting generating sources, such as wind or solar projects, the operation

¹ *See e.g.*, Electric Power Research Institute, “2006 Portfolio: 41.010 New Nuclear Plant Deployment,” *available at* http://www.epriweb.com/public/2006_P041-010.pdf (“[T]he importance of fuel diversity to better absorb shocks such as fuel supply restrictions, the need to reduce dependence on foreign oil, the need to better address pollution and global warming concerns are all reasons to provide nuclear generation in the future.”); *see also* Nuclear Energy Institute, “Nuclear Facts,” *available at* <http://www.nei.org/index.asp?catnum=1&catid=1> (“Nuclear power plants provide low-cost, predictable power at stable prices and are essential in maintaining the reliability of the U.S. electric power system.”).

of which cannot be assured in all conditions.² Nuclear facilities also provide a recognized and important market-stabilizing function through the use of long-term power-purchase agreements and their market-bidding behavior. Indeed, energy-market experts, such as ISO New England, the New York ISO and PJM Interconnection, have indicated that maintaining a sufficiently diverse source of electrical generation, including nuclear power, is necessary to ensure a reliable and affordable supply of electricity, particularly under RGGI.³ Because of the unique and important role that Nuclear Plants play in achieving a reliable and affordable electric system that minimizes negative air quality impacts, Entergy can offer comments on the Draft Rule from a relatively unique perspective – as the second largest owner/operator of nuclear facilities in the country, and as a company that supports mandatory CO₂ regulations that would apply to its own fossil-fuel facilities.

The Draft Rule is a substantial step forward, and Entergy once again commends the Participating States and Working Group for their groundbreaking efforts. However, as currently drafted, the Draft Rule inadvertently risks creating a program in which developers are disincentivized from undertaking CO₂ emission reduction projects, resulting in a limited and overpriced market for CO₂ offset allowances. Such a result would contradict RGGI's objective of maximizing CO₂ emission reductions with minimal electric-system impacts. Entergy's comments, if accepted, resolve these risks to market function and, therefore, RGGI's goals. This is all the more important here, since RGGI, if successful, undoubtedly will be a model for future national CO₂ regulations, and, if unsuccessful, may delay implementation of important air-quality initiatives. In short, there is simply no avoiding that the future success of air-quality measures depends, in no small measure, on how effectively RGGI functions.

I Support for and Suggestions Regarding Specific Tenets of the Draft Rule

Entergy has historically advocated for the following principles and supports their inclusion in the Draft Rule as essential components in creating a program that effectively balances important environmental and public health goals with essential energy policy objectives.

- Mandatory market-based (i.e., competitive) regulation of CO₂ emissions, on either a national or regional scale. Allowing any person, whether or not regulated by RGGI, to hold, create and transfer CO₂ allowances and offset allowances fosters a free-market. Similarly, allowing Participating States to conduct auctions of CO₂ allowances with all generators, whether or not regulated by RGGI, will help create a demand, and subsequent

² See e.g., National Rural Electric Cooperative Association, "White Paper on Wind Power," (April 2003), available at <http://www.nreca.org/Documents/PublicPolicy/Windwhitepaper.pdf> ("Power from wind and photovoltaic systems is intermittent and cannot be scheduled or dispatched reliably to meet system requirements.")

³ See e.g., Mark Babula, ISO New England, "RGGI Design, Markets and Reliability – Issues Relating to Systems Operations," (Nov. 30, 2004), available at http://www.rggi.org/docs/babula_pres_11_30_04.ppt ("Consider fuel diversity an essential feature of electric system planning," and "reliability is paramount."); ISO New England, "Regional System Plan 2005," (Oct. 20, 2005), available at <http://www.iso-ne.com/trans/rsp/2005/05rsp.pdf> ("About two-thirds of New England generation relies on gas or oil as its primary fuel. A more diverse portfolio is highly desirable since gas and oil are the most expensive fuels, are highly volatile in price, and are increasingly dependent on imported supply.").

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financial value for, CO₂ allowances (i.e., CO₂ emission reductions) that will encourage the development of projects eligible for CO₂ offset allowances, thereby furthering RGGI's overarching objective of reducing CO₂ emissions.

- Fuel-neutral, air quality regulations. Entergy supports the flexibility awarded to Participating States with respect to allocating their CO₂ allowances and the inclusion of non-carbon emitting energy technologies as an activity to be encouraged and fostered via the sale or distribution of allowances from consumer benefit/strategic energy purpose accounts. The Draft Rule should be amended to require that any method selected for distributing CO₂ allowances to new facilities, including Nuclear Plants, treat such sources in a fuel-neutral manner.
- Involving Electric-System Experts. Involvement of regulatory agencies with expertise in energy issues should be a premium. RGGI's success depends on a resounding public perception that energy services are not compromised or made substantially less affordable. Energy regulators will have insight into the delicate balance that must be achieved, and how it is best achieved.
- RGGI's Value as a Precedent. As illustrated by its comments submitted to the United States Senate Committee on Energy and Natural Resources in connection with its April 4, 2006 Climate Conference, Entergy generally supports the use of cap-and-trade programs that recognize the contribution of all electric generators, regardless of their fuel source, as a means of achieving environmental objectives. For the sake of uniformity and predictability – factors which help businesses forecast the price of their goods and alleviate undesirable fluctuations in electricity pricing – a national standard for CO₂ emissions is preferable. RGGI is the most visible step forward to a national standard, and its relative success will in large part determine the future of CO₂ regulation. For this reason, decisions regarding the Draft Rule must be carefully considered relative to their potential national impacts.

Each of the above is addressed in greater detail below:

A Mandatory Market-Based Regulation of CO₂ Emissions

For market-based approaches to environmental regulations to succeed, the market must be allowed to operate without artificial constraints that negatively impact the demand, supply or price of a commodity. Open access to markets corresponds to true demand, in this case, the demand for CO₂ emission reductions, which is the purpose of RGGI. Entergy therefore supports the provisions in the Draft Rule that permit any person to either hold and transfer CO₂ allowances or to create and transfer CO₂ offset allowances. Including entities beyond those units directly governed by the Draft Rule, i.e., "Non-Affected Facilities," as parties qualified to create and sell CO₂ allowances and CO₂ offset allowances is an essential component in fostering a sufficient and sustainable allowance trading market that will achieve the environmental goals of the RGGI standards, while simultaneously protecting the reliability and affordability of the RGGI Region's electricity supply. Broad access to the market ensures that CO₂ allowances and offset allowances have adequate value to encourage novel or innovative projects, including

renewables or new nuclear facilities, that further the nation's twin air-quality and electric-supply goals. Entergy is aware that there is an incorrect assumption that new nuclear construction does not need economic encouragement; however, thirty years of no nuclear construction – the last new nuclear facility construction was approved in 1979 – suggests that appropriate economic encouragement is warranted. Similarly, Entergy believes that any auction of CO₂ allowances should be open to all electric generators, regardless of their fuel source or regulated status under RGGI. If the natural demand for CO₂ allowances (i.e., CO₂ emission reductions) is fettered by restrictions on issues such as auction participants, the price of CO₂ allowances could be artificially dampened, thereby creating a disincentive for the development of additional projects eligible for CO₂ offset allowances – such a result would impede the driving objective of RGGI to reduce CO₂ emissions.

B Fuel-Neutral Air Quality Regulations

Entergy also supports the flexibility awarded in the Draft Rule to Participating States in determining how their CO₂ allowances shall be distributed – in particular, the lack of restriction on the methods that Participating States can use to distribute their assigned CO₂ allowances (other than the requirement to set-aside twenty-five percent (25%) of the allocation for consumer benefit or strategic energy purposes). This design allows Participating States to allocate CO₂ allowances to all generating facilities, regardless of CO₂ emissions, either immediately or with respect to new generation capacity. Distributing CO₂ allowances on the basis of a facility's contribution to the electric system (i.e., Megawatt-hour output), rather than CO₂ emissions, is a useful means of encouraging the use and development of electricity sources with reduced air-quality impacts, rather than simply dividing the vast majority of the pie among existing emission sources. Under this approach, a wind farm or new nuclear facility would receive CO₂ allowances in the same manner and to the same degree as a new coal-fired plant, thereby recognizing the level of CO₂ emissions avoided. This system will provide incentives for lower or non-emitting sources to enter or remain in the market, the need for which is again evidenced by the fact that there have been no new nuclear facilities built in the United States since the late 1970s. This system also ensures fuel diversity, one of the tenets of a reliable and affordable electric system. Similarly, Entergy also supports the Draft Rule's promotion of non-carbon emitting energy technologies as an activity that should be encouraged and fostered via the sale or distribution of allowances from the consumer benefit/strategic energy purpose account.

In short, Entergy recommends that the Draft Rule include a provision requiring Participating States to distribute CO₂ allowances to *all* new sources of generating capacity regardless of their CO₂ emissions, including Non-Affected Facilities, such as new nuclear facilities or those undergoing uprates or license extensions, based on the megawatt-hour output of such sources. (Entergy is not suggesting that the Draft Rule should require Participating States to utilize a particular method to award or distribute allowances to new generating capacity, rather simply that any chosen mechanism should be applied in a fuel-neutral manner. It is important, however, to ensure that RGGI does not create a burden on market entry for new facilities.) By proceeding with an eye to promoting a future that simultaneously incorporates air-quality and fuel diversity considerations, RGGI will best achieve its goals.

Entergy commends the Participating States' recognition of the potential for interaction between the proposed RGGI environmental regulations and energy issues. In light of what appears to be the emerging recognition that air-quality regulations are inextricably linked to electric-system function and market pricing, it is important that the regulators with the requisite expertise – that is, those whose mission is to ensure that electricity consumers within the state are provided with reliable and cost-effective electricity – adequately participate in the design and implementation of environmental regulations. The RGGI process has acknowledged and addressed this important dynamic by establishing a Working Group with representatives from both environmental and energy-oriented public bodies. Entergy suggests that the Draft Rule incorporate language encouraging Participating States to maintain a similar level of cooperation between environmental and energy agencies as they develop and implement legislation and/or regulations to implement RGGI. The viability of such an approach at the state level is illustrated by the RGGI-implementing legislation recently passed in Vermont, which calls for the State Public Service Board to work with the State Agency of Natural Resources to establish the necessary cap and trade program for CO₂ emissions. See “An Act Relating to Vermont’s Participation in the Regional Greenhouse Gas Initiative,” *available at* <http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2006/acts/ACT123.HTM>. Moreover, it is the Public Service Board’s responsibility to establish a process to allocate Vermont’s budget of CO₂ allowances and the proceeds from the sale of such credits.

II Recommendations regarding Offset Provisions of the Draft Rule

Entergy appreciates the Working Group’s specific solicitation of comments on the Draft Rule’s offset provisions. This section of the Draft Rule is a novel aspect of the RGGI program that, in laying the groundwork for future iterations of offset schemes, goes beyond its technical value. As discussed above, a diverse source of CO₂ offset allowances will help promote the dual goals of RGGI – effectively and continuously reducing CO₂ emissions (including through encouragement of non-emitting sources) and minimizing the impacts of CO₂ emissions standards on the electric system. Generally speaking, Entergy believes that the type of system best able to meet these objectives is one in which any project that meets specified standards is eligible to generate CO₂ offset allowances. Recognizing, however, that the Participating States have opted, for the time being, to approve only limited projects as eligible for CO₂ offset allowances, Entergy offers the following suggestions for strengthening the mechanism outlined in the Draft Rule.

Briefly:

- Include a protocol or standards allowing expansion of the projects eligible to receive CO₂ offset allowances.
- Continue to make CO₂ offset allowances available to (i) any person sponsoring an eligible project and (ii) all projects that either *reduce or avoid* atmospheric loading of CO₂ or CO₂ equivalent. To ensure that this approach is properly implemented, revise all references to the award of CO₂ offset allowances for “demonstrated reductions in CO₂” to “demonstrated reductions in or avoidance of CO₂.”

- Allow CO₂ emission credits issued pursuant to programs within the United States, but outside the RGGI Region, to receive a RGGI CO₂ offset allowance if retired. Similarly, projects that retire CO₂ credits or allowances received under other mandatory or voluntary greenhouse gas programs should be eligible to receive RGGI CO₂ offset allowances.
- Avoid “regulatory plus” additionality requirements and remove those, e.g., limits on receiving funding or credits from systems benefit funds or renewable portfolio standards, that may deter development of new technologies or projects with multi-pollutant benefits.
- Avoid “financial additionality” factors requiring applicants to demonstrate that the sale of CO₂ offset allowances certified in accordance with RGGI is anything other than a relevant financial consideration prompting the implementation of a project. Removing financial additionality provisions reduces uncertainty as to which projects satisfy the Draft Rule eligibility requirements, thereby reducing the risk that investors will decline to participate in the development of new technologies in the field of CO₂ reductions. It also reflects the market reality that it is unlikely for a single factor to drive project development.
- Avoid “environmental additionality” factors that preclude projects that comply with all applicable environmental laws and regulations. Projects that have obtained all required environmental permits should be eligible for CO₂ offset allowances. Without such a guarantee, an environmental additionality requirement would risk creating a system in which offset project approvals are arbitrary and capricious.

The above comments are further detailed below:

A Protocols for Expanding the Projects Eligible for CO₂ Offset Allowances

The Draft Rule should be amended to specify a process by which the Participating States can either (i) amend the offsets provisions by replacing the limited categories of projects eligible for CO₂ offset allowances with general standards governing eligibility, or (ii) increase the list of pre-approved projects eligible for CO₂ offset allowances. Such a provision will facilitate the recognition and encouragement of the air quality benefits from existing and new non-CO₂ generating sources and the ability of RGGI to evolve in a manner that recognizes and accounts for the contribution to air quality from the development of new technologies and entrepreneurial projects that can contribute to the reduction of CO₂ emissions.

B Availability of CO₂ Offset Allowances to Projects that Reduce or Avoid CO₂ Emissions

Entergy supports the Draft Rule’s provision of CO₂ offset allowances to projects that both reduce and avoid CO₂ emissions as an important step towards creating a fuel-neutral program that recognizes and encourages the important and equal contribution of renewable and non-CO₂ emitting technologies to air quality. Entergy suggests that, for clarity’s sake, new language added to the Draft Rule regarding the future expansion of the types of projects eligible for CO₂ offsets, as discussed above, also specify that eligibility will be extended to CO₂ emission offsets projects that either “reduce or avoid” atmospheric loading of CO₂ or CO₂ equivalent. Although

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the intent of the Draft Rule to award offsets for avoided CO₂ emissions is clear, Entergy recommends revising any reference to the award of CO₂ offset allowances for “demonstrated reductions in CO₂”, such as in Section XX-10.7 of the Draft Rule, to the award of CO₂ offset allowances for “demonstrated reductions in or avoidance of CO₂.”

C Availability of CO₂ Offset Allowances to Projects that Retire CO₂ Credits from other Programs within the United States

Entergy believes that offset allowances should be awarded to the retirement of any CO₂ emission credit generated outside of the RGGI Region. In other words, CO₂ credits awarded pursuant to mandatory or voluntary programs anywhere in the United States, other than the RGGI Region, should receive RGGI CO₂ offset allowances, if retired. Furthermore, projects should not be excluded from receiving CO₂ offset allowances merely because they are awarded credits or allowances under another mandatory or voluntary greenhouse gas program or market. Instead, such projects should be eligible to receive RGGI CO₂ offset allowances if they document the retirement of such non-RGGI CO₂ credits or allowances without receiving any benefits under RGGI for such retirements, i.e., RGGI CO₂ offset allowances for the retirement of emission credits. The Draft Rule should not supplant the right of a project developer or investor to choose the program under which a project will receive CO₂ offset allowances or credits. Moreover, this approach could help maintain affordable pricing for CO₂ offset allowances within the RGGI Region. For instance, if the cost of a RGGI CO₂ offset allowance is high, proponents of CO₂ emission reducing projects may choose to retire lower-value CO₂ credits from other programs and instead participate in RGGI, thereby increasing the supply of, and helping to lower the price of, RGGI CO₂ offset allowances.

D “Regulatory Plus” Additionality

Entergy appreciates that the “regulatory plus” additionality requirements included in Section XX-10.3(d)(2) of the Draft Rule do not preclude projects from receiving CO₂ offset allowances because of their participation in, or receipt of funds from, programs not explicitly listed in the Draft Rule, such as those within the ambit of the Energy Policy Act of 2005. However, the sources of funding and incentives that the Draft Rule provides make a project ineligible to receive RGGI CO₂ offset allowances are sufficiently broad that their inclusion could result in very few projects electing to participate in the RGGI offset allowance scheme, thus jeopardizing a robust CO₂ offset market and RGGI’s ability to achieve its environmental objectives without causing unacceptable electric-system impacts. For instance, the Draft Rule requires project sponsors to choose between the value of RGGI CO₂ offset allowances and the credits that could be used for compliance with renewable portfolio standards; however, it is not clear that any financial analysis has been undertaken to determine when, if at all, the value of new RGGI CO₂ offset allowances will outweigh the value of established renewable portfolio standard credits.

Moreover, the current “regulatory plus” provisions could deter the development and deployment of CO₂-emission reducing technologies that are on the cusp of economic viability or that provide multi-pollutant benefits. As written, the Draft Rule encourages developers to create projects, to the extent possible, that either only reduce or avoid CO₂ emissions or that reduce or avoid all emissions other than CO₂. Entergy therefore recommends that the “regulatory plus”

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additionality provisions in the Draft Rule be removed in their entirety. The impact of such deterrents on the development of CO₂ offset projects must be considered in the full context of the Draft Rule, which already includes provisions that discourage investment in projects eligible for CO₂ offset allowances. For instance, the fact that (i) CO₂ allowances do not constitute a property right, (presumably the same is true for CO₂ offset allowances although the Draft Rule is not clear on this point), and (ii) that certified projects can lose their CO₂ offset allowances based on future regulatory changes, may deter developers from undertaking or investors from financing projects eligible for CO₂ offset allowances because of the risk that any allowances eventually awarded could be taken back by a Participating State with no compensation.

E “Financial” and “Environmental” Additionality

No further financial additionality requirements should be added to the Draft Rule because such provisions will not only deter investment in CO₂-emission reducing technologies, but will also be difficult to implement, requiring regulators to “get inside” the minds of project proponents – an approach that is fraught with the risk of subjective and unpredictable implementation. More financial additionality requirements are not necessary to maintain an appropriate balance between RGGI’s environmental objectives and the realm of energy policy, which is the appropriate forum for debating the role that financial considerations should play in shaping the composition of the RGGI Region’s electricity supply. Moreover, adding financial factors to an additionality test could preclude the development of projects most likely to obtain financing, thus creating an obstacle to projects that could help reduce the level of CO₂ emissions – an outcome that would be contrary to the purpose of RGGI’s CO₂ emission standards. Investors must be willing to facilitate and finance the development of CO₂ offset projects if RGGI is to succeed, and a level and predictable playing field is necessary to attract the requisite participation from the financial sector. Similarly, any inclusion of environmental factors in additionality requirements should not be capable of being used to prevent the allocation of CO₂ offset allowances to projects that have obtained all required environmental permits.

Conclusion

Entergy shares and supports RGGI’s goal of addressing CO₂ emissions in a manner that supports a reliable and affordable energy supply for the RGGI Region’s citizens. Entergy therefore appreciates the opportunity to submit these comments and welcomes the opportunity to work further with the Working Group and Participating States to help create a Model Rule and to implement legislation and regulations that will achieve a meaningful, innovative and successful regulatory program and allowance trading program to support RGGI’s progressive CO₂ emission standards. Any questions regarding our comments may be directed to Elise Zoli at 617-570-1612.