




Energy Generation NA

Memo

SUEZ Energy Generation NA

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Environmental Engineering

Date: May 22, 2006
From: Peter Belmonte 
To: RGGI Staff Working Group
Subject: Draft RGGI Model Rule Comments

SUEZ Energy Generation NA, Inc. ("SEGNA") is pleased to submit comments regarding the Draft Regional Greenhouse Gas Initiative (RGGI) Model Rule which the Inter-State RGGI Staff Working Group (SWG) provided for public comment on March 23, 2006. As provided for in the instructions published on the RGGI website, comments are being submitted electronically.

SEGNA is comprised of approximately 633 employees located in the United States, Canada and Mexico where it owns and/or operates 45 power, co-generation, steam and chilled water facilities. SEGNA's power plants provide base load, intermediate and peaking capacity and energy to investor-owned utilities, cooperatives and federal power agencies. The company has a consistent track record of being a low cost, high availability operator whose portfolio over time has delivered in excess of 95 percent availability with a less-than-three-percent forced outage rate. Moreover, SEGNA's facilities are some of the most environmentally friendly power plants in North America.

Cogeneration Exemption

Per the Acid Rain regulations under 40 C.F.R. 72.6(b)(4)(i), the RGGI Model Rule should provide for the exemption of cogeneration units. The RGGI Model Rule should include the following definition of a cogeneration unit:

For a unit that commenced construction on or prior to November 15, 1990, was constructed for the purpose of supplying less than or equal to one third of its potential electrical output capacity or less than or equal to 219,000 MWe-hrs annual electric output.

Thereby, facilities that are exempt from the Acid Rain program should be exempt from the requirements of the RGGI Model Rule. This change will not exempt a significant number of facilities but is important for consistency with Federal regulations upon which RGGI is largely based.

“Unit” Definition

SEGNA believes that the current definition of a “unit” should be clarified to specify the “unit” in and of itself can generate enough steam to produce 25 MW. For example, if a facility has several “units” ducted to a common header feeding a steam turbine generator greater than 25 MW, and individually, each “unit” cannot generate enough steam to produce 25 MW, those units should be exempt from this rule. It is extremely important for the RGGI SWG to be consistent with existing federal regulations.

Emissions Monitoring and Reporting

Emissions monitoring and reporting should not require a separate submission to the DEC of an additional environmental data registry (EDR) reports. The proposed requirement would create an unnecessary and redundant burden on facilities. The states should work with EPA in order to establish a single entity to administer the environmental data registry so that one report is submitted containing all relevant information for the various programs to which a facility is subject. Currently, data requirements under the Draft RGGI Model Rule do not fit into the EDR structure, and required monitoring plans would also be different for the RGGI rule than for existing programs. This issue can be resolved with through coordination with the certifying agents per 40 CFR 75.

The overwhelming majority of the facilities covered by the Model Rule are already subject to federal emissions regulation under the acid rain programs. A significant investment in compliance is already in place that could contribute to the success of the RGGI framework. It is therefore unfortunate that the definitions used in the RGGI Model Rule are not compatible with those used in the acid rain programs. As such, RGGI is missing an opportunity to minimize the costs and problems associated with monitoring and compliance.

Regulatory consistency with an established emissions trading framework will minimize direct costs of compliance, thereby facilitating investment and contributing to the success of the RGGI initiative. It is questionable whether the additional costs of compliance passed on to all participants are merited by the inclusion of a relatively small number of additional facilities.

Recordkeeping requirements should be limited to five years, as under the current Title V program.

CO₂ Allowance Allocations

SEGNA believes that any proposed cap and trade program should not include any significant auctions (or set-aside of allowances for public benefit purposes) as a mechanism. Auctions will increase company and customer costs/risks substantially and have the potential to disrupt the trading markets. Where auctions are included, SEGNA would urge that they only be for minor amounts (i.e. 5-10% or less) of the total allowance allocation, mainly for two reasons.

First, auctions will result in a major redistribution of funds through a new government bureaucracy, reducing market efficiency and reducing funds available for companies that

need to make the reductions. Investment in compliance technologies will effectively be competing with the substantial investment needed to buy auctioned allowances. With that said, it is most likely that affected sources will have to participate in the sale process to obtain allowances required for compliance since there are no commercially available CO2 control technologies.

Second, auctions will result in higher overall costs and reduce market efficiency. In cases such as the electric power industry, the underlying market is price-regulated. As is the case in the Acid Rain program, the cost of auctioned allowances would therefore need to be passed on to the consumer in addition to the direct costs of compliance, which would increase overall customer costs and rates substantially than if allowances were allocated to the companies.

The use of the auction mechanism to create set-aside allowances for public benefit is an unnecessary complication. SEGNA does not believe that the supply of offsets or other credits derived from effective compliance measures should in any way be capped. This runs contrary to the fundamental logic of emissions trading. Reductions of emissions should produce additional credits fully tradable within the market.

SEGNA recommends that any allocation of allowances should be done through benchmarking or grandfathering, rather than auctioning and redistribution. This will mitigate customer impacts far better than a government redistributive program.

It is recommended that the definition of “baseline period” be included in Section XX-1.2 for clarification.

Compliance

Deductions for excess emissions – this section provides for a 3-1 penalty for exceeding a CO2 emissions budget for the subject control period. This will have a potentially significant, adverse impact on peaker facilities or sources that vary their operation annually. Many such facilities can expect increased dispatch rates as they make up for the lack of new permitted facilities, and their dispatch is often determined by the customer, depending upon the structure of the Power Purchase Agreement.

Such a penalty also undermines the true intent of a cap-and-trade program. Sources are already constrained by the need to purchase allowances on the open market, with the number of allowances and offsets limited. Therefore there is already a mechanism in place to discourage exceeding facility “caps”, and any additional measures will be excessively punitive.

We recommend sources be penalized as per the Acid Rain Program, where the penalty is applied when a source has not placed adequate emission in their account by the deadline, not for exceeding a cap. This is much more consistent with existing regulations.

Offsets

Since there are no commercially available control technologies for CO₂, other than fuel-switching, and the fact that all the CO₂ offsets need to originate in the RGGI states, the 3.3% limit on the usage of offsets is extremely restrictive. The offset market will be already limited in and of itself because of this issue and developers will need to invest in an offset project which will most likely be unrelated to the power project, yet the costs of this offset project will be burdened unnecessarily by the customer or consumer.

The RGGI program must ensure the availability of a broad supply of offset projects. Given the lack of readily available back-end control technologies, offsets are essential to the ability of the RGGI program to achieve the desired emission reductions cost-effectively and for the successful implementation of the program. Moreover, the goal of the RGGI program, is to maximize the reduction in greenhouse gases. Offsets, by their nature, foster that goal and should be encouraged to the maximum degree possible. The RGGI SWG should establish a carbon offsets panel to recommend a cost-effective, streamlined, robust, and standardized RGGI carbon offset component. It makes no environmental sense to limit offsets in terms of amounts, types, geographic location or discounts on their allowance value based upon location. Also, the methodology and data used by the RGGI SWG to estimate the quantity and quality of offsets available must be better understood by all RGGI program participants.

In addition to the comments stated above, SEGNA also supports the comments provided to the RGGI SWG by IPPNY and IETA.

Thank you for the opportunity to provide these comments.