MULTIPLE INTERVENORS
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March 30, 2012

VIA EMAIL

Nicole Singh
Acting Executive Director
RGGI, Inc.
90 Church Street, 4th Fl
New York, NY 10007

Re: 2012 Regional Greenhouse Gas Initiative Program Review

Dear Ms. Singh:

In response to the request at the March 20, 2012 Regional Greenhouse Gas Initiative ("RGGI") stakeholder meeting regarding the 2012 program review, Multiple Intervenors hereby submits these comments for consideration by the RGGI participating states. As further discussed herein, because significant emission reductions have occurred and RGGI has operated without significant, detrimental impacts to electricity consumers during the first compliance period (i.e., 2009-2011), Multiple Intervenors strongly urges that no material programmatic or structural modifications to RGGI be implemented in response to the 2012 program review.[1] Any such modifications could result in significant increases to electricity costs to the detriment of already over-burdened electricity consumers in the RGGI region. If, however, the RGGI participating states intend to propose material modifications to RGGI as a result of the 2012 program review, any such modifications should be modest and include appropriate mitigating measures that provide adequate protection to electricity consumers against the potential for significant, unnecessary cost increases.

Multiple Intervenors supports cost-effective energy efficiency initiatives to reduce end-use consumption, as well as efforts to reduce greenhouse gas emissions. In fact, Multiple Intervenors' members have invested tens of millions of dollars and substantial other resources to increase the energy efficiency and lower the "carbon footprint" of their respective facilities. Despite these efforts, Multiple Intervenors' members have significant concerns regarding the ability of their respective operations in New York to remain competitive and viable given the multiple competitive pressures facing them internally, nationally and worldwide. A major contributing factor to this concern is the high cost of energy in New York.

[1] Multiple Intervenors is an unincorporated association of more than 55 large industrial, commercial and institutional energy consumers with manufacturing and other facilities located throughout New York State. Multiple Intervenors has actively participated in the development and implementation of RGGI since the program's inception.

New York consumers currently pay the fourth highest electricity prices in the entire nation – more than fifty percent (50%) higher the national average price for electricity.[2] Given the energy-intensive nature of manufacturing and other commercial, industrial and institutional operations, the State's exorbitant energy costs are a major contributing factor to the mass exodus of jobs from New York. In fact, over the past decade, New York lost nearly 200,000 manufacturing jobs, reducing the number of manufacturing jobs in the State by nearly thirty percent (30%).[3] As aptly explained by The Dow Chemical Company's Chairman and Chief Executive Officer, Andrew Liveris, "even more than high labor costs, runaway energy prices are pushing manufacturing jobs overseas."[4] Based on the foregoing and in light of the continuing economic challenges facing businesses and institutions, Multiple Intervenors urges that the RGGI participating states proceed with extreme caution with respect to proposing any potential future modifications to the program.

To date, RGGI has achieved success. Carbon dioxide ("CO_2") emissions from covered electric generation facilities have decreased significantly below initially projected levels for 2009, while avoiding significant increases to electricity costs as a result of the program. This is a laudable achievement that should be celebrated as a significant, positive accomplishment. In as much as RGGI has accomplished its goals of implementing a CO_2 emissions cap-and-trade program applicable to the electric generation resources and reducing emissions from covered sources, while not significantly adversely impacting energy affordability and reliability, no justification exists to warrant significant modifications to the program going forward.[5] Despite the success of RGGI in achieving its initial goals, as formulated by the RGGI participating states, certain interests appear to view such success as illusory or insufficient. Such interests have, therefore, advocated for significant modifications to the program as part of the 2012 program review. In light of the program's success to date, such calls for change are without merit and should be rejected.

In particular, the level of the binding CO_2 emissions cap has been criticized throughout the 2012 program review. As set forth below, the current cap level should be maintained. Emissions reductions achieved to date have largely been driven by a unique confluence of events

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[2] U.S. Energy Information Administration, *Electric Power Monthly – March 2012* (March 27, 2012) at 111 available at http://www.eia.gov/electricity/monthly/index.cfm.

[3] New York State Department of Labor, *Seasonally Adjusted Employment Data for New York State (1990-present)* available at http://labor.ny.gov/stats/lscesmaj.shtm.

[4] Associated Press, *Dow CEO Blames Energy Costs for Job Losses* (October 30, 2006), available at http://www.secureourenergy.com/natural-gas-news/Dow-CEO-Blames-Energy-Costs-for-Job-Loss.

[5] RGGI Participating States, *Regional Greenhouse Gas Initiative (RGGI): Goals, Proposed Tasks and Short-Term Action Items* (September 23, 2003) at 1.

that is unlikely to persist. Thus, reducing the level of the CO_2 emissions cap in response to such factors could inadvertently result in a scarcity of allowances, thereby significantly increasing the cost of electricity to consumers and potentially threatening the continued viability of the program.

In reviewing the appropriateness of the current cap level, it is important to recall that at the time the initial CO_2 emissions cap was established, it was believed to be a reasonable estimate of the projected emissions in 2009 from covered generation resources. Since such time, however, several factors have resulted in CO_2 emissions from the electric generation sector decreasing significantly. This significant reduction in CO_2 emissions has been generally attributed to three primary factors: (a) lower electricity load; (b) fuel switching from oil and coal to natural gas; and (c) changes in the available generation capacity mix (i.e., increases in nuclear availability and increased penetration of renewable generation).[6] The largest contributing factor is the decrease in electricity load, which has been estimated to account for nearly 50 percent of the overall reduction in CO_2 emissions from the electric generation sector.[7] In fact, since the time the initial CO_2 emissions cap was established, electricity load requirements across the RGGI participating states have decreased by nearly ten percent (10%).[8] In general, the continuing economic downturn and changes in the weather (i.e., less severe winters and milder summers) are the primary factors driving the reduction in electricity load requirements.

In light of the fact that the primary contributing factor to the reduction in CO_2 emissions has been reduced electricity requirements (which have been primarily attributable to the economy and recent weather patterns), implementation of drastic corrective action could result in immediately producing a scarcity of available CO_2 allowances, significantly increasing the cost of allowances, and resulting in a corresponding significant increase to the cost of electricity. Accordingly, in the event that the RGGI participating states determine that some level of adjustment to the CO_2 emissions cap may warrant further consideration, which Multiple Intervenors does not advocate, any such adjustment should be modest and conducted only after thorough analysis of multiple potential future scenarios (e.g., high load growth, retirement of the Indian Point nuclear facility, and high natural gas prices) and the potential impacts of such scenarios on projected CO_2 emissions from the electric generation sector. Such thorough

[6] New York State Energy Research and Development Authority, *Relative Effects of Various Factors on RGGI Electricity Sector CO_2 Emissions: 2009 Compared to 2005* (November 2, 2010) at 3.

[7] *Id*. at 7.

[8] *Id*.

analysis is necessary to ensure that any adjustment will not result in producing an immediate scarcity of available allowances, with resulting detrimental impacts to electricity consumers.[9]

Moreover, any recommended adjustment to the CO_2 emissions cap level should be deferred for implementation until the commencement of the third compliance period (i.e., January 1, 2015). Deferral of implementation until 2015 would ensure consistency with the schedule for adjusting the initial cap level established in the RGGI Memorandum of Understanding. In addition, such deferral would provide the market an adequate and necessary opportunity to adjust to and prepare for any reduction in the cap level, and for affected sources to undertake appropriate action in response thereto.[10]

Any recommendation to adjust the current level of the CO_2 emissions cap must be coupled with the implementation of complementary measures to provide for relief in the event that unanticipated changes occur in the future that result in producing a scarcity of allowances. The most efficient, transparent and least administratively burdensome measure to employ would be a firm price ceiling (e.g., $5 per short ton),[11] similar to the current auction reserve price. Such a price ceiling would establish a price above which allowance prices could not rise. In addition, due to the ease associated with developing, implementing and administering a price ceiling, such a mechanism would help ensure that the maximum level of revenues associated with the allowance auctions were invested by the participating states in energy efficiency measures, rather than being utilized to pay for increased administration costs associated with more complex protection measures.

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[9] With respect to the current modeling being undertaken as part of the 2012 program review, Multiple Intervenors recommends, at a minimum, that the analysis of the modest cap reduction policy scenario be expanded to include high load, high natural gas, and Indian Point nuclear facility retirement sensitivities, as well as modeling of an allowance cost containment mechanism specifically tailored to such scenario (including the recommended sensitivities relating thereto).

[10] In the interim period following announcement, and prior to implementation, of any adjustment to the CO_2 emissions cap level, no restrictions on banking of allowances or use of previously-purchased allowances should be enacted. Rather, the current rules providing for unlimited banking should be maintained. The availability, and use, of unlimited banking provide critically necessary consumer protection to assist in counteracting potential future, unanticipated allowance shortages that could arise as a result of any downward adjustment to the CO_2 emissions cap level.

[11] The recommended price ceiling value of $5 per short ton is based upon highest allowance price estimated by the initial modeling conducted with respect to RGGI in 2006 and utilized by the RGGI participating states to justify its implementation.

In the alternative, although more complex and administratively burdensome, a strategic allowance reserve could be implemented. The allowances in such a strategic reserve could be designed to be released back to the market in the event that allowance prices exceed a certain trigger point (e.g., $5 per short ton) in order to mitigate the potential impacts to electricity consumers resulting from an unanticipated scarcity of allowances. The allowance reserve could be initially populated by a number of allowances equivalent to any recommended reduction in the CO_2 emissions cap level and any allowances that remain unsold at the conclusion of the second compliance period (i.e., 2012-2014). Additionally, the reserve could be increased in the future to include any allowances that remain unsold at the conclusion of each subsequent three-year compliance period.

If you have any questions regarding this matter, please do not hesitate to contact me directly at 518-320-3437, or via email at gbissell@couchwhite.com.

Respectfully submitted,

MULTIPLE INTERVENORS

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