

Comments on
“Regional Greenhouse Gas Initiative (RGGI):
Goals, Proposed Tasks, and Short-Term Action Items”

1. Guiding Principles for Program Design –“Maintaining energy affordability and reliability” is included in the Program Goal, but should not be overlooked as a guiding principle for the program design. In addition, there are a number of other important issues that should be considered as Guiding Principles in the development of the RGGI program. These additional Guiding Principles for Program Design should include, but are not limited to:
 - Mechanisms to minimize costs, especially the use of offsets and sequestration, should be expedited to the extent possible and not delayed into a second phase of program development for the sake of expediency.
 - The program should consider fuel diversity in policies that result from the Program, since this is a critical component of maintaining energy affordability and reliability.
 - New York should not create a competitive disadvantage for any of its industries, workers and consumers versus surrounding states and Canadian Provinces that do not participate in the program. Any program should not hamper or act in any way as an impediment to any sector of economic growth in New York.
 - The environmental benefits of the program must be demonstrable and should be sufficient to justify the costs to be incurred.
 - New York needs to assess the extent to which any proposal would result in Greenhouse Gas (GHG) emission reductions in New York being replaced by increased emissions from power plants in states and Canadian Provinces outside of the program that expand their generation to replace lost generation in participating states.
 - Prejudgments that rule out alternatives are to be avoided.
 - A thorough understanding of the impacts a RGGI would have on the continued operation of New York’s electric generators and the related system reliability issues is required.
 - The RGGI program is best served to identify, quantify, and eventually reduce GHG emissions from all significant source sectors in the region. The impact, benefits, and alternatives analyses should take into account the CO₂ emissions from all relevant source sectors so that any program proposed for the electric generation sector can be understood in full context, and so that the best result can be achieved without unintentionally foreclosing options that may be pursued in later phases of the initiative.

2. Offsets and Carbon Sequestration – GHG emissions reduction is a global issue, with all sources on the planet having comparable global warming impacts. The reduction of a ton of CO₂ from a New York power plant has the same global warming benefit as

the reduction of a ton of CO₂ from cars in Australia or the sequestration of a ton of CO₂ by a rainforest in South America. Limiting the initial program to a single industrial sector and not providing alternative environmentally effective compliance mechanisms guarantees that the GHG reductions will occur in the **LEAST** cost-effective manner. Therefore, rather than designing offset components for the program as a Phase 2 task, the ability to provide for use of offsets, sequestration, and other legitimate mechanisms must be given high priority in order to achieve cost-efficient outcomes (e.g., credits from the Chicago Climate Exchange or other valid sources). A single-sector, power plant cap and trade program will unnecessarily increase costs significantly and potentially lead to plant shutdowns at a time when New York remains short on generation in key geographic areas. This will result in reduced fuel diversity, decreased system reliability, increased energy pricing, and potential negative economic impacts on the state economy, New York businesses, and local communities. Development of alternate compliance mechanisms such as offset and sequestration programs in Phase 1 would minimize some of these negative impacts.

The efforts of other sectors in New York and efforts in other states or countries can be used to generate offsets or credits for New York generators to help them meet reductions under the Initiative.

3. Cost Benefit Analysis – The Staff Working Group must conduct a cost benefit analysis for any proposed program to insure that the environmental benefits to the participating states are worth the costs to the participating states. Current studies do not show a clear-cut benefit at a reasonable cost.

The August 2003 Energy Ventures Analysis Inc. report, “Setting a Northeastern CO₂ Emissions Cap on the Electric Power Industry – Compliance Options, Costs and Market Impacts,” examined the potential costs of reducing power plant CO₂ emissions in eleven Northeast states. The analysis indicates that a Northeast power sector limited program, with emissions capped at 25% below 1990 levels, would have estimated compliance costs of \$31.84/ton of CO₂ (this cost breaks down to \$31.15 for New York and New England, and \$36.56 for the Mid-Atlantic States) in 2015. This economic impact is significantly higher than the \$4.28/ton projection contained in the 2003 Center for Clear Air Policy report, “Recommendations to Governor Pataki for Reducing New York State Greenhouse Gas Emissions.” The Energy Ventures Analysis report notes that CO₂ allowances trade on the international market in a range of \$5 to \$15/ton. Therefore, assuming an average allowance cost of roughly \$10/ton, it can be concluded that **limiting the program to a power plant only cap and trade program raises compliance costs by more than 300%**, with no offsetting environmental benefit. The report further indicates that a Northeast only power plant CO₂ emissions cap at 25% below 1990 levels would require a significant shift in generation mix and trigger large electric rate increases in the range of \$5-7/MWh.

A concurrent August 2003 New Hope Environmental Services, Inc. report, “Assessment of Potential Climate Impacts of Alternative Northeastern U.S. Electric

Utility CO₂ Caps,” assessed the effects of an 11-state CO₂ cap and trade program on global mean surface temperatures and sea level rise utilizing the Wigley global climate model and UN IPCC global carbon emissions projections. Assuming a Northeast CO₂ cap at 25% below 1990 emissions continuing until 2025, and implementation of the Kyoto Protocol (without U.S. participation), sea level is projected to be 0.1 cm lower than with Kyoto only and global mean surface temperature is projected to be 0.003 degrees Celsius lower than with Kyoto only. The report concludes, “it is obvious from these simulations that under no circumstance would either of these alternative emission caps [*1990 levels and 25% below 1990 levels*] result in a measurable impact on the future course of global temperatures or sea level rise. As such, even the values calculated for the 25 percent reduction below 1990 levels are insufficient to result in any noticeable impacts on other climate-related environmental variables (e.g., rainfall, drought, species migration and extinction, etc.)”

It should be noted that any cost/reliability impacts associated with a RGGI will be on top of wholesale price increases resulting from Parts 237/238, the shutdown of Russell Station, and the potential cost and reliability issues associated with the Renewable Portfolio Standard.

Northeast states are not the main source of CO₂; yet, they are taking a lead on addressing CO₂. The U.S. Public Interest Research Group Education Fund has released a report, “Lethal Legacy,” on emissions from power plants, including emissions of carbon dioxide. Interestingly, no New York power plant is on the list of 50 power plants with the most CO₂ emissions in 2002. Of the states participating in Governor Pataki’s CO₂ Initiative, only Pennsylvania is on this list, with four power plants among the bottom thirty facilities listed. In addition, New York ranks #26 on a list of CO₂ emissions from power plants in 45 states. Pennsylvania ranks #4. Massachusetts (#36), New Jersey (#38), Delaware (#39), New Hampshire (#40), Connecticut (#41) and Maine (#45) also are on the list. Rhode Island and Vermont are not on the list.

In addition, according to the 2002 New York State Energy Plan, the electric generation sector produced in 2000 only 26 percent of the carbon dioxide (CO₂) emissions in New York State.

4. Stakeholder Participation– We strongly encourage the states to implement as soon as possible the Stakeholder Process outlined in the draft 10/31/03 white paper on this issue. The deliberative process gains by inclusion of power industry professionals who possess outstanding technical and policy development experience.

As part of efforts for targeted outreach to stakeholder groups within states, State Designated Representatives should conduct an in-state stakeholder process to receive suggestions and technical guidance and to better understand and represent views within individual states to the Staff Working Group.

Before an RGGI Website is established, copies of materials should be made available for review and comments by stakeholders, upon request to their State Designated Representatives. After an RGGI Website is established, copies of materials should be posted on the website, along with any comments received from stakeholders.

Materials that should be made available for stakeholder review and comments include, but are not limited to: (1) materials submitted by experts in advance of scheduled briefings, (2) a list of identified policy decisions that need to be made before a Model Rule is proposed, (3) the proposed Model Rule (and any accompanying documents), (4) a Cost & Benefit Analysis, and (5) the final draft Model Rule.

5. Apportionment of CO₂ Reduction Obligations to States – Since 1990, New York State has been a leader in significantly reducing power plant CO₂ emissions. These reductions came, and will continue to come, at a significant cost to the state. New York's electricity prices are amongst the highest in the nation. One critical policy decision will be what level of CO₂ reductions will be required by each participating state under a proposed cap and trade program. These reductions must be apportioned fairly, while providing full credit for the significant CO₂ emissions progress that New York State has already realized and will continue to realize in the future. Therefore, 1990 must be utilized as the baseline year in determining the CO₂ allowance budget. Utilization of any other baseline year would ignore the progress made to date in New York State, and unfairly economically harm New York businesses and energy consumers vs. other states in the program. Further, any other mechanism for apportioning emission reduction responsibilities amongst states which does not give full credit to New York for the emission reductions it has already made must be avoided.

New York State's effort that have reduced or will reduce CO₂ emission must be grandfathered into the Initiative's overall emission reduction goal (whatever that may be), including, but not limited to, reductions from:

- the Governor's Acid Deposition Reduction Program potentially resulting in the reduction of CO₂ emissions by 10 percent;
- potential CO₂ emission reductions from the Public Service Commission's proceeding on a renewable portfolio standard;
- Governor Pataki's Executive Order #111 requiring NYS government entities to reduce energy use and purchase energy from renewable resources;
- 2002 State Energy Plan goal of reducing greenhouse gases by 5 percent below 1990 levels by 2010 and by 10 percent below 1990 levels by 2020;
- New York Energy Smart program reductions of CO₂ emissions through Dec.31, 2002 by more than 600,000 tons;
- Programs that New York has that are similar to those of other states but not on New York's existing effort list (such as Net Metering and Green Buildings Law);
- Demand-side management programs developed by the NYS Public Service Commission;

- The New York Independent System Operator's load reduction programs, including emergency demand response programs and day-ahead demand response programs;
- The NYS Public Service Commission's time-of-use-rates; and
- Any other policy initiatives that had or will have the effect of reducing CO₂ emissions.

In regards to the eventual CO₂ reduction goal, we need to underscore that the Center for Clean Air Policy document was not a consensus document. The Greenhouse Gas Task Force did not reach consensus. The document was the work of a consultant, rather than a consensus document of the Task Force's making.

6. Legal Basis – Each state must ensure that all requirements per mandated laws are adhered to in promulgation of new regulations. Each state also should acknowledge and agree that its participation in the RGGI is a rulemaking activity subject to review under the laws and common law principles that govern administrative rulemaking in each state.

Each State Designated Representative should make available, upon request of a stakeholder, a written description of the basis for its authority to participate in the RGGI and to promulgate any rules or regulations as a result of the conclusions of and agreements under the RGGI.

7. Meeting Protocol –

Agency Chief Executives Meetings

Meetings of State Commissioners and Secretaries to confer on key policy decisions should be open to stakeholders as observers. Advance notice should be provided to all stakeholders who request such notice.

Staff Working Group Meetings

Meetings of the Staff Working Group should be open to stakeholders. Stakeholders who request such notice should be given advance notice of all Staff Working Group meetings. Stakeholders should be able to submit comments regarding discussions to their State Designated Representatives, for consideration by the Staff Working Group.

8. Initial Tasks and Projected Completion

Scheduling of Targeted Expert Briefings

Briefings on topics should be provided by a panel of experts, including representatives from industry perspectives. Experts must submit their materials in writing in advance of scheduled briefings.

9. Data Gathering and Technical Analysis – Consistent with the need to ensure security of energy generation critical infrastructure, any records submitted, which are not public records and are considered to be trade secrets, can be designated as exempt from access under the Freedom of Information Law. Procedures for review of certain trade secrets, or commercially or security sensitive documents, at a company's office without disclosure to agencies should be developed.
10. Monitor NESCAUM Registry Efforts – In addition to monitoring NESCAUM's efforts, the Staff Working Group also will need to coordinate efforts under the Initiative with the roles of the Independent System Operators, regional transmission organizations, and the Northeast Reliability Council, as well as the efforts of the New England Governors Conference/ Eastern Canadian Premiers Global Climate Action Plan.

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