The Business Council
For Sustainable Energy

March 2, 2006

Submitted via email

To: Regional Greenhouse Gas Initiative Commissioners and Agency Heads
Members of the Regional Greenhouse Gas Initiative Staff Working Group

Regarding: Incorporation of Clean Generation and Energy Efficiency under the Draft Model Rule

On behalf of the members of the Business Council for Sustainable Energy, we are pleased to provide comments on the development of the Regional Greenhouse Gas Initiative (RGGI)'s draft Model Rule. We understand that the Staff Working Group and agency heads aim to release a draft Model Rule in late March 2006 and we urge that it provide direct allowance value to clean energy generation and energy efficiency under the cap-and-trade program's allocation provisions.

As you know, the Council was created in 1992 by companies in the energy efficiency, renewable energy, natural gas, electric utility and independent power industries. Our membership spans the energy spectrum and includes companies such as NiSource, Green Mountain Energy, Sempra Energy, Brookfield Power, Enel North America, GE Wind and American Standard/Trane as well as industry trade associations representing the wind, solar, hydropower, energy efficiency, natural gas and insulation industries. The Council promotes public policies that reduce the environmental footprint of energy production and use, while encouraging economic growth and energy independence for the United States.

The Council continues to be an active participant in the RGGI stakeholder process and has met with many working group members and agency heads over the past year. Our members view RGGI as an important vehicle to reduce greenhouse gas emissions and create a workable national model to address climate change. Our comments focus on the incorporation of clean energy generation and energy efficiency into the RGGI cap-and-trade program. Inclusion of clean and efficient energy options, both for demand reduction and expansion of local clean generation within the RGGI region, will help reduce greenhouse gas levels while supporting the region's economy.

At this crucial time in the development of the draft Model Rule, the Council would like to reinforce that the Model Rule should ensure that non-polluting renewable energy sources, clean generation and energy efficiency are specifically recognized as deserving recipients of allowance value, through either the "strategic energy" category of the set-aside or the main allowance pool.

Specifically, our members support the language in the RGGI Memorandum of Understanding (MOU) that was signed by seven states in December 2005 that permits states to provide direct allocations to renewable energy and energy efficiency under the RGGI set aside program. We urge the agency heads to include this text in the draft Model Rule, with clarifications related to clean generation.

Much existing energy efficiency legislation (e.g., state DSM programs) is focused on efficient energy use rather than efficient energy production. Since the only production technologies referred to in the current MOU text are "renewable or non-carbon emitting," this language has the potential to be interpreted to exclude cost-effective strategies for carbon control, such as locally sited, efficient distributed generation and/or combined heat and power (CHP). The draft Model Rule set aside language should be clarified to include CHP and other forms of clean and efficient energy generation.

Second, while our coalition recommends a regional output-based allowance allocation under the RGGI cap-and-trade program, we understand the decision to defer this issue to individual states. Output-based allowance allocation creates clear market signals for clean and efficient energy options through the main allowance pool.

Therefore, we recommend that the draft Model Rule and/or supporting documents provide guidance to states on allocation options -- including output-based methods. RGGI states should also be referred to a support document that was released by STAPPA/ALAPCO in September 2005. This document provides states with regulatory language for NOx allowance allocation that promotes clean energy technologies. The memo can be downloaded from http://www.4cleanair.org/Bluestein-cairallocation-final.pdf. The allocation strategies can be applied to carbon dioxide emissions as well as $NO_{x,}$ making this a valuable resource for RGGI's cap-and trade program as well as states implementing the Clean Air Interstate Rule.

Third, the Council urges the draft Model Rule to provide criteria to assist states in administering the RGGI set aside program. Such guidance should ensure that the program goals are achieved with the greatest benefit to the region. Since the set aside is the most significant provision to focus funding toward clean energy activities – such as renewable energy and energy efficiency – it has the potential to advance a more sustainable regional energy future. It is important that the set aside focus state flexibility toward program effectiveness that benefits the public. Such criteria could include that:

1- Set aside allowances reduce the carbon intensity of electric generation;
2- Set aside allowances reduce energy demand;
3- Set aside allowances provide benefit to the region's economy; and
4- Set aside allowances promote private investment through partial funding of investments.

Fourth, the draft Model Rule should provide incentives for local, small, clean generation (less than 25 MW). Such generation is often customer-owned and utilizes renewable energy or combined heat and power technologies. Small generators can make an important contribution to meeting RGGI targets while expanding economic opportunities and creating jobs in the region. The program should include and encourage smaller renewable and combined heat and power facilities that are not directly affected emitters by the program. This can be achieved by:

- Allowing small, clean generation to qualify for set aside allowances;
- Allowing small, clean generation to qualify under the offset program; or
- Encouraging state allocations/complimentary energy policies that allow affected units to purchase power from small generators that will contribute toward program compliance.

Fifth, the Council welcomes RGGI's interest in providing objective and standardized eligibility criteria for offset projects. The Council is opposed to the subjective and case law approach adopted by the Kyoto Protocol's Clean Development Mechanism and several other offset programs. **As RGGI considers using performance standards or benchmarks in determining offset eligibility, the Council cautions against the use of financial additionality tests.** Financial additionality tests are subject to gaming and cannot reasonably account for market behavior. In our experience, financial additionality tests deter good projects and weaken the credibility and market power of offset programs. We appreciate this opportunity to share our perspectives with you. If you have any questions, please feel free to contact me at (202) 785-0507 or via email at ljacobson@bcse.org.

Sincerely,

Lisa Jacobson

Lisa Jacobson
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