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February 19, 2016

Regional Greenhouse Gas Initiative, Inc.  
90 Church Street, 4th Floor  
New York, NY 10007

**RE: Regional Greenhouse Gas Initiative 2016 Program Review Stakeholder Meeting**

Dynergy Inc. submits the following comments regarding the Regional Greenhouse Gas Initiative request for further input on the issues raised at the 2016 Program Review stakeholder meeting held in Wilmington Delaware February 2, 2016. We appreciate the opportunity for continued participation in stakeholder outreach related to the 2016 Program Review and to Clean Power Plan compliance planning.

Dynergy operates power generating facilities in eight states in the Midwest, the Northeast and the West Coast. The company's asset portfolio consists of nearly 26,000 megawatts of generating facilities, capable of generating enough electricity to power about 21 million homes nationwide. Dynergy operates seven power plants in Regional Greenhouse Gas Initiative states, with a combined generating capacity of just over 5,000 MW. In addition, the company serves residential, municipal, commercial and industrial customers through its Homefield Energy and Dynergy Energy Services businesses in Illinois, Ohio and Pennsylvania.

Thank you for your consideration of our comments. If you have any questions concerning Dynergy's comments, please contact me at 713-767-5212 or [Bruce.wilcoxon@dynergy.com](mailto:Bruce.wilcoxon@dynergy.com).

Sincerely,

A handwritten signature in black ink that reads "Bruce Wilcoxon". The signature is written in a cursive style.

Bruce Wilcoxon  
Environmental Affairs Director  
Dynergy Inc.

## **Introduction**

Despite the February 9<sup>th</sup> Supreme Court decision to stay the Clean Power Plan (“CPP”) until a final court ruling on the merits of the petitions challenging the rule, Dynegy Inc. (“Dynegy”) recommends that states continue to evaluate potential CPP compliance pathways and their implications for power system cost and reliability.

To recap the basic Dynegy position regarding CPP compliance outlined in our comments submitted in response to the November 17, 2015 Regional Greenhouse Gas Initiative (“RGGI”) stakeholder meeting, Dynegy believes that CPP implementation should be based on the principles of efficiency, transparency and stability. Dynegy recommends that all states, including RGGI states, adopt a mass-based emission standards approach to CPP compliance that incorporates interstate emissions trading. States should include both existing and new fossil fuel generation sources under the state emission cap as the most efficient approach to the EPA requirement to address the potential for emission leakage. RGGI states should seek trading ready status as a means of promoting development of a broad-based and efficient carbon market that extends beyond the RGGI program. Such a broad-based market will result in lower compliance costs for implementing the CPP, benefiting rate payers and generators while protecting the environmental objectives of the policy.

The comments that follow address issues raised at the 2016 Program Review stakeholder meeting held in Wilmington Delaware February 2, 2016.

## **Reference Case Assumptions**

Dynegy has no additional comments or suggestions regarding the assumptions used to develop the RGGI 2016 Program Review Reference Case.

## **Modeling Scenarios**

One of the key decisions RGGI states will need to make regarding CPP compliance and the future of the RGGI program is whether or not to adapt the RGGI program to allow the trading of emission allowances with qualifying states outside the RGGI program. Such a program design would facilitate the development of a broad-based, liquid interstate market for emission allowances that should reduce the cost of allowances for market participants and therefore the cost to consumers for meeting state CO<sub>2</sub> emission goals. Given the EPA support for emission trading as well as the current momentum on the part of many states outside the RGGI system to adopt a mass-based approach to CPP compliance, Dynegy believes it is imperative that RGGI evaluate the potential for interstate emission trading. Further, we feel RGGI stakeholders, and particularly rate payers, have the right to understand whether interstate trading with regulated entities outside the RGGI system has the potential to lower compliance costs while maintaining the environmental integrity of the RGGI program.

For these reasons, we recommend modeling an additional policy scenario that incorporates the following design elements:

### RGGI States

- Reference case emission cap (i.e. adjusted cap through 2020; 78.2MMT per year 2021 - 2031)
- Reference case projected banked emission withdrawal
- Cost Containment Reserves (“CCR”) adjusted to match the gap between RGGI states CPP goals and the post 2021 RGGI program annual emission budgets to ensure that RGGI state emissions do not exceed CPP emission limits
- Utilize all other RGGI reference case assumptions regarding energy demand and delivery cost

- RGGI state allowances fully fungible with non-RGGI state allowances (i.e. trading among all states)

#### Outside RGGI States

- Assume all states adopt CPP mass-based targets (existing and new source complement)
- Non-RGGI state allowances fully fungible with RGGI state allowances

### **Flexibility Mechanisms**

#### Cost Containment Reserve

RGGI states must ensure that the CCR provision does not create the potential for RGGI states to exceed the CPP emission goals. The current post-2021 RGGI emission budget combined with a 10MMT annual CCR and 3.3% offset provision have the potential to exceed the CPP RGGI budget starting in 2022.

In the interest of promoting true CO<sub>2</sub> allowance price discovery, RGGI states may choose to eliminate the CCR starting in 2022 with the appropriate phase out of the provision during the RGGI program fourth control period either by reducing the size of the CCR allowance pool available or by raising the CCR trigger price threshold.

Alternatively, in line with our recommended modeling policy scenario, RGGI states may choose to retain the CCR but limit the allowance volume to the difference between the RGGI post-2021 annual budget and the CPP compliance cap, effectively eliminating the CCR by 2030.

As per our previous comments, policies that set artificial limits on the market price of a commodity inhibit the price discovery attributes of an efficiently functioning market. However depending on the policy choices made there may be valid reasons to include cost containment provisions in the design of any market-based approach to regulation. If the CPP is ultimately vacated, the CCR may continue to serve a purpose in the RGGI program, particularly if RGGI states seek to make the program emission reduction goals more stringent. Dynegy recommends that RGGI continue to evaluate the need for cost containment provisions in 2016 Program Review and beyond.

#### Offsets

RGGI states must ensure that any offset provision does not create the potential for RGGI states to exceed the CPP emission goals. The current post-2021 RGGI emission budget combined with a 10MMT annual CCR and 3.3% offset provision have the potential to exceed the CPP RGGI budget starting in 2022. Dynegy generally supports the use of offsets for compliance in market-based environmental regulatory programs as a means of reducing compliance cost while maintaining the integrity of the program environmental objectives. However, thus far no offset projects have been developed under RGGI suggesting a limited value of the offset provision within the RGGI program. Further, we believe that the expansion of the RGGI carbon market to include allowances from states outside the program will serve to reduce the cost of RGGI/CPP compliance by expanding access to a larger pool of CO<sub>2</sub> reduction opportunities. For these reasons, the RGGI offset provision is not considered critical to the success of the program as currently envisioned.

As with the CCR, the RGGI offset provision may serve an important role as a cost containment mechanism in the case that the CPP is vacated and RGGI states seek to increase the stringency of the program reduction goals. Dynegy recommends that RGGI continue to evaluate the need for cost containment provisions in 2016 Program Review and beyond.

### Control Periods

Dynegy recommends the RGGI states adopt the CPP provisions outlined in the Proposed Federal Plan for the Clean Power Plan model rule that would require generators to demonstrate compliance, i.e., allowance true-up, on May 1 of the year after the last year in the compliance period starting in 2022. As such, after 2021 operators of affected units would no longer be obligated to hold allowances equal to 50 percent of their emissions during each interim year of a control period (e.g. the first two calendar years of a three-year control period). However, each covered CO<sub>2</sub> source would still be obligated to hold allowances equal to 100 percent of its emissions at the end of each control period. Removing the interim holding obligation will add additional flexibility to the post-2021 compliance program and compensate in part for the necessary loss/reduction of the CCR and offset flexibility provisions.

### Banking

Dynegy supports the current RGGI program provision that allows compliance entities to bank CO<sub>2</sub> allowances, without limitation, until the allowances are used to satisfy compliance or are transferred to another account. However, we do not believe that future emission goals should be adjusted based on the cumulative amount of banked allowances in compliance entity accounts. Decisions to purchase and bank allowances are based on individual compliance entity forecasts of future market conditions that may develop in response to a defined set of policy parameters. Reducing an emission cap in response to allowance banking activity has the effect of artificially devaluing those banked allowances.

### Borrowing

At this time, Dynegy does not believe there is a need for RGGI to adopt a provision that would allow regulated entities to “borrow” and use future allowances to satisfy compliance in advance of the year associated with the allowance.

### **Linkage**

Dynegy supports the development of a broad-based, liquid market for emission allowances in states and regions that adopt a market-based approach to regulating CO<sub>2</sub> emissions. Further we support linking existing CO<sub>2</sub> allowance markets (California/Quebec and RGGI) and the inclusion of interstate trading among states that adopting a mass-based approach to CPP compliance. We believe regulated entities in RGGI states should be able to trade with regulated entities in non-RGGI states with approved CPP state implementation plans. Such trading should be permitted either with states designated as trade-ready or through bilateral agreements. Broader, more liquid carbon markets will be more cost effective and will drive down the cost of compliance for consumers without jeopardizing the environmental integrity of the linked programs.

California and Quebec formally linked their cap-and-trade programs beginning on January 1, 2014. The Quebec linkage expanded the carbon market and now provides regulated entities greater flexibility in meeting their compliance obligations cost-effectively. In October of last year, New York Governor Andrew Cuomo announced his state’s interest in the possibility of linking the RGGI system with the California/Quebec system. While such linkage may be complicated by structural differences between the two programs (e.g. source coverage), we encourage RGGI to continue exploring this opportunity to drive CO<sub>2</sub> reduction investment to the most cost effective solutions.