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Subject: RGGI Program Review – Comments of Conservation Law Foundation
regarding December 2021 Public Listening Sessions

Dear Mr. McKeon and Members of the RGGI Board:

Below please find comments from Conservation Law Foundation (“CLF”) for the Regional Greenhouse Gas Initiative (“RGGI”) Third Program Review regarding the materials presented at the December 2021 Public Listening Sessions. This Program Review presents a welcome and necessary opportunity to update RGGI policy to consider the latest climate science, evolving state climate laws and environmental policies, and equity and environmental justice considerations. Assumptions, inputs and outputs in RGGI’s Integrated Planning Model (“IPM”) analysis should be rooted in these considerations.

CLF is a member-supported environmental advocacy organization with offices in each New England state, all of which participate in RGGI. Much of the revenue that has been generated by participation in RGGI has been re-invested in clean energy and energy efficiency programs which help to meet member states’ climate objectives. Nevertheless, there is room and opportunity to revise RGGI programming to be more ambitious, effective, and equitable.

Overall, CLF recommends that RGGI adopt a holistic approach to its planning and modeling. As the Northeast Regional members of the Climate Justice Alliance (“CJA”) pointed out in their December 3, 2021 comments to RGGI (“CJA Comments”)¹, prior equity and modeling/technical conversations have been siloed, and previous Program Reviews have failed to incorporate findings from engagement with environmental justice and climate justice stakeholders into policy design, all of which demonstrates that participating states’ engagement on equity is lacking accountability and treated as an afterthought. Separating technical and economic modeling from the equity impacts of greenhouse gas emissions and climate change also results in an incomplete picture of the issues and prevents development of adequate solutions from both

¹ Northeast Environmental Justice and Climate Justice Region Wide Stakeholder Comments to RGGI (Dec. 3, 2021); available at: https://www.rggi.org/sites/default/files/Uploads/Program-Review/2021_Comments/Session2/CJA_Public_Comment_2021-12-03.pdf.

the climate and equity perspectives. Rapid and radical changes are necessary to achieve state climate and climate justice goals and mandates, and with important and strategic changes to the way it conducts its Program Reviews, RGGI can play an integral role in helping states satisfy those mandates.

I. RGGI and RGGI States Need to Place Equity, Public Health, and Environmental Justice at the Center of Program Review

Communities where people of color and people with low-income and lack of access to resources have historically been overburdened by environmental burdens such as poor air and water quality. These communities have also been overburdened by the siting of energy infrastructure in close proximity to where they live and play. Regrettably, these communities have also been historically excluded from conversations regarding RGGI program design, including modeling and policy decision-making. Climate justice issues are inextricably tied to the technical issues, but these analyses have typically been segregated in RGGI Program Reviews. CLF supports the comments submitted by the CJA on December 3, 2021. In particular, CLF would like to reiterate and emphasize several points from the CJA Comments:

- a. Since the current RGGI cap levels were decided, member states including New York, Massachusetts, and Connecticut, have passed climate mandates which require them to drastically reduce greenhouse gas emissions over the next three decades.² Not only do RGGI caps need to be adjusted, as described below, to help achieve these mandates, but this Program Review should ensure that the other program elements support achievement of these mandates. For example, the CJA Comments points out that allowance banking could prove problematic by misleading states as to their progress over time.³ As explained below, RGGI programming should emphasize aggressive action in the short-term to ensure success in the long-term.⁴
- b. CJA suggests and CLF supports that RGGI should develop and initiate a system for determining where emissions reductions are occurring, as data in other cap-and trade programs has shown that pollution is not being reduced in air pollution hotspots, often communities with environmental justice populations.⁵ These communities have historically borne the brunt of environmental burdens such as poor air and water quality, and RGGI must account for these inequities and actively work to correct them, rather than hoping that they are resolved coincidentally during the Program Review.
- c. CLF also supports CJA's recommendation to amend the RGGI Model Rule to definitively exclude biomass, refuse derived fuel, and trash incineration from renewable energy categories.⁶ As CJA notes, these types of energy production are carbon intensive and the public health impacts of combustion of biomass and waste tend to impact communities with environmental justice populations more often and more significantly than other communities.⁷

² *Id.* at 2.

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 3.

⁶ *Id.* at 5.

⁷ *Id.*

- d. CJA proposes that RGGI develop methods to capture life-cycle greenhouse gas and greenhouse gas equivalent emissions from hydrogen production, as well as from “renewable” natural gas.⁸ CLF supports this suggestion, as including all combustion energy as qualifying polluters will provide a more realistic and accurate accounting of greenhouse gas emissions and in turn aid states in achieving their climate mandates in a timely fashion, while also protecting our vulnerable communities.
- e. As CJA asserts, RGGI funds should be invested in environmental justice communities, and RGGI should provide guidance to states so that monies derived from the Program are not raided for other purposes.⁹ Investing RGGI funds in clean energy infrastructure, development, and jobs will compound the already generally positive impact of the Program.

In addition to the foregoing, as well as the numerous important points shared in the CJA Comments, CLF encourages RGGI to work to ensure that the needs of environmental justice populations are met and that their views are meaningfully assessed, by involving these groups in the Program Review process not only as matter of process but also because these groups are best equipped to share their experiences and provide important information as to where we stand and what changes are necessary to equitably achieve the significant greenhouse gas emissions reductions that have prompted states to join RGGI. The RGGI program and the RGGI Program Review process must be reformed to improve the amount and quality of public participation, develop and conduct equity analyses, and increase investments in overburdened communities. Environmental justice communities, tribal groups, the labor sector, and other equity groups must have access to the financial and technical resources they need to participate in RGGI Program Review.

To accomplish the goal of better incorporating the perspectives of environmental justice community groups into this Program Review, significant changes must be made to the processes by which the Program Review and development are conducted. Public notices should be translated into appropriate languages and disseminated more widely, including by social media and using physical notices in high-traffic gathering places such as grocery stores and community centers. RGGI, Inc. should provide clear, accessible information in notices that contain plain-language information about the format and content of the hearing and issues at hand to facilitate public engagement. Broadening the pool of people who attend public sessions will diversify the input and make for better modeling and planning.

To facilitate an orderly public hearing, interested parties should be encouraged to pre-register to attend and to provide comments. However, people cannot always plan in advance and it may not be certain whether someone will be able to attend a hearing until the last minute; accordingly, unregistered attendees should be admitted into the meetings and given the opportunity to participate. Hearing dates and times should be carefully selected to ensure maximum attendance and participation, and multiple sessions of each hearing should be held whenever possible.

In addition to fostering public engagement from environmental justice populations, it is important to ensure that public health concerns take a central role in planning and modeling. As

⁸ *Id.*

⁹ *Id.* at 6.

noted previously, air quality impacts of combustion energy are disproportionately damaging to environmental justice populations. Further, a large driver in state participation in RGGI is the benefit to public health of reducing greenhouse gas emissions and other energy-related pollution.¹⁰

Equity, public health, and environmental justice are inextricably tied together, with all three being further tied to overall economic welfare. It is imperative that these considerations be centered in discussions and planning during the Third RGGI Program Review and moving forward with the initiative.

II. RGGI Needs to be Significantly More Aggressive in Order to Achieve Member States' Climate and Climate Justice Goals and Mandates.

At the December 2021 Public Listening Sessions, RGGI states solicited input as to how state-specific electricity sector or economy-wide net-zero emissions targets should be incorporated into the Program Review. It is clear that maintaining the status quo—or even the incremental changes implemented in prior Program Reviews—will be insufficient to achieve member states' climate and environmental justice laws and policies. Whereas participation in RGGI is a critical element of member states' strategies to reduce greenhouse gas emissions, the Program should be designed in a manner that aligns it with the most aggressive state mandates. By working to achieve the most aggressive of the RGGI member states' net-zero emissions targets, RGGI will increase the likelihood of as many states achieving their targets on schedule and as cost-effectively as possible. This strategy will also help to address another question presented at the December 2021 Public Listening Sessions: how states should address uncertainty regarding climate and energy policy in the 2030-2040 timeframe.

It is reasonable to expect that the trend in state law and policy towards mandating significant reductions of greenhouse gas emissions will continue; accordingly, base modeling for the Third RGGI Program Review should assume that over time more and more member states will set net-zero or near net-zero greenhouse gas emissions targets, and the modeling should account for and assess interim greenhouse gas emission targets that have been, and/or may be, set for 2030, 2035, 2040 and 2045. To grow the Program and aid in achieving its desired outcomes, RGGI should also develop new strategies for attracting more member states with such targets to participate in the initiative; establishing aggressive program targets will help those states by providing a running start to achievement of their climate mandates.

A majority of the New England states have enacted laws requiring aggressive reduction of greenhouse gas emissions; they have also significantly strengthened their Renewable Portfolio Standards (“RPSs”). This change is also underway at the federal level, where the Biden Administration has set a national goal of eliminating carbon emissions from the electricity sector

¹⁰ For example, the Pennsylvania Department of Environmental Protection states that “[t]he health benefits of reduced sulfur dioxide and nitrogen oxide emissions are significant – up to \$6.3 billion by 2030, averaging between \$232 million to \$525 million per year.” *Regional Greenhouse Gas Initiative*, Pennsylvania Dept. of Env. Prot., accessed on Jan. 10, 2022; available at: <https://www.dep.pa.gov/Citizens/climate/Pages/RGGI.aspx>.

by 2035.¹¹ The latest climate science shows that aggressive action towards reducing emissions is critically important—the International Panel on Climate Change (“IPCC”) reported in summer 2021 on the urgency of the climate crisis and the role of the electricity sector in causing climate change and its resultant damage.¹²

In line with these aggressive efforts to cut emissions, the RGGI Base Case model should account for trends in state policy reaching net zero greenhouse gas emissions by 2050. Currently, the cap for 2030 is approximately 86.9 million tons of carbon dioxide, and could be higher if Cost Containment Reserve (“CCR”) allowances are released or offset allowances are awarded. The CCR mechanism should be removed from the Program plan and, for any interim cap between the present and achievement of zero emissions, only downward adjustments should be made.

With regard to the possibility of a bank of surplus allowances remaining in circulation after 2025, any such allowances should expire at such time, unless it can be demonstrated that there is a sound reason, based in equity and climate science, to maintain such bank. Otherwise, this bank will serve only to delay achievement of net zero carbon emissions.

The RGGI program should be developed with planning which considers local shifts in energy mix and resultant reductions in greenhouse gas emissions; it should also consider the outcomes of state programs like Renewable Portfolio Standards (RPS) and Renewable Energy Standard (RES).

III. Assumption-Specific Feedback and Recommendations

The modeling undertaken by RGGI and its consultants should assess unit specific co-pollutant data, including avoided public health costs of reduced co-pollutants. RGGI should also assess how its policy decisions will affect air quality and public health, especially in environmental justice communities. As described above, it is imperative that RGGI take steps to ensure that the voices of environmental justice communities are heard and meaningfully incorporated throughout the planning process and included in decisions and decision-making. In addition to the input provided directly from members of environmental justice communities, RGGI should develop assumptions and aggressive modeling with the primary goal of achieving state climate mandates and reducing greenhouse gas emissions and improving air quality in environmental justice communities. These assumptions and the results of any modeling should then be used to develop guidance for RGGI member states as to the number and sites of retirements needed to reduce emissions, which in turn will be replaced with clean energy resources and distributed energy resources. Similar guidance should be developed as to transmission siting to ensure that environmental justice communities do not lose often-limited green space to infrastructure if

¹¹ The White House, “President Biden Sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good- Paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies,” April 21, 2021, available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-president-biden-sets-2030-greenhouse-gas-pollution-reduction-target-aimed-at-creating-good-paying-union-jobs-and-securing-u-s-leadership-on-clean-energy-technologies/>.

¹² IPCC, 2021: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, Cambridge University Press, available at: https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Full_Report.pdf.

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alternate transmission routes are available. Further, guidance should be developed as to preserving healthy green spaces and existing tree cover, especially in environmental justice populations and other communities that experience the urban heat island effect.

The December 2021 presentation indicates that modeling projections will include emissions – these projections should include emissions of carbon dioxide and emissions of co-pollutants. Emissions should also be measured over the life-cycle of a resource type. For example, although combustion of hydrogen yields water, production of hydrogen can emit greenhouse gases. For those resources which emit greenhouse gases, including carbon dioxide, and other co-pollutants, assumptions should be rooted in achievement of states' climate mandates. Similarly, for non-emitting resources, including storage where applicable, resource levels used in assumptions should be based on achievement of states' climate mandates. Assumptions should also provide for aggressive action in the short-term to allow for achievement of state mandates given unforeseen long-term roadblocks. Such assumptions must be used to guide policy that establishes appropriate retirement dates for fossil fuel generating facilities.

Thank you for your time and attention to this matter. Please do not hesitate to contact this office for further dialogue.

Very truly yours,

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