CLF Protecting New England's Environment

CONSERVATION LAW FOUNDATION

November 30, 2010

Attn: RGGI and Participating States c/o info@rggi.org

Re: Comments of Conservation Law Foundation on Retrospective Analysis of CO2 Emissions, RGGI Reference Case and Sensitivities

The Conservation Law Foundation appreciates this opportunity to provide comments as the RGGI states continue with a comprehensive review of the RGGI program design (the "Program Review"). We strongly support the efforts of the RGGI states to undertake the Program Review which represents sound public policy in light of the changed regulatory and market conditions prevalent today. As Congress continues its shameful record of inaction, and as the RGGI states continue their groundbreaking leadership in reducing greenhouse gas emissions, the Program Review provides a needed opportunity to update the methodology for achieving cost effective reductions in CO2 from the electric generating sector in light of significant structural changes to the electricity market in the RGGI region.

The materials prepared for and reviewed during the November 12 public meeting are an excellent foundation for assessing results to date and considerations for the Program Review. To date, the groundbreaking efforts of the RGGI states to develop and implement the nation's first cap and trade program for CO2 emissions are a tremendous success. The program is successfully achieving emissions reductions with little or no impacts to electricity prices and system stability. The programmatic connection of energy efficiency deployment with carbon emissions reductions is providing a powerful economic engine for jobs and investment in the participating states and will ensure that the cost of program is minimized in the future. Since RGGI was developed, conditions in the electricity markets have evolved in a way that is substantially decreasing the cost of CO2 emission reductions, providing an opportunity for adjustments to increase the effectiveness of the program.

Retrospective Analysis of CO2 Emissions, 2005 to 2009

The conclusions in the Retrospective Analysis demonstrate the prudency of periodic reviews of cap levels and program results. Based on the analysis, it is clear that emissions have been dramatically reduced since 2005 due to both the RGGI program (and energy efficiency services it supports) and also due to market conditions such as new

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supplies of lower emitting natural gas for cost effective electric generation. These structural changes impact core assumptions underlying the initial program design suggesting that the Program Review must integrate into its analysis those factors likely affect to the efficacy of the program, and to revise the program accordingly.

As we stated during the November 12 public meeting, we note that the Retrospective Analysis apparently does not consider the extent to which biomass units within the RGGI states, which are exempt from RGGI provided the fuel meets state sustainability requirements, increased generation and emissions during the analysis period. The Retrospective Analysis apparently treats any such increases in biomass generation as a reduction in emissions within the RGGI region, to the extent that increased biomass generation replaced generation by regulated units. In many instances, the switch to biomass generation may actually result in increased emissions and it appears that biogenic emissions from electric generation in the RGGI region increased significantly during the analysis period.

At the same time, our understanding of the climate implications of biomass generation has advanced since the RGGI program was designed. Specifically, the Manomet Study and other analysis demonstrates that inefficient use of biomass for electric generation results not only in high emissions, but also can diminish the carbon sink attributes of our forests. Additional analysis of the extent to which biomass generation was incentivized and increased during the analysis period will inform policy considerations for the Program Review. We suggest that the Program Review should entail consideration of the uncounted carbon emissions from biomass generation and the potential impacts of increased biomass use on region-wide emissions and the integrity of the RGGI program. In addition, the Program Review provides an opportunity to establish meaningful requirements regarding sustainably harvested biomass and carbon neutrality, which currently are not adequately addressed in the RGGI programmatic construct.

IPM Reference Case Results

The reference case results conclude that CO2 emissions from regulated entities are not expected to approach the regional CO2 allowance budget any time over the next 20 years. As a consequence, the modeling predicts an ongoing surplus of allowances and the lack of any market-based demand or value for allowances beyond the administratively set price floor. Due to the size of the budget, the modeling essentially predicts a substantial increase in regulated emissions from the inception of the RGGI compliance obligation in 2009 through 2030. This suggests that program revisions addressing the budget and amount of allowances are needed in order to build on the success of the program to date and to advance the objective of the program -capping and reducing emissions from the power sector. The results also suggest that further emissions reductions can be achieved cost effectively by reducing the cap and addressing the amount of surplus allowances.

There are many good reasons to consider the size of the budget. In the first instance, if emissions are not expected to approach the amount of the budget, then the budget does not represent a cap and does result in emissions reductions. Unless the budget is revised, future benefits from the program will entirely depend on the extent to which the RGGI states cost effectively invest auction revenue and not on the results of cap and trade system, as RGGI was designed. At least six RGGI states - Connecticut, Maine, Maryland, Massachusetts, New Jersey and New York – have established emissions limits or targets requiring economy-wide greenhouse gas emissions reductions at levels in excess of those provided in the RGGI MOU. That the RGGI construct is able to facilitate far greater reductions that initially envisioned is a tremendously positive development as states move forward to meet long term emissions goals. Staying true to the RGGI program design requires review of the budget in light of current science and subsequently-enacted emission reduction targets. The cap and trade design of RGGI to limit and reduce emissions should remain the focus of the Program Review.

Allowance Quantities - As we suggested at the November 12 public meeting, the Program Review will benefit from dynamic projections of the quantity of allowances in comparison to emissions over the modeled period for the reference case, sensitivity runs and policy runs. Understanding the effects of the currently projected surplus will inform discussions regarding the level of cost effective reductions that can be achieved through the region wide budget.

Energy Demand and Efficiency - The energy demand and efficiency assumptions among the participating states rely on inconsistent methodologies and with few exceptions, do not appear to incorporate the results of increasing energy efficiency investment and legal requirements requiring such investment. The predicted Annual Average Growth Rates do not appear to include all energy savings that should result from current efficiency programs among the states. We strongly agree with Environment Northeast that energy demand assumptions for all states should assume annual demand based on the most recent energy efficiency targets in each state, as is the case with Massachusetts.

Fuel Price - While we appreciate the running of various fuel pricing sensitivities, the reference case fuel price assumptions appear to be at odds with ongoing trends, as if the future is disconnected from the past and present. This is particularly the case for natural gas pricing assumptions. We reference the recent Deutshe Bank conclusion that there appears to be a twenty year supply below a breakeven point of $6 per mmbtu assuming substantially increased demand projections.[1]

Renewable Deployment and New Transmission Capability – As we suggested during the November 12 public meeting, we believe that the HydroQuebec/NStar/Northeast Utilities Northern Pass transmission project is sufficiently far enough along that it should be included in the reference case, or at a minimum, in

[1] See, *Natural Gas and Renewables: A Secure Low Carbon Future Energy Plan for the United States*, November 2010; DB Climate Change Advisors (available at, http://www.dbcca.com/dbcca/EN/_media/NaturalGasAndRenewables.pdf).

sensitivity runs. This should include 1200 mWs of new low carbon imports from HydroQuebec, as planned. We note that the project is in the ISO-NE transmission approval queue, has obtained conceptual approval from the FERC, has applied for permits and has been publicly announced.[2]

Potential Policy Modeling Runs

As discussed above, we believe that because of the extent to which emissions have been far lower than originally projected, the integrity of RGGI as a cap and trade program requires review and revision to the regional emissions budget. We suggest a series of policy runs which adjusts the level of the cap downward consistent with participating state emissions reduction targets and the prevailing science. We agree with and endorse the suggestions of Environment Northeast for model runs which address the current budget by: 1) setting the budget at actual 2009 emissions level of 123.7 million tons; 2) model a range of reduction targets including a 20% decrease by 2020 and 40% by 2030 to determine projected costs and benefits; 3) adjusting the budget to address the volume of banked allowances currently and as projected through 2011.

Linkage of RGGI with Additional States and Provinces - In addition to lowering the emissions budget, we encourage the RGGI states to continue discussions with other states and regions regarding linking or expanding the program. In light of Congressional inaction, linking RGGI to programs being developed in other states and provinces is the means by which the benefits of the program can be amplified and broadened to advance development of a national program. Linkage will increase the magnitude of reductions and can provide added efficiencies and opportunities to decrease emissions.

Expand the Program to Include Other Sectors - The RGGI program covers only large fossil-fuel fired electric generating units, which are responsible for approximately 25% of emissions within the participating states. Because the RGGI cap and trade model provides a proven and cost effective means for reductions, we believe that it can efficiently be expanded to cover additional large emitting sources. In addition to further reductions, expansion into other sectors could be used as a means to address the current surplus of allowances.

We appreciate the opportunity to provide these comments on the modeling results and other aspects of the Program Review and look forward to continuing to participate as stakeholders. Should you have any questions or wish to discuss these comments, please feel free to contact Seth Kaplan (617) 850-1721 or Jonathan Peress (603) 225-3060.

[2] See, http://www.northernpass.us/.