EDISON ELECTRIC INSTITUTE

November 30, 2010

Jonathan E. Schrag
Executive Director
Regional Greenhouse Gas Initiative, Inc.
90 Church Street
4th Floor
New York, NY 10007

Re: info@rggi.org

Dear Mr. Schrag:

Enclosed are comments by the Edison Electric Institute (EEI) regarding the 2012 comprehensive program review required by the RGGI Memorandum of Understanding (MOU). These comments address issues raised under the "Other Options for Program Review" topic heading contained in the "Instructions for Written Comments" document that was posted on the RGGI website in conjunction with the November 12, 2010, stakeholder meeting. EEI is participating in the RGGI process as an interested observer, and requests that our comments are posted on the RGGI web site.

EEI is the association of U.S. shareholder-owned electric companies, international affiliates and industry associates worldwide. EEI represents approximately 70 percent of the U.S. electric power industry.

We appreciate the opportunity to comment on issues raised in the RGGI review process to date, and plan to comment further as the review moves forward. If you have any questions about our comments or would like to discuss them further, please contact Eric Holdsworth (202-508-5103, eholdsworth@eei.org) or me (202-508-5617, bfang@eei.org).

Sincerely,

William L. Fang
Deputy General Counsel and
Climate Issue Director

Enclosure

WLF:eh

Edison Electric Institute Comments on the
Regional Greenhouse Gas Initiative's
Comprehensive 2012 Review of All Program Components

November 30, 2010

In furtherance of the process that the Signatory States participating in the Regional Greenhouse Gas Institute's (RGGI) CO_2 Budget Trading Program are in the process of undertaking to support the 2012 comprehensive program review required by the RGGI Memorandum of Understanding (MOU), as amended, the Edison Electric Institute (EEI) provides some general comments and raises some specific concerns about the RGGI Program, the MOU and related matters.

EEI is the association of U.S. shareholder-owned electric companies throughout the U.S. EEI represents approximately 70 percent of the U.S. electric power industry. Much of the electricity required for homes and businesses is generated through means that produce carbon dioxide (CO_2) and other greenhouse gases.

I. Executive Summary

In general, the auction process for the current compliance period has worked well thus far, and the RGGI management team has also done a good job administering the Program.

However, the following concerns should be addressed as part of the 2012 comprehensive review:

- Some states have diverted a large percentage, or even all, of their RGGI auction revenues for deficit reduction and other purposes, contrary to the MOU's stated purpose. States should report to RGGI on how each uses its RGGI auction revenues.
- Modifications to the offsets limits (*e.g.*, raising the percentage limit, lowering the thresholds for expansion of the limits, etc.) should be considered. In addition, the process for expanding offsets categories has been neither public nor transparent, and has not been completed.
- Any consideration given by RGGI Inc. to making the cap more stringent for the post-2015-2018 period is premature in the current economic situation.
- RGGI should take leakage, in its broadest context, into account seriously in any new modeling efforts and as part of the comprehensive review.
- More transparency is needed regarding the modeling (assumptions, results, etc.) in support of the comprehensive review.

II. <u>General Comments</u>

In EEI's view, the auction process for the current compliance period thus far has gone well, and we commend RGGI Inc., the states and the auction participants for making that possible. Companies with compliance obligations generally have been able to purchase the allowances needed to meet their obligations. RGGI officials and staff particularly have been helpful and responsive to concerns raised by EEI member companies related to the auction, and generally have expedited their responses. We also understand that the secondary market has also worked well over this period.

Overall, the RGGI management team has also done a good job administering the Program, including market oversight and data flows. EEI notes that the increased information flow related to the auction and secondary markets has been helpful to market participants, and efforts to increase the timely release of market data should continue to be a priority for RGGI. Allowing compliance entities access to detailed market information helps them to more fully understand the underlying market fundamentals, a key factor in helping keep costs in the RGGI market low for the benefit of consumers, who ultimately bear the cost of compliance with the RGGI program.

Regarding the initiation of the forthcoming comprehensive 2012 review of the Program required by the MOU, EEI and its member companies look forward to participating with all other stakeholders in this important review. We note that it is to include whether and to what extent the Program and, presumably the amended MOU, have been successful. The review should also include an assessment of where the Program and the MOU may have been lacking in their application from the standpoint of RGGI Inc., the Signatory States, the regulated entities and other affected stakeholders.

According to the MOU, the review is to include impacts, future reductions, leakage and offsets. It should also include the status of the region’s economy, in this phase and the future, and reliability issues. All of these matters deserve a careful and comprehensive examination, which we presume is to be started and completed in 2012. In the conduct of the review, it is vitally important that RGGI provide meaningful opportunities for all stakeholders to have substantive input, even before the formal review begins.

II. Specific Concerns

A. State Use of Auction Proceeds for Non-RGGI Purposes

According to the MOU, each Signatory State has agreed that 25 percent of the allowances "will be allocated for a consumer benefit or strategic energy purpose," including promotion of energy efficiency, mitigation of electricity ratepayer impacts, promotion of renewable energy technologies, stimulation of investment in development of innovative carbon emission abatement technologies, and/ funding administration of the Program. A RGGI Fact Sheet on "Investing in the Clean Energy Economy" reports that "all ten of the RGGI participating states have exceeded that commitment" (p. 2).

Regarding auction proceeds, the MOU is silent on how states should use them, but the states generally have used them to comply with the 25 percent requirement. Since September 2008, "RGGI auctions have totaled nearly $729.5 million through September 10, 2010," which is a significant sum for a Program that is only two years old.[1] Under "RGGI Investment Quick Facts," the RGGI Fact Sheet states, "Overall, 70 percent of proceeds [have been] invested in energy efficiency and renewable energy," with another "10 percent to direct consumer bill assistance," for an aggregate total of 80 percent for the 10 states. The Fact Sheet adds that such "state investments . . . deliver triple benefits — to the environment, consumers and the economy" in the form of fewer emissions, lower energy bills, new jobs, and economic returns, which we understand is one of the purposes of RGGI and the Program. However, there is clearly a disparity in the efforts of states on this matter, with some apparently contributing more and

[1] RGGI September 10, 2010, release titled "Ten States Mark Second Anniversary of Regional Program to Reduce Greenhouse Gas Emissions."

others far less in establishing this "aggregate" 80-percent level. That disparity should be a concern to RGGI.

Contrary to those purposes, some of the states—such as New York, New Jersey and Maryland—have diverted a large percentage, or even all, of such revenues for deficit reduction and other purposes. Such a diversion is contrary to RGGI's purpose. Indeed, at a minimum, 80 percent or more of the auction revenues to *each* state should be earmarked for such "triple benefits," not just an "overall" total. This is a significant issue that also should be a part of the comprehensive review.

Moreover, states should report to RGGI on how each uses all RGGI auction revenues. Such reports should be compiled and made publicly available regularly by RGGI in a single document. Such a state-by-state report would help maintain the accountability and transparency of the RGGI process.

B. MOU Offsets Limits Should Be Revisited.

A Fact Sheet on "RGGI Offsets" states that they "are an important component" of each state program because they "increase compliance flexibility for the electricity sector and create significant environmental and economic co-benefits for offset project sponsors." However, the MOU limits the types of offsets projects that can be awarded allowances and establishes a 3.3-percent limit on the number of CO_2 offsets allowances for an applicable allocation period. This percentage limit may be expanded only if the allowance price threshold of $7 per ton of CO_2 (in 2005 dollars) for a period of 12 months is equaled or exceeded, which does not appear likely, based on current pricing experience. According to the amended MOUs, even when the price threshold is triggered for a compliance period, it is re-set back to the earlier percentage for the next period. The review should consider modifications to these offsets limits -- such as raising the percentage limit, lowering the thresholds for expansion of the limits and retaining the lower thresholds once established rather than re-setting the threshold -- particularly as the cap tightens for 2015-2018.

In addition, the process for expanding offsets categories has been neither public nor transparent, and has not been completed. The amended MOU has also limited awarding of offsets allowances only to projects located in the Signatory States, unless another state outside the region has a cap-and-trade program and has entered into an MOU with the RGGI states "to carry out certain administrative responsibilities." However, no state outside RGGI has such an operating program, and RGGI apparently has not provided a model for Signatory States to use for this purpose.

RGGI Inc., together with the Midwest Governors Greenhouse Gas Reduction Accord (Midwest Accord) and the Western Climate Initiative (WCI), jointly produced a May 2010 white paper titled "Ensuring Offset Quality: Design and Implementation Criteria for a High-Quality Offset Program." According to the Executive Summary, the white paper "represents a consensus among the three regional programs on key offset policy design and implementation components that are necessary to ensure high quality offsets in a regulatory greenhouse cap-and-trade program" (p. 3). The Introduction then explains that it "is intended to serve as both an internal policy document for use among the programs and as a public policy document to inform the development of comprehensive climate policy in North America." It purports to articulate internally "key quality requirements for offsets and offset programs to facilitate potential future linking of regional cap-and-trade programs." The Introduction adds that the paper externally "communicates common underlying offset quality concepts" for the "design and implementation of each of the regional cap-and-trade programs" and to "inform" such programs in Canada and the U.S. (p. 6).

While the Working Group members for the paper included members from all RGGI states, there was no apparent public involvement, or opportunity for participation, in the formulation of these "key" policies. In fact, there is no mention in the white paper of involvement by the public or stakeholders in the development of the document, nor any indication that RGGI plans to open the white paper for review and comment by stakeholders and the public. Such lack of transparency is inconsistent with purposes and objectives of the Program and the MOU. At a minimum, the paper should be opened for public/stakeholder comment and included in the comprehensive review.

C. Stringency of Caps After the 2015-2018 Period

Any consideration given by RGGI Inc. to making the cap more stringent for the post-2015-2018 period is premature in the current economic situation. Modifications should not focus on more stringent caps for the electric utility sector but instead on addressing other sectors[2] and incorporating an expansion of qualifying offsets activities, since some projects that currently qualify as offsets would not be available since they would be covered under the expanded

[2] The above-referenced white paper refers to the emissions reduction or removal that occur "outside" the "capped sector," which is defined in a footnote 2 of the Introduction as referring to "a specific category or categories of emissions sources regulated through a cap-and-trade program (e.g. electricity generation facilities . . . or industrial facilities . . .)" (p. 6). That suggests an expansion of RGGI to other industries.

program. A good portion of the excess under the current caps is due to the economic downturn, and accommodation should be made should the economy recover more quickly than anticipated. If not, and the cap is set too low, the impact on electricity prices could stall or slow an economic recovery. Such a result is not tolerable, and must be considered.

D. Leakage

In March 2008, the RGGI Multi-State Staff Working Group issued its Final Report on emissions leakage, in which it stated that the "current political environment strongly suggests that there is emerging nationwide support" for the "development and implementation" of a national carbon cap-and-trade program, which "can be expected to eliminate or significantly minimize the potential for emissions leakage" (p. 24). Obviously, that conclusion did not prove out. Furthermore, the Working Group recommended that RGGI states "prioritize the implementation of emissions leakage mitigation measures that can be implemented relatively quickly, instead of more complex measures that would require greater implementation lead times, and for which effectiveness has yet to be demonstrated" (p. 15). While it is unclear whether that recommendation was formally transmitted to the states, it does not appear to have been communicated to stakeholders and the regulated entities.

Yet the issue of how to address leakage clearly needs attention and resolution, including updated information on the collateral impacts on sulfur dioxide, nitrous oxide and CO_2 emissions outside of the RGGI region. In the case of the Working Group study, there appears to be a lack of concern and consideration of these other significant emissions. RGGI should take leakage, in its broadest context, into account seriously in any new modeling efforts and as part of the comprehensive review.

E. More Transparency Needed with Modeling in Support of Comprehensive Review

The September 13, 2010, RGGI "Stakeholder Meeting" focused on Integrated Planning Model reference case assumptions for electric sector modeling since such modeling would be considered to support evaluation of any potential modifications to the RGGI program.

In the case of modeling, we have previously been critical of the RGGI process for a lack of availability of the detailed modeling results and, most importantly, their underlying assumptions. As we said in June and September 2005, the release of such "results" is important for a better understanding of "the potential impacts of the program," particularly if the modeling becomes the central focus for RGGI and state actions in the 2010 review. In our June 17, 2005, comments on RGGI Modeling Results, we said, "Having to rely on PowerPoint slides…does not allow stakeholders and observers to fully understand and therefore comment on the modeling results and underlying assumptions" (p. 1).

We also urge that for this review the comment period be longer than a few days or weeks. It should be at least 45 days, particularly since implementation of any review results is not likely required by the end of 2012.

Regarding the September 13, 2010, stakeholder meeting, ICF indicated that with respect to environmental control costs, there is now a new higher EPA cost "bar" of $500/kiloWatt. ICF and RGGI should raise the "leaning" cost bar to between the new EPA bar and the GAP cost bar.

In addition, the modeling should look at high price and low price cases for both natural gas and coal. It is also important that the modeling include a sensitivity case for the shutdown of Indian

Point. This was discussed at the September 13, 2010, stakeholder meeting but was not included in the November 5 draft sensitivity cases.