CONSERVATION LAW FOUNDATION

September 20, 2010

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

Re: Comments of Conservation Law Foundation on Development of RGGI Reference Case for Analysis of Electricity and CO2 allowance Markets

The Conservation Law Foundation appreciates this opportunity to provide comments as the RGGI states develop the modeling reference case to be used in the 2012 program review. We recognize and commend to your attention the comments submitted by our allies, including those of Environment Northeast, and by these comments, seek to further develop certain issues relating to the modeling assumptions.

We strongly support the efforts of the RGGI states to undertake the comprehensive program review provided for in the RGGI MOU. To date, the groundbreaking efforts of the RGGI states to develop and implement the nation's first cap and trade program for CO2 emissions is 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. Today's circumstances, however, are significantly more pressing than they were in 2005-2007 as the program was developed. Congress has continued it shameful record of inaction, while the severity and impacts of climate change to human health, the environment and the economy are increasingly magnified. The experience implementing RGGI and its success in meeting the goals of the participating states provide a strong foundation for the 2012 review of all of the components of the program based on contemporaneous market and environmental conditions.

Energy Efficiency and Load Growth Assumptions

The energy efficiency assumptions as indicated in the slide entitled, "Regional Energy and Peak Demand: Annual Average Growth Rates by State, 2010 to 3030" should be further refined and harmonized among the states. Certain states relied on the ISO-NE baseline calculated using the amount of Demand Resources that cleared in the first three Forward Capacity Auctions for delivery through 2012. Other states used state-specific methodologies considering current and expected energy efficiency programs.

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This lack of consistent methodology results in wide variation among the states in predicted annual average growth rates.

It is essential that the modeling reflect the full force of the rising tide of demand-side efforts underway across the region and nation. The adoption of "all-cost-effective-efficiency" mandates and the consequential increase of funding for state sponsored efficiency programs is a very real dynamic that is still unfolding. Additionally, the move towards revenue decoupling and related alternative rate mechanisms in key states creates fertile territory for this continued expansion. The inclusion of Demand Resources including Energy Efficiency as well as Demand Response in regional wholesale markets like the New England Forward Capacity Market and the PJM "RPM" capacity market also will continue to create downward pressure on load growth.

The modeling should also recognize the "positive feedback effect" that the RGGI program is having and can continue to have as revenue from the auction is invested in efficiency which lowers electricity demand and EGU emissions and consequently suppresses demand for RGGI allowances and the price of such allowances. This complex relationship, which might well produce counter-intuitive effects like reducing the number of allowances having an immediate effect of raising allowance prices but a longer term effect of lowering demand (as revenue is used to fund efficiency) and therefore allowance prices.

We suggest that the load dampening effects of current programs, including those being funded using RGGI revenues, have been undervalued in the current state "leaning" assumptions. We note that in its comments to ISO-NE regarding the assumptions for the 2010 Economic Study, NESCOE stated that "the States uniformly believe that 3500 MW does not reflect development of energy efficiency under a 'business as usual' approach to energy efficiency in New England given current state programs and their current scheduled ramp-ups during the study period." New England States Committee on Electricity (NESCOE) 7/1/10 comments re: Draft Assumptions, 2010 Economic Study (p.3). The RGGI states should harmonize their respective methodologies for predicting load growth for use in the reference case. This methodology should consider the future effects of recent energy efficiency initiatives funded by ARRA, RGGI and other sources, as well as ongoing state efforts to increase deployment of energy efficiency services.

Cost of New Generation and Firmly Planned Generation

Should the model be allowed to predict new coal or nuclear builds, it is essential that cost estimates for nuclear units and coal equipped with carbon capture and sequestration recognize known realities. On the nuclear side it is important to make use of the latest data regarding the actual cost of new units. For coal, the cost of carbon sequestration should reflect the prevalent geologic conditions in the RGGI region – drawing on the work of Lawrence Livermore National Laboratory and other experts who have cataloged such resources – recognizing that in places where there is not a geological

structure that is conducive to such efforts that the cost of carbon sequestration would be even greater than the baseline.

For firmly planned generation, the modeling should be based on consistent assumptions regarding whether to include projects in the respective ISO interconnection queues. Because the queues list many more projects than will be built, we suggest that only projects under construction should be included as firm builds.

We appreciate the opportunity to provide these comments on the modeling assumptions and look forward to participating as stakeholders in the 2012 program review. 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.