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Environment Connecticut's Comments on the Connecticut Draft Regulations to Implement the Regional Greenhouse Gas Initiative

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February 8, 2008

Environment Connecticut is a statewide, citizen-based environmental advocacy organization. Our staff combines research, practical ideas and advocacy to achieve positive results for Connecticut's environment.

These comments respond specifically to provisions contained in the proposed regulations issued by the CT Department of Environmental Protection under R.C.S.A section 22a-174-31 Control of Carbon Dioxide Emissions / Carbon Dioxide Budget Trading Program (section 31) and R.C.S.A section 22a-174-31a Greenhouse Gas Emission Offset Projects (section 31a).

Environment Connecticut, working with our colleagues in state environment groups in the other RGGI states, as well as Environment America, has been actively engaged in the RGGI program regionally for many years. We applaud Governor Rell and DEP for their commitment to pursuing the RGGI program as a major component of the state's efforts to achieve a reduction in global warming pollution from all sources of 10% below 1990 levels by 2020. We believe that the proposed draft regulations are generally quite positive and lay the groundwork for Connecticut to achieve progress towards reducing emissions from the power sector over the next decade.

We provide the following comments on specific topics contained in the proposed draft regulations:

Investing of Auction Revenue

Connecticut's proposed investment of significant RGGI auction revenue towards energy efficiency and Class I renewable energy is fully supported by Environment Connecticut. Such investments in energy efficiency are likely to produce significant near-term, and ongoing, benefits for consumers while also helping achieve emission reductions from power generation.

Environment Connecticut recommends that DEP allow for more discretion in the proportional allocation of auction revenue between energy efficiency and Class I renewable projects. This would allow for the agency to allocate future revenues in the most effective manner. It is quite possible that a larger proportional investment in Class I resources in future years would be of most benefit to consumers, as near-term energy efficiency investments begin to maximize utilization of available cost-effective efficiency measures.

Environment Connecticut also recommends that regulations require that revenues invested in Class I resources through the Clean Energy Fund, or other entities, be restricted specifically for uses that directly support the development of new Class I generation. We also recommend that regulations incorporate a “weighting” mechanism favoring auction revenue investments in those Class I resources that produce the largest global warming emission reduction benefits. E.g., the final regulations should prioritize investments in lower or zero emission generation, such as wind and solar, over investments in fuel cells or other technologies that utilize fossil fuels.

Allowance Allocations

Environment Connecticut believes that the RGGI CO₂ emissions cap level is likely set higher than currently available data justifies. The cap level defined in these draft regulations does not apparently allow flexibility for adjustments to reflect potentially lower actual emissions compared to projections. We support detailed comments by Environment Northeast regarding the potential negative impacts on effectiveness of the RGGI carbon market. (Please refer to separate comments of Environment Northeast on this topic.)

Failure to set the cap at levels in line with actual emissions, and having such cap levels be higher than actual emissions, will likely delay achievement of key outcomes critical to the success of the RGGI program. These include a likely detrimental impact on the creation of a market for RGGI allowances, minimal incentive for generation to shift away from higher emitting fossil fuel sources towards lower emitting renewables.

Environment Connecticut recommends that the regulations be revised to create auction reserve price and to establish annual reviews of the RGGI cap level to allow for adjusting the cap level as necessary to ensure that it is not artificially inflated and produces actual emissions reductions of 10% by 2020. (As opposed to 10% reductions from an artificially inflated “base” assumption, which could result in little or no actual real world emissions reductions.)

Free Allowance Allocations

PA 07-242 specified the legislature’s intent that some allowance allocations would be directed to combined heat and power installations at commercial and industrial facilities. This was to ensure that CHP facilities over 25MW receiving ratepayer subsidies under the 2005 energy independence act did not have to also pay for RGGI allowances.

The draft regulations do not apparently define combine heat and power units or specify eligibility criteria for facilities to receive allowances for CHP under the 5% allowance “carve out” in the proposed draft regulations.

Environment Connecticut recommends that the final regulations should clearly limit the allocation of such free allowances to units between 25MW and 65MW and limit the recipients to those facilities that received DPUC grants after 2005 pursuant to the distributed generation grants authorized by the Energy Independence Act. This would ensure that the allocation of free allowances is restricted in scope to the intent of PA 07-242.

The draft rule includes an apparently redundant section creating a separate free allowance allocation account for “customer side distributed resources.” This would apply to facilities that are over 25MW and received funding from DPUC pursuant to the provisions of the Energy Independence Act. The only facilities that would appear to qualify appear to be two CHP units that would already qualify for such free allowances under that separate set-aside of allowances.

Environment Connecticut recommends that the two allowance set-asides for CHP and CDR in the proposed regulations be merged into one single 5% (maximum) allowance set-aside. Further, as outlined above, we recommend that this set-aside of free allowances be restricted to commercial and industrial facilities with CHP units between 25MW and 65MW, and be restricted to facilities that received funds from the DPUC pursuant to the 2005 Energy Independence Act. We believe that this would comply with the clear intent of PA 07-242, ensuring that such allocation of free allowances is restricted only to those few facilities that are over 25MW and received DPUC funding pursuant to the EIA.

Voluntary Renewable Purchases / Retirement of Allowances

Environment Connecticut supports the creation of a set-aside for voluntary renewable purchases. However, we believe the 1% cap on such set-aside in the proposed draft regulations is inappropriately restrictive. Such a cap will inappropriately create a disincentive for expansion of voluntary renewable energy purchases in the state by effectively removing any quantifiable benefit for those voluntary purchases once the 1% cap is reached.

Environment Connecticut recommends that the final regulation should not cap the set-aside for voluntary renewable purchases. A cap on such set-aside would tend to run directly counter to the RGGI goal of reducing carbon emissions from power generation in Connecticut and the region.

Auction Revenue Retained by DEP

The draft regulation sets aside 7.5% of auction revenue to be “retained by the commissioner.” PA 07-242 authorizes such set-aside of revenue and further restricts the use of such revenue “to cover the reasonable administrative costs associated with the implementation of the Regional Greenhouse Gas Initiative in

Connecticut and to fund assessment and planning of measures to reduce emissions and mitigate the impacts of climate change.”

Environment Connecticut recommends that the final regulation should clarify that the 7.5% of auction revenue retained by the commissioner will be specifically reserved to fund DEP implementation of RGGI and related global warming and climate change initiatives in keeping with the statute.

Environment Connecticut appreciates this opportunity to comment on the proposed regulations implementing RGGI in Connecticut. We thank the department for its consideration of these comments and look forward to working with the state to achieve effective implementation of RGGI in Connecticut.

Sincerely,

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