



State of Connecticut

GENERAL ASSEMBLY
STATE CAPITOL
HARTFORD, CONNECTICUT 06106-1591

RECEIVED

FEB - 6 2008

DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF AIR MANAGEMENT
OFFICE OF BUREAU CHIEF

February 4, 2008

Michelle Totten
Department of Environmental Protection
Bureau of Air Management
79 Elm Street
Hartford, CT 06106-5127

Dear Ms. Totten:

On January 8, 2008, in the "Connecticut Law Journal," the Commissioner of Environmental Protection provided notice requesting comment on draft regulations to implement the Regional Greenhouse Gas Initiative (RGGI) in Connecticut.

While it is clear that all of us in Connecticut must participate in the global challenge of reducing carbon dioxide emissions linked to global warming, we do want to share our concerns with several provisions of the new draft regulations. We focus our comments on the following areas:

Cost to Consumer

We note the recent decision of the Department of Public Utility Control, in the Connecticut Light and Power (CL&P) rate case (Docket 07-07-01), calls for residential customers to be burdened with another 2.85 percent increase in their monthly bills. This follows a 4.9 percent, three-year rate increase provided United Illuminating (Docket 05-06-04). Since it is clear that the cost of these new carbon credits will be passed on to consumers by the owners of the unregulated electric generation facilities, we are concerned with the financial impact these regulations will have on our constituents. It is our understanding that under Connecticut's "Uniform Administrative Procedure Act", your department must prepare a fiscal note for these regulations. It is important in preparing this fiscal note that detailed scenarios are run on the numerous outcomes possible with the cap and trade auction design. The public deserves to know, far in advance, what additional costs will be added to their electric bills as a result of implementing the proposed RGGI program.

Allocation of Auction Proceeds

The draft regulations provide that 92.5 percent of the funding obtained from the cap and trade auction be allocated for both energy efficiency programs and in support of Class I renewable energy. This past year, the legislature took a strong stand for energy efficiency through restoration of \$85 million to the state's clean energy fund. Additionally, a recent study entitled

“Integrated Resource Plan for Connecticut”, prepared by the Brattle Group for CL&P, questions whether existing resources for Class I renewable power will ever be spent because of numerous regulatory, economic and environmental constraints. While we support additional funding for these energy programs, we firmly believe that a portion of the auction proceeds must flow back to consumers for some kind of rate relief to help mitigate the impact of implementing the proposed RGGI program.

We also are concerned that the Department of Environmental Protection (DEP) has chosen to retain 7.5 percent of the auction proceeds for agency activities. Based on the 2005 and 2006 experience of the cap and trade program in Europe, the sale of auction credits could yield a fund between \$215 million and \$240 million annually. Under this scenario, DEP would then retain \$16.5 million to \$18 million a year. This is far more money than needed by the agency to run the RGGI program and the excess funding would amount to an appropriation not authorized by the General Assembly.

Auction

The proposed regulations do not detail the conduct of the auction required for the carbon dioxide allowances. We are concerned that without clear and uniform auction rules, market manipulation could occur potentially harming the state’s economy through dramatic spikes in energy costs. Safeguards must be built into the proposed regulations to protect the state from such occurrences.

Public Act 05-01

In 2005, “An Act Concerning Energy Independence” was approved by the General Assembly and signed into law by the Governor. This act encourages the development and installation of customer-side distributed generation to reduce the use of high-emission peaking power plants and the cost of energy during times of high usage. Many businesses, manufacturers and institutions have taken advantage of this program which promotes clean sources of energy from facilities generating not more than 65 megawatts. The RGGI model rule allows participating states to exempt eligible customer-side distributed generation units as long as the units supply not more than 10 percent of their power supply into the electric grid on an annual basis. This provision of the model rule is contained in the draft New York RGGI regulations and is part of the New Jersey RGGI law. In contrast, Connecticut’s proposed RGGI rule establishes only a set-aside program for qualifying units over 25 megawatts. This proposed rule will require all such energy plants in Connecticut to engage in costly record keeping, monitoring and compliance activities. By utilizing the 10 percent exemption, as planned in New York and required in New Jersey, such expense could be eliminated without harming the environment.

Federal Regulation

Finally, Connecticut's proposed RGGI regulations fail to contain a termination clause if a federal cap and trade program is approved. Federal regulation would be preferable to regional initiatives. Such national regulation would level the playing field on carbon dioxide emissions, make the United States an international player in the reduction of greenhouse gases and remove the potential for regional leakage from non-RGGI states.

We applaud both Commissioner Regina McCarthy and your agency for your efforts to reduce and control carbon dioxide emissions from electric generation facilities. While the Northeast is responsible for only a small portion of total U.S. emissions, our region must move forward with a plan that protects our environment for future generations.

We appreciate the opportunity to share our comments on the state's RGGI proposal and we look forward to your strong consideration of our recommendations.

Sincerely,



John W. Fonfara
State Senator, 1st District



Henry J. Genga
State Representative, 10th District