June 1, 2007

Mr. Chris James
Bureau of Air Management
Department of Environmental Protection
79 Elm Street
Hartford, CT 06106-5127

Re: DEP's Pre-Proposal of Section 22a-174-31 – Control of Carbon Dioxide Emissions

Dear Mr. James:

NRG Energy, Inc., a wholesale power producer in the state, is pleased to submit our comments on the Department's pre-proposal to implement RGGI, known as Section 174-22a-31, in the state. A well developed and defined RGGI process is critical to the program's success and these comments are offered to support that success. Our current generating fleet in the state is composed of oil fired and oil and natural gas fired steam electric boilers and oil fired combustion turbines, all of which will be affected by the regulations.

If you have any questions or want to further discuss any issues, please contact me at (806) 343-6962 or cynthia.karlic@nrgenergy.com.

Very truly yours,
NRG ENERGY, INC.

_____
Cynthia L. Karlic
Regional Environmental Manager

Enclosure

NRG Energy, Inc.
Comments on the CT DEP's Pre-Proposal of Rule to Implement the Regional Greenhouse Gas (RGGI) Initiative in the State
Section 22a-174-31 - Control of Carbon Dioxide Emissions

Introduction

NRG Energy, Inc. ("NRG") is a leading wholesale power generation company, primarily engaged in the ownership and operation of power generation facilities and the sale of energy, capacity and related products in the United States and internationally. In the RGGI applicable states, NRG owns just over 7,700 MW or a little over 8% of the installed fossil-fired generation. In Connecticut, NRG owns and operates approximately 2,000 MW of installed generation that will be affected by the RGGI regulations.

Overview

NRG supports the enactment of a single, mandatory, nationwide market-based system to regulate CO_2 and other greenhouse gases. A well designed national program will produce substantial reductions in greenhouse gases, foster the creation of new CO_2-reducing technologies, and encourage the development and installation of new, efficient, low CO_2 emitting generation – without drastically increasing power prices or otherwise harming consumers and the economy.

Since a single, nationwide policy does not exist, the State of Connecticut and other RGGI member states should be commended for taking action. There are, however, shortcomings to having fragmented regulation of emissions with global impacts. Any such regional initiatives must be designed with great care in order to actually reduce carbon emissions and to do so with the lowest cost to the state's economy, consumers and vital industries. To that end, there are some positive actions that the Department included in its pre-proposal but; there are areas that require further refinement.

NRG submits comments on seven aspects of the Department of Environmental Protection's ("DEP" or "Department") pre-proposal regulations to implement the Regional Greenhouse Gas Initiative ("RGGI"). These aspects are:

1. Early Reduction Allowances,
2. Voluntary Energy Purchases,
3. Generation Set-Aside,
4. Auction of RGGI Allowances,
5. Need for an Allocation Mechanism prior to the Commencement of an Auction,
6. Use of Carbon Offsets, and
7. Sunset Provision

Early Reduction CO2 Allowances

Section 22a-174-31(f)(6), Early Reduction CO2 Allowances, permits the issuance of early reduction CO2 allowances ("ERAs") for RGGI-eligible sources whose CO2 emissions or rate for years 2006 – 2008 inclusive is lower than the CO2 emissions during the Baseline

Period of 2003 – 2005. NRG agrees with the Department's proposal to issue ERAs. Companies that can and do take early actions to lower their CO2 emissions, such as an increase in the use of lower CO2 emitting fuel, are recognizing through these actions the issue of CO2 emissions and should thusly, be rewarded for their actions.

Mandatory Retirement of Allowances for Voluntary Renewable Energy Market Purchases

Section 22a-174-31(f)(5) allows the Department to retire CO2 allowances equal to an amount of voluntary renewable energy market purchases. As proposed, any person can file documentation with the DEP for voluntary purchases of renewable energy and have the calculated amount of avoided CO2 emissions converted to CO2 allowances that would then be permanently retired by the Department. The number of allowances to be retired would be based on the actual documented energy purchases multiplied by a marginal CO2 emission rate for the area from which the energy was purchased.

The purpose of this section is unclear except to have a mechanism in the state where CO2 allowances would be permanently retired and therefore, removed from the market. We do not believe this is an incentive to have consumers purchase higher levels of renewable energy. It also is not a disincentive to generators to emit less CO2 emissions since DEP estimated that if all the renewable energy required by the state's Renewable Energy Portfolio was purchased, less than 1% of the state's RGGI budgeted CO2 allowances would be retired.

This section seems to add paperwork burden on consumers, and the Department without any real environmental benefit, and lowers the amount of allowances available to generators. Finally, there is the philosophical question of whether it is appropriate to have the retirement of carbon allowances tied to non-carbon emitting sources.

CO2 Allowance Set-Aside Account

Section 22a-174-31(f)(5) states that the DEP may set aside a portion of its CO2 allowances to "…directly support highly energy efficient power generation, any other strategic energy purpose…" of RGGI or the "…voluntary renewable energy provisions…" in the RGGI Model Rule.

It is unclear whether this set-aside account is the same account as that describes in Section 22a-174-31(f)(3)(B), Consumer Benefit or Strategic Energy Purpose Allocation. On first reading, there appears to be two distinct separate accounts. The set-aside account described in Subsection (f)(5) lacks detail as to the definition of "highly energy efficient power generation and any other strategic energy purpose", the specific purpose of this account and amount of allowances to be held in the account. During the RGGI Stakeholder meeting on April 26th, it was mentioned that one use of this account may be to assist generators who have long term Purchase Power Agreements ("PPA") that do not include a means to recover the cost of CO2 allowances. This appears to be a beneficial use of the account since it would allow these generators to continue operations without being financially penalized. But, additional information is needed about the form of any PPA such as years remaining on the agreement, and if the generator's output is sold at a set price or at the market price in order to comment on this idea.

It is also unclear if the allowances in this account would be allocated for the various purposes cited in the pre-proposal or if the allowances in this account would be sold or auctioned with the proceeds used to promote the goals of their account.

Finally, it is impossible to fully comment on the need, usefulness, and/or appropriateness of this account until additional details on these issues are presented.

Once the Department issues additional details of this account, NRG will provide more detailed comments.

Auction of CO2 Allowances and Need for an Allocation Mechanism prior to the Implementation of an Auction

Section 22a-174-31(f)(3)(C) states that after allowances are deducted for the set-aside accounts described in subsections (4) and (5) the DEP shall no later than the end of the second control period (no later than January 1, 2015) place up to 100% of the remaining allowances into the Consumer Benefit Account ("CBA"). Subsection (D) then states that by October 1st of each allocation year, there shall be an auction of the allowances in the CBA.

We commend DEP for not proposing a 100% auction starting with the year 2009 allowances. A full auction of allowances is unprecedented, will needlessly raise consumer prices for electricity, and will unreasonably harm power producers. The Memorandum of Understanding ("MOU") signed by the RGGI member states called for a minimum of 25% auction of the allowances to support consumer benefits or strategic energy purposes, with the balance if the allowances to be allocated to carbon producers to help buffer the impact of RGGI on businesses and consumers. Even this 25% set aside for an auction is unprecedented. No other environmental program in Connecticut has set aside allowances for an auction.

By proposing a full auction starting with the year 2015 allowances will allow the market to mature and become, hopefully, become sufficiently liquid, transparent, and robust enough to limit excessive volatility in allowance prices.

The pre-proposal, however, is silent on the handling of the allowances for the first two control periods, after the deductions are made under Subsections (4) and (5). NRG strongly recommends that the Department implement a transitional allocation mechanism to generators. This allocation method should be one that prevents, as best as possible, the windfall gains that have been cited by environmental groups as a reason to implement a full auction starting with the first control period. In addition, the allocation must recognize that CO2 controls do not exist and that to maintain fuel diversity within the state, there must be a variety of generating sources in the state, based on fuel type (coal, oil, and natural gas) and generation type (base load, intermediate, and peaking). As a result, the rate and amount of CO2 emissions from the generating sources in the state will vary, unit by unit. An allocation method must avoid creating undue economic harm to the existing generators by providing them sufficient allowances to them to cover their net costs, which

will be different based on their fuel source, and their carbon emissions relative to those of the units that typically set price in the wholesale market

Early allocations to generators are especially important because allowance prices are likely to be high and more volatile during the initial trading cycles of a new market. The Department should consider maintaining a set percent of each year's the allowances for periodic sale to generators at a set price during each control period to facilitate a generator's ability to manage changes in its CO2 (and electricity) output due to system emergencies, unexpected weather conditions, and other related factors. Otherwise, without a liquid allowance market such events could lead to severe allowance price spikes and hence spikes in electricity prices.

The pre-proposal also does not specify the use of the revenues from the allowance auction. The Department must consider support of lower carbon emitting generations and studies centered on carbon sequestration and controls as appropriate and essential use of the revenues.

NRG will offer a more detailed allocation proposal as part of its comments on the Public Hearing version of the regulations.

Use of Offsets

Section 22a-174-31(g)(5)(B) allows the use of CO2 offsets in the same manner as the Model Rule, that is 3.3% of a source's total CO2 emissions unless certain trigger actions occur. Offsets can provide real and relatively immediate GHG reductions to bridge the technology gap during the development of CO_2 free/reduced electric generation and carbon capture technologies. In addition, the more offsets that can be used by generators to meet their compliance obligations will lower the price of the RGGI program and thereby lower the price impact on consumers.

It is recognized that, unlike SO_2 and NOx, there are no economically viable control measures for CO_2 emissions from existing units. Decisions made today in selection of future generation will have lasting impact on the carbon footprint in the United States, but will take time to realize. Carbon offsets are one way to bridge this technology gap and can provide cost effective reductions sooner. The restriction to use offsets for only 3.3 percent of allowance obligations is overly too small and the process for working through the trigger level calculations and, possibly the certification process is overly cumbersome. Expanded use of offsets should be encouraged while technology develops, more categories should be considered, and the trigger system should be less complicated or completely discarded.

Termination Provision for Section 22a-174-31

The Department must include a termination provision in their RGGI regulations. There is broad and significant support for a national CO2 program. Section 22a-174-31 should be specifically structured to automatically terminate upon the implementation of a federal carbon program.

Broadly-based emission reduction programs driven by market dynamics have been shown to be most efficient in achieving significant reductions, compared with individual state or regional regulations. Lower costs can be achieved by implementing such programs. Additionally, since carbon emissions are a global issue, the wider ranging the program, the more efficient and effective the program will be. Connecticut may actually see more significant reductions in carbon emissions as part of a larger program than will be seen with just RGGI. Clearly, the worst possible outcome, from the perspective of achieving environmental policy goals in balance with economic impacts on communities within the state, would a proliferation of regulations covering the same subject matter, but in disparate ways.

There would be no benefit from overlapping federal and regional carbon regulations. In fact, there would be an economic disadvantage for businesses since generators within RGGI would be faced with compliance costs for both a federal and regional program. This in turn, would result in even higher electricity prices with no additional environmental benefits. Therefore, the Department should include a new section in its pre-proposal which would terminate its RGGI program, upon the start of a federal carbon program.