



NRG Energy, Inc.
P.O. Box 1001
1866 River Road
Middletown, CT 06457

February 8, 2008

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

Subject: Comments on proposed Regulations of Connecticut State Agencies (“RSCA”) Section 22a-174-31, Control of Carbon Dioxides Emissions and Section 22a-174-31a, Greenhouse Gas Emission Offset Projects

Dear Ms. Totten:

NRG Energy, Inc. (“NRG”) respectfully submits these comments to the Department of Environmental Protection (“DEP” or “Department”) regarding the DEP’s proposed Regulations of Connecticut State Agencies (“RCSA”), Section 22a-174-31, Control of Carbon Dioxides Emissions and Section 22a-174-31a, Greenhouse Gas Emission Offset Projects (“Regulations”). NRG is the owner-operator of over 7,700 MWs of generation in the Regional Greenhouse Gas Initiative (“RGGI”) states – approximately 1,700 MWs of which are located in Connecticut. NRG actively supports greenhouse gas reductions and a mandatory national market-based system to regulate them. We have participated in the RGGI stakeholder process since its inception, providing input in many states and at the RGGI level.

NRG’s comments are offered in order to streamline the Regulations, as well as to add flexibility and clarification to the Regulations.

If you have any questions, please feel free to call me at (860) 343-6962.

Very truly yours,
NRG ENERGY, INC.

A handwritten signature in blue ink that reads "Cynthia L. Karlic". The signature is written in a cursive style and is positioned above a horizontal line.

Cynthia L. Karlic
Regional Environmental Manager
Attachment

NRG Energy, Inc.
Comments on Proposed RSCA Section 22a-174-31
Control of Carbon Dioxides Emissions
and
Proposed RSCA Section 22a-174-31a
Greenhouse Gas Emission Offset Projects

NRG Energy, Inc. (“NRG”) submits these comments on the Department of Environmental Protection’s (“Department” or “DEP”) proposed regulations on the Control of Carbon Dioxides Emissions, RSCA 22a-174-31 (“ RGGI Regulations”) and Greenhouse Gas Emission Offset Projects, RSCA 22a-174-31a (“Offsets Regulations”) regarding the following issues:

1. commitment to the form of CO2 allowance auction,
2. allocation of CO2 auction revenues,
3. CO2 early reduction allowances,
4. broader use of CO2 offsets,
5. the need for a safety valve price, and
6. the need for a transition plan to a national program,

Section 22a-174-31(f) – CO2 Allowance Allocations

Subsections (4)(A) and (B) of this section of the RGGI Regulations describe the flow of the revenues obtained in the auction of CO2 allowances. DEP proposes to transfer at least 91% of the State’s CO2 allowances into the Connecticut Auction Account annually. The RGGI Regulations state that the “. . . commissioner or a contractor or trustee selected by the commissioner shall offer for sale the CO2 allowances with the same allocation year that are held in the Connecticut Auction Account. Such auction shall be conducted under the oversight of the commissioner and the Department of Public Utility Control,” and the allowances must be offered for sale at least once per year.

However, the RGGI Regulations are silent regarding the mechanism that the DEP will use as the auction platform. Although NRG is aware that RGGI has been working on the design and implementation of a regional auction in which the various RGGI states, including Connecticut, may participate, the Regulations are silent as to the DEP’s willingness to participate in this auction or to implement a state-only auction. If the regional auction does not come to fruition or the DEP rejects the auction format adopted by the RGGI states, then the DEP would hold CO2 allowances without a means to introduce them into the marketplace.

For that reason, NRG urges the DEP to revise the RGGI Regulations to affirmatively state that Connecticut will participate in the regional auction, as well as to establish a process for adopting

state-specific auction regulations if a state-level auction is deemed necessary for Connecticut.

Section 22a-174-31(f) – CO2 Allowance Allocations

Subsection (4)(D) of this section of the RGGI Regulations outlines the flow of the auction revenues to various sources within the State. As proposed, 7.5% of the auction revenues would be retained by the Department for RGGI implementation. The remaining revenues would then be divided on a 25%/75% basis between the Connecticut Clean Energy Fund (“CCEF”) for Class I renewable energy sources, and The Connecticut Light & Power Company (“CL&P”) and The United Illuminating Company (“UI”) (80%/20%, respectively) for the development of energy efficiency measures. .

If 91% of the CO2 allowances are auctioned, NRG estimates that percentage would equate to approximately 9.7 million CO2 allowances per year through 2014. Assuming an auction clearing price of \$5 per CO2 allowance, NRG estimates that the annual auction will yield revenues of \$48.5 million per year.

Hence, based on the Regulations, the auction revenues would be disbursed as follows:

- DEP = \$3.6 million
- CCEF = \$11.2 million
- CL&P = \$26.8 million
- UI = \$6.7 million

NRG is concerned that the RGGI Regulations pre-determine revenue disbursements for CCEF, CL&P and UI, rather than permitting the DEP and/or the DPUC to exercise discretion in determining the best use of the auction revenues, based on future need or on changes in State policies and goals. As illustrated by NRG’s estimates, the pre-determined disbursement levels therefore could result in disbursements to programs that, at a given point in time, could either be inadequate or excessive depending on its status. Furthermore, because demand in the State cannot be met fully through the use of renewable generation and energy efficiency measures, the DEP should consider disbursing the auction revenues to promote innovative generation alternatives, such as clean, fossil-based generation.

For these reasons, NRG recommends that the RGGI Regulations be revised to permit the DEP and DPUC to jointly review proposed projects, determine annual funding levels for the CCEF and energy efficiency measures, consider the current revenues collected through the Combined Public Benefits Charge (which includes a Conservation and Load Management charge as well as a Renewable Energy Investment charge) to customers and used to fund these programs, and then determine the best use of the auction revenues.

Section 22a-174-31(f) – CO2 Allowance Allocations

Subsection (6) of this section of the RGGI Regulations describes the method by which a source can obtain early reduction allowances (“ERAs”). As currently drafted, the RGGI Regulations only allow the issuance of ERAs if the CO2 budget source has a reduction in its CO2 emissions as compared to the “Baseline Period.” The Baseline Period is defined as years 2003, 2004 and 2005, inclusive, and the early reduction period is defined as years 2006, 2007, and 2008, inclusive. A CO2 budget source is defined as a facility that includes one or more CO2 budget units, with a CO2 budget unit being defined as an emissions unit that meets the applicability requirements of the Regulations.

NRG supports the Department’s proposal to allow creation of ERAs. The issuance of the ERAs is recognition of a source’s actions to lower its CO2 emissions prior to the start of RGGI, and in anticipation of the RGGI program.

Section 22a-174-31a – Greenhouse Gas Emission Offset Projects

Subsection (5) of this section of the Offsets Regulations limits the amount of CO2 offsets that may be used for compliance. The use of offsets likely will be a critical component of the Connecticut budget sources’ compliance strategy, because directly controlling CO2 is different than controlling SO2 or NOx. At this time, CO2 can be reduced from an existing source in only one of three ways: run less, run more efficiently (which only yields small reductions) or convert to a different type of fuel. Offsets are real CO2 reductions and can provide the necessary, short term tool to insure that the compliance cap is met.

By specifying only certain, acceptable offset types and their associated protocols, the Offsets dramatically limit offset creation. An offset, provided it meets the appropriate criteria, should be equivalent to any other greenhouse gas credit. Use of offsets currently provides the only mechanism to actually reduce GHG emissions in the short term. Moreover, use of offsets is recognized by the European Union and other states as an environmentally-sound program component. The Offsets Regulations should have provisions for the development of new offset categories/protocols in the future without requiring a specific rulemaking. For example, SF6 replacement as a cover gas in the production of magnesium creates high quality offsets and should be recognized as an accepted category.

Additionally, NRG is concerned about the anticipated difficulty in actually qualifying for and obtaining offsets. Guidance documents were to be prepared for offsets particularly with respect to (regulatory and financial) additionality. To date, no guidance has been made available for stakeholder expert review.

Accordingly, the Offsets Regulations should be revised to provide for the addition of viable and high quality offset categories, including, at a minimum SF6 replacement, without revising the Offsets

Regulations.

Need for a safety valve price

Allowance prices may be much higher than predicted in the cost analyses for the RGGI model rule. The unprecedented number of allowances that will be auctioned, and the assumed opening of the CO2 allowance auction to any participant, will compound the uncertainties and could result in volatility and high prices, as have been observed in previous cap and trade programs. Therefore, it would be prudent to expand the safety valves included in the RGGI Regulations. These procedures must be in place to address adverse impacts of the auction and of the secondary allowance market on energy consumers and electric system reliability. Other states have included safety valves such as the ability to withdraw allowances from the auction and make them available to in-state generators and/or limit participation in the auction to budget units' owners.

Transition to a national program

The RGGI Regulations must include a method to transition to a national program. A well-designed, national program will produce substantial reductions in greenhouse gases, foster the creation of new, CO2-reducing technologies, and encourage the development and installation of new, efficient, low CO2-emitting generation – without drastically increasing power prices or otherwise harming consumers and the economy. This is recognized in the Memorandum of Understanding on which the formation of the regional partnership is based. Section 6.C of the MOU provides that upon adoption of a federal program that “. . . is determined to be comparable to [the RGGI] Program, the Signatory States will transition into the federal program.” Faced with implementation of dual programs, Connecticut residents could face unnecessary higher energy prices and businesses could be at a competitive disadvantage. Accordingly, NRG requests that the following or similar language, therefore, should be added to Section 22a-174-31 of the RGGI Regulations:

Should a federal program essentially equivalent to the requirements of RGGI be promulgated by the federal government, Connecticut shall transition into the federal program and suspend or amend its regulations accordingly.