



February 8, 2008

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

**RE: Notice of Intent to Amend Regulations of Connecticut State Agencies
Proposed Regulations, R.C.S.A. §§ 22a-174-31, 22a-174-31a**

Dear Ms. Totten:

Enclosed please find for filing the comments of Connecticut Municipal Electric Energy Cooperative in response to the above referenced Notice. Should you have any questions, please don't hesitate to contact our office. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Maurice R. Scully", is written over the typed name and title.

Maurice R. Scully
Chief Executive Officer

Serving Public Power in Connecticut

STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notice of Intent to Amend Regulations of Connecticut State Agencies Proposed Regulation, R.C.S.A. §§ 22a-174-31, 22a-174-31a	February 8, 2008
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Comments of the Connecticut Municipal Electric Energy Cooperative

The Connecticut Municipal Electric Energy Cooperative (“CMEEC”) hereby respectfully files its written comments in response to the “Notice of Intent to Amend the Regulations of Connecticut State Agencies” (the “NOI”) issued by the Department of Environmental Protection (“DEP” or “Department”) with respect to proposed regulations, Regulation of Connecticut State Agencies (“RCSA”), §§ 22a-174-31 and 22a-174-31a. The proposed regulations implement the carbon dioxide (“CO2”) cap and trading program of the Regional Greenhouse Gas Initiative (“RGGI”) in Connecticut.

At the outset, CMEEC acknowledges the extensive and long-standing efforts undertaken by the DEP to shepherd forward the RGGI program. CMEEC is also generally supportive of the DEP’s goal in adopting the proposed regulation – to reduce the generation of CO2 associated with the consumption of electricity in Connecticut, thereby reducing the production of greenhouse gases which contribute to global climate change. CMEEC’s comments below focus on the mechanics of the program – with the purpose of improving the design of the program so as to better accomplish the program’s ends on a more equitable and least cost basis and reduce the likelihood of unintended adverse collateral consequences attendant on adoption of the program. CMEEC’s comments, most importantly, point out what we believe to be an oversight and inconsistency in the allocation of allowance auction proceeds in that it fails to recognize

CMEEC's share of the State's total electric load in a manner equivalent to that afforded Connecticut Light and Power Company ("CL&P) and the United Illuminating Company ("UI"). CMEEC proposes in the comments a revision to the proposed regulations to correct this oversight.

Summary of Comments.

CMEEC's comments on the proposed regulation may be summarized as follows:

1. The allocation of allowance proceeds to load serving entities in the proposed regulation inadvertently excludes electric consumers located in the municipal electric utility service areas historically served by CMEEC. CMEEC recommends that this allocation be corrected to recognize CMEEC's share of the State's electric load and distributing approximately six per cent of the electric load serving entity ("LSE") allocated proceeds to CMEEC for use by CMEEC for conservation, load management and energy efficiency development pursuant to the plan adopted by CMEEC pursuant to Conn. Gen. Stat. §7-233y.
2. Numerous design mechanics relating to the conduct of the allowance auction have not been specified in the proposed regulation and should be, given the important ramifications of the regulation on the operation and cost of operation of the electric generation sector in Connecticut. These issues include matters relating to inclusion in a regional allowance auction, transition procedures if a national cap and trade program is adopted, control and monitoring of the exercise of undue market power in the purchase and sale of the allowances and the frequency and volume of allowance auctions.
3. Measures for addressing major unanticipated contingencies, such as an extended nuclear plant outage should also be considered and incorporated into the rule. These measures include increasing the level of permissible offsets and/or allowing for the use of some portion of the allowance proceeds for electric rate relief.
4. The eligibility for participation in the customer-side distributed resource set-aside should be expanded to include equivalent resources located within municipal electric utility service areas.

I. Background regarding CMEEC.

CMEEC is a political subdivision of the State of Connecticut created in 1976 pursuant to Conn. Gen. Stats. §§ 7-233a *et seq.* It is a non-profit municipal joint action electric agency which provides the power supply requirements, at wholesale under long-term contracts, to six municipal electric utilities with retail service territories in Connecticut (five of whom are members of CMEEC and one of whom is a participant in CMEEC) as well as several other Connecticut customers purchasing power at wholesale who then sell that power at retail in Connecticut.¹ In 2007, the electric consumption at retail represented by CMEEC's members, customers or participants was 2,010,213 megawatthours, or approximately 6.01 % of Connecticut's aggregate electric load for the period.

CMEEC is an active participant in the New England wholesale power markets, a NEPOOL Participant, and is load-serving entity ("LSE") for the municipal electric utilities which comprise its members, participants and customers. As such, CMEEC and its members/participants/customers will incur in proportion to their share of the State's electric consumption the costs imposed on the wholesale electric market by the pending CO2 cap and trade program implemented under RGGI. On behalf of its member, participant and customer municipal electric utilities, CMEEC has funded and implemented conservation and load management and energy efficiency measures under a plan prepared annually and reviewed by the Energy Conservation Management Board

¹ Specifically, CMEEC provides power supply service to members: the City of Norwich Public Utilities, the City of Groton Department of Utilities, the Borough of Jewett City Department of Public Utilities, the Second Taxing District of the City of Norwalk -- South Norwalk Electric and Water, the Third Taxing District of the City of Norwalk -- Electric Department; and to a participant: the Town of Wallingford Department of Public Utilities -- Electric Division; and to customers: the Bozrah Light & Power Company (owned by the City of Groton Department of Utilities) and the Mohegan Tribal Utility Authority.

("ECMB") within the service areas of its members, participants and customers pursuant to Conn. Gen. Stat. §7-233y.

I. Detailed Comments Regarding Proposed Regulations.

A. The Allocation of Auction Proceeds to the Electric Distribution Companies for Support of Development of Energy Efficiency Measures Needs to Be Revised to Recognize CMEEC's Proportion of the State's Electric Load.

Sub-section (f)4(D)(iii) of the proposed regulation provides for the allocation of 69.375% of the auction proceeds to accounts which are directed 80% to CL&P and 20% to UI, with the "proceeds [so dedicated to CL&P and UI]... to be used to support the development of energy efficiency measures."

The apparent rationale for the 80/20 division is based on the respective load shares of CL&P and UI in the State's electric load, by implication and seemingly inadvertently **excluding** the electric load served by CMEEC's member and participant municipal electric utilities. The allocation fails to provide for a proportionate allocation to CMEEC reflecting CMEEC's share of the State's electric load on an equivalent basis to that recognized for CL&P and UI. Basic fairness and equity mandate that this error be corrected to as to provide that the allocation of proceeds be changed from that set forth in the proposed regulation to incorporate and recognize the share supplied by CMEEC (and its member and participant municipal electric utilities) of the State's electric consumption. Absent this change, the regulation as currently proposed would disenfranchise CMEEC's customers in the municipal electric utility service areas. These customers will pay on a basis proportionate to their consumption for the increased costs of wholesale power which may result from the implementation of RGGI. To rectify this inequity, the regulation should provide that the funds should be directed 75.192% to

CL&P, 18.798% to UI and 6.01% to CMEEC. To the extent these funds are spent on energy efficiency measures, CMEEC can and will administer these funds under the existing framework followed for its existing conservation and management program conducted on behalf of the State's municipal electric utilities pursuant to an annual plan which is reviewed by the Energy Conservation and Management Board ("ECMB"). *See*, Conn. Gen. Stat. § 7-233y.

B. The Proposed Regulation Does Not Address Critical Features Relating to the Design and Mechanics of the Allowance Auction.

The legislature has directed that the CO₂ allowances created by the proposed regulation be sold through an auction. Public Act 07-242, section 93. The proposed regulation addresses the structure of the allowance auction only as follows:

(f)(4)(A) For purposes of this subdivision, "auction" means the open and transparent process by which the commissioner or a contractor or trustee selected by the commissioner, in consultation with the Department of Public Utility Control, shall offer for sale and sell the CO₂ allowances in the Connecticut Auction Account at least once per year.

(f)(4)(B) Except as provided by subparagraph (C) of this subdivision, by December 31 of each allocation year, 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.

As the Department is no doubt aware, specifics about the design and conduct of the auction are critical to successful adoption of the cap-and-trade regime entailing the auction of allowances. The specific structure of the auction, not addressed in the proposed regulation, should be the subject of rulemaking and its attendant public review

and scrutiny.² As discussed below, numerous very significant issues related to the design auction have not been addressed and should be.

1. Regional Market Participation. As the Department is aware, other states participating in RGGI are proposing to auction the allowances allocated to such states. This raises the issue whether Connecticut should participate in a regional auction and, if so, how to assure that a regional auction does not result in inequitable and/or discriminatory cost burdens being shifted to electric consumers within the State.

2. Integration of RGGI with overlapping federal level initiatives. The federal government is currently considering adoption at the national level of a cap-and-trade system for CO₂ emissions. While specific adjustments in Connecticut's program are difficult to define in advance of definitive action by the federal government, the Department should consider incorporation into the proposed regulation transitioning mechanisms in the event that a national program is enacted which overrides the RGGI program.

3. Additional Critical Design Mechanics Issues Needing to be Addressed.

Other very important design mechanics should be addressed now, which include the following:

- How to detect and control against the exercise of undue market power.
- How to define the eligibility of bidders in the auction. Should there be a pre-qualification process? Should qualified bidders be limited to generators and/or load serving entities operating within the State?

² CMEEC is mindful that CO₂ allowance auction design has been a subject of study through RGGI rulemaking development at the regional level. See, e.g., Charles Holt et al., *Auction Design for Selling CO₂ Emissions Allowances under the Regional Greenhouse Gas Initiative, Final Report* (October, 2007); Peter Cramton, *Comments on the RGGI Market Design* (Nov. 15, 2007). Other RGGI participating states have issued proposed regulations addressing some but not all of the critical issues regarding auction design. See, e.g., Massachusetts, 225 C.M.R. 13.00, CO₂ Budget Trading Program Auction Regulation; New York, 6 NYCRR Part 242 and 21 NYCRR Part 507.

- Whether to set a reserve price for the allowances and at what level.
- Should unsold or unused allowances be permissibly banked against future years.
- Should the auction clearing price be determined based on a “pay as bid” or “single clearing price” regime or some alternative.
- How frequent and with what period of advance sale should the auctions be conducted?

C. Other Matters for Comment.

1. Expanded Use of Offsets During Major System Contingencies. For example, the rule, consistent with the RGGI model rule, restricts the ability of generators subject to the rule to obtain offsets. Specifically, the proposed rule limits permissible offsets up to a cap – up to 3% for a “Stage One Trigger Event” and up to 5% for the first 3 years and 20% thereafter for two successive “Stage Two Trigger Events”. A “trigger event” occurs if the twelve month average price of allowances exceeds an inflation adjusted “trigger price”. The Stage One Trigger Event base price is \$7.00/ton and that for a Stage Two Trigger Event is \$10.00/ton). Proposed Regulation, (g)(5)(B).

Current planning for adoption of the regulation assumes, based on recent operating experience of the electric sector in Connecticut, that the level of allowances allocated to Connecticut matches or slightly exceeds likely future emissions from electric generators within the State during the first phase of application of the rule. However, that recent operating experience reflects no significant outages of the State’s substantial nuclear powered generation plant. If a significant outage were to occur in the future, the ability of Connecticut’s electric generation plants to comply with the RGGI rule could be severely compromised and/or the cost of allowances could increase dramatically in

excess of the trigger event price levels. If this contingency were to occur, the Department should consider increasing the level of permissible offsets from those specified in the proposed regulation.

2. Use of Auction Allowance Proceeds for Rate Relief in the Event of Major Contingency. The auction allowance proceeds are currently directed to a hierarchy of set-asides, with the majority designated for the development of energy efficiency projects. While the proposed regulation has various limited “relief valves” in the event of higher than anticipated allowance costs (e.g., one year compliance period extensions and expanded offsets if trigger events occur), the Department may also want to consider the use of the proceeds for relief to ratepayers directed to the State’s electric distribution systems, including the State’s municipal electric utilities, in proportion to their share of the State’s electric load. This change is not intended to undercut the thrust of the proposed regulation – to utilize the auction proceeds to increase the efficiency of energy use – but rather would provide an expanded “relief valve” to address adverse collateral consequences which could obtain from adoption of the rule.

3. Eligibility for the Customer-Side Distributed Resources Set-Aside. The proposed regulation provides for an allocation of allowances (three per cent) for Customer-Side Distributed Resources (“CSDRs”). The proposed regulation limits the use of this set-aside, however, to projects approved pursuant to Conn. Gen. Stat. §16-243 by the DPUC. Proposed Regulation, Section (f)(3)(F). CMEEC submits that resources equivalent to CSDRs exist or may be developed within municipal electric utility service areas which, because municipal electric utilities are not regulated by the Department of Public Utility Control (“DPUC”), may, therefore, not be approved by the DPUC under

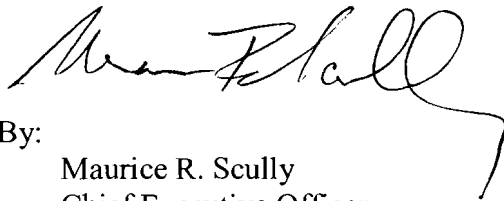
the cited statute. These resources should, nevertheless, not be excluded from qualification to receive benefits under the set-aside.

Conclusion:

CMEEC appreciates the opportunity afforded by the Department to provide comment on the proposed regulations.

Respectfully Submitted,

CONNECTICUT MUNICIPAL ELECTRIC ENERGY COOPERATIVE

A handwritten signature in black ink, appearing to read "Maurice R. Scully", with a long, sweeping tail extending to the right.

By:

Maurice R. Scully
Chief Executive Officer