

**New York’s Regional Greenhouse Gas Initiative
Operating Plan Amendment for 2016**

**Comments of Environmental Advocates of New York and the Pace Energy and Climate Center
January 6, 2017**

The Environmental Advocates of New York and the Pace Energy and Climate Center respectfully submit the following comments for consideration in response to the Draft New York’s Regional Greenhouse Gas Initiative (“RGGI”) Operating Plan Amendment for 2016 (“2016 Amendment”) presented at the stakeholder meeting on December 14th, 2016.

We appreciate the opportunity to comment on the 2016 Amendment. Our organizations are dedicated to the success of New York’s participation in RGGI. We are actively participating in the on-going RGGI Program Review, and we have participated in past stakeholder briefings regarding the use of RGGI proceeds in New York. Many of the comments and observations made here mirror comments submitted by some our organizations and others in May 2015 regarding the RGGI Operating Plan Amendment for 2015.¹

The proceeds raised by the auction of RGGI allowances are extremely important for the ratepayers of New York. NYSERDA’s most recent RGGI-Funded Programs Status Report estimates the expected lifetime total savings of all installed and pipeline projects to date to be over 11 million tons of CO₂-equivalent and nearly \$3.3 billion in customer bill savings.² NYSERDA’s success to date in expending RGGI proceeds to the benefit of New York’s ratepayers is laudable, and stakeholder engagement is vital for the continued timely, transparent, and efficient use of these funds.

Our comments are organized into three sections. First, we offer observations and recommendations to improve the stakeholder engagement process for the development of the RGGI Operating Plan. Second, we provide specific and generalized comments regarding funding allocations in the 2016 Amendment. Finally, we offer some observations of the 2016 Amendment’s revenue projections.

I. Stakeholder Engagement Process

Historically, NYSERDA has held an annual stakeholder meeting to solicit input on the expenditure of RGGI auction proceeds. The previous meeting was held on April 30, 2015 and covered a draft operating plan amendment for fiscal year 2015-2016 (FY15-16). This year, NYSERDA issued the 2016 Amendment via e-mail on December 8, 2016 and held a stakeholder briefing on December 14, 2016. We appreciate the opportunity to ask questions and provide feedback at the briefing, but we note that the meeting occurred nearly 20 months after the previous stakeholder briefing. Officials at the stakeholder meeting and at previous NYSERDA Board meetings have attributed the delay to complexities resulting from lower

¹ See [Comments of the Joint Stakeholders – May 22, 2015](#)

² See [New York’s Regional Greenhouse Gas Initiative-Funded Programs Status Report - Quarter Ending June 30, 2016](#)

than anticipated RGGI allowance proceeds and integrating with the state's new Clean Energy Fund ("CEF").

While we understand and accept the reasons for the delay, we want to underscore the importance of an open, transparent, and timely decision-making process regarding the use of RGGI proceeds. The 2016 Amendment provides funding levels for fiscal year 2016-2017 (FY16-17) and fiscal year 2017-2018 (FY17-18). At the time of the 2016 Amendment's issuance, FY16-17 was nearly 75% completed—rendering meaningful stakeholder input on the proposed \$174 million of funding allocations for FY16-17 impossible. Stakeholder engagement is critical for enhancing the effectiveness, quality, legitimacy, and accountability of NYSERDA's decision making. A prime example can be found with one of the largest allocations to a single project, outside of those appropriated in the state budget or standalone legislation, in the history of the RGGI operating plan—the \$25 million granted to the Brookhaven National Lab Ion Collider. To our knowledge, this project has not previously been presented to stakeholders, preventing the opportunity to weigh its merits against other worthy initiatives, like enhanced programs for low-to-moderate income ("LMI") consumers. Initiating the stakeholder engagement process in a timely manner is therefore paramount for these reasons. While the delay this year is reasonable, we implore NYSERDA to ensure such delays do not occur in the future.

In addition to timeliness, the stakeholder engagement process would benefit from other changes to increase transparency and stakeholder input. Specifically, we recommend that NYSERDA incorporate two additional steps in the stakeholder process before finalizing the operating plan.³ First, NYSERDA should develop a responsiveness summary to the comments submitted on the draft operating plan. Such a summary would explain the rationale for why suggested changes were accepted or rejected. The Public Service Commission's procedure for considering party comments in its Orders would be an appropriate model to replicate. Incorporating this procedure will greatly benefit all stakeholders and increase the transparency of the allocation of RGGI funds. Secondly, NYSERDA should publish a formal notice of each annual Operating Plan Amendment in the New York State Register in addition to providing notice through its current stakeholder list. This will help facilitate a broader stakeholder engagement process. We encourage NYSERDA to make these process changes for the 2016 Amendment and all future amendments.

Finally, NYSERDA indicated during the meeting that future stakeholder meetings will mirror this year's timeline with a draft operating plan released and stakeholder meeting held in December and a final budget adopted by the NYSERDA Board in January. NYSERDA maintains that this shift will better align with the fiscal calendar and the state budget cycle. We agree that this shift is preferable insofar that the draft plan may better anticipate the potential appropriation of funds in the State Budget than in previous years. However, we encourage NYSERDA to delay final approval of the operating plan amendment until the April Board meeting. This change would allow for the more extensive commenting process recommended above as well as allow NYSERDA and stakeholders to have a better picture of the New York State Budget, which must be adopted by April 1 of each year.

II. Funding allocations

The following comments address specific observations on the 2016 Amendment itself.

³ Both organizations submitting these comments made the same recommendations in [comments](#) submitted in May 2015 regarding the RGGI Operating Plan Amendment for 2015.

1. All auction proceeds should be used to reduce greenhouse gas (“GHG”) emissions in direct and measurable ways and should supplement and not supplant existing clean energy programs.

First, we are pleased to see the 2016 Amendment winds down RGGI funding for the Renewable Heat NY program, which is focused on a technology that may not reduce state GHG emissions on a net basis, and may actually work at cross-purposes to New York’s other air pollution goals.

Second, we are disappointed with the Executive’s and State Legislature’s decision to divert significant amounts of RGGI funding to purposes that predate RGGI entirely. For example, the 2016-17 New York State Budget directs \$23 million of RGGI funding to support clean energy tax credits that would otherwise be supported by the General Fund. We note the inclusion of an additional \$23 million in the FY17-18 operating plan for tax credits in advance of any proposals put forth by the Executive or Legislature and urge NYSERDA to not perpetuate this diversion by removing such transfers from the operating plan until credible proposals have been put forth by the Executive or Legislature.

Finally, the 2016 Amendment allocates a \$25 million annual transfer to the CEF for FY16-17 and FY17-18. It is unclear how these funds will be utilized once assigned to the CEF. We encourage NYSERDA to provide additional clarity in the 2016 Amendment that outlines the use of these funds.

2. Proceeds should be distributed in geographically equitable manner.

A large portion of funding allocations appear to be slated for Long Island centric programs including NY-Sun Long Island Incentives and the Long Island Power Authority (“LIPA”) Efficiency Services. We remain concerned about continued and ongoing carve-outs for Long Island centric programs within the RGGI Operating Plan. Many of these programs are the same as programs elsewhere in the state funded by other ratepayer mechanisms.

All ratepayers across the state contribute to RGGI funds via their energy purchases, and all rate payers should have an equal opportunity to benefit from RGGI-funded programs. Continued emphasis on Long Island focused programs in the RGGI Operating Plan is not fair to other customers in the state who are compelled to pay both renewable energy and energy efficiency surcharges as well as RGGI carbon allowance charges. Consistent with the REV effort, the LIPA should require the system operator to encourage energy efficiency and renewable energy deployment and establish funding mechanisms to advance these objectives.

3. Proceed allocation should ensure robust coverage of LMI and Environmental Justice communities.

While climate change affects everyone, it has a disproportionate impact on New York’s low-income residents, communities of color, immigrants, and other vulnerable communities. Air pollution exacerbates chronic health conditions, especially in environmental justice communities, triggering asthma attacks and other health problems, such as heat exhaustion and heatstroke. New York is already engaging in efforts to enable low-income residents to participate in, and enjoy the benefits of, clean energy programs, including resiliency, improved health, and bill savings. The state should prioritize investments in these front line communities at every opportunity, including through RGGI auction proceeds. The funds raised by RGGI present a significant opportunity to increase funding for renewable energy, energy efficiency, and pollution mitigation projects in communities hit hardest by the impacts of climate change.

We urge NYSERDA to collaborate with other agencies and outside experts (e.g. DEC, DOH, DOL) to identify communities that bear burdens of negative public health effects, environmental pollution, and impacts of climate change, and meet certain socioeconomic criteria, to be developed with input from stakeholders representing the communities likely to be identified. We further urge the Authority to conduct an equity analysis of RGGI and other state climate related programs regarding the specific needs of the identified low-income communities, with an end goal of developing measures to maximize reductions of both greenhouse gases and co-pollutants in those communities. The FY17-18 operating plan and subsequent operating plans should allocate RGGI proceeds in a manner that prioritizes front line, environmental justice, and low-to-moderate income communities, with at least 40% of the operating budget explicitly dedicated to projects that directly benefit the identified communities. The targeted percentage should be additional—that is, it should be targeted at new programs, or as extra funding for existing programs.

III. Funding assumptions

The 2016 Amendment likely overestimates future RGGI allowance prices. The document projects allowance prices of \$4.50 for the December 2016 and March 2017 auctions. However, the clearing price for the December 2016 auction was only \$3.55. This underestimation results in an approximately \$5.4 million incremental shortfall relative to projections for FY16-17. If the current trend holds, the March 2017 clearing price is likely to fall below the 2016 Amendment’s projections as well.

Further, the 2016 Amendment estimates allowance prices during FY17-18 will be \$7.00 based on modeling from the on-going RGGI Program Review. NYSERDA takes a conservative approach and uses results from the “2.5% low emissions case” that assumes a 2.5% cap decline and relatively cheaper to achieve emission reductions than baseline scenarios. Yet even this approach may overestimate future allowance prices. For example, the RGGI Program Review modeling has thus far assumed implementation of the Clean Power Plan, which would place upward pressure on RGGI allowance prices. With the recent election results, implementation of the Clean Power Plan is uncertain, which would remove the potential effect on RGGI allowance prices.

We do not highlight NYSERDA’s allowance projections to criticize their assumptions—as past experience has shown, it is notoriously difficult to predict future allowance prices. However, we do wish to underline the real risk of significantly overestimating auction proceeds. The FY16-17 budget already anticipates a nearly \$70 million shortfall of revenues over funding allocations that will be covered by current cash balances. Underestimated proceeds will only exacerbate this shortfall, and it is unclear how NYSERDA would address this scenario. Accordingly, we encourage NYSERDA to develop a contingency plan in the case of lower than anticipated auction proceeds as part of the 2016 Amendment as well as all future operating plans.

In the case of the 2016 Amendment, we recommend that any contingency plan should err on the side of utilizing existing cash balances to address unanticipated auction proceed shortfalls to the extent possible as opposed to program funding allocation cuts. As of March 31, 2016 the RGGI account had a cash balance of approximately \$267 million. NYSERDA should make every effort to fully allocate, encumber, and responsibly disburse these funds in a timelier manner to ensure that RGGI funds are actively being used for programs than benefit the residents of New York.