



January 25, 2010

VIA EMAIL: rggiprograms@nyserda.org

Mr. Francis J. Murray, Jr.
President and CEO, NYSERDA
17 Columbia Circle
Albany, NY 12203

Re: Revised RGGI Operating Plan

Dear Mr. Murray:

Pace Energy and Climate Center, Natural Resources Defense Council, and Environmental Advocates of New York appreciate this opportunity to comment on the New York State Energy Research and Development Authority's (NYSERDA) Revised Operating Plan (Plan) for the spending of proceeds from the Regional Greenhouse Gas Initiative (RGGI) auctions. The staff at both NYSERDA and the Department of Environmental Conservation (Staff) have clearly invested a great deal of time and energy into restructuring the Plan, and have done so under a dark cloud of difficult circumstances.

As you are aware, our organizations (along with many others) were strongly opposed to Governor Paterson's¹ decision last fall to sweep of \$90 million in RGGI proceeds into the General Fund as part of his Deficit Reduction Plan.² While we recognize the magnitude of New York's current fiscal crisis, this action is wholly inconsistent with one of the fundamental premises on which RGGI was crafted—that the revenues from the auction of carbon allowances should be invested in measures that (1) further reduce the State's greenhouse gas (GHG) emissions, (2) save New Yorkers money on their energy bills, and (3) further reduce the cost of the program for power plants by driving down demand for electricity via energy efficiency investments. Furthermore, it sets a dangerous precedent at both the state and federal levels, most recently reflected in the proposal by Vermont's governor to follow suit and sweep that state's RGGI revenues for budget relief.

In light of the numerous attacks the RGGI program has undergone in New York—including the aforementioned sweep, the recently settled Indeck lawsuit,³ and doubts over Governor Paterson's commitment to the program that surfaced in March 2009⁴—we see the revised Plan as a chance for a new beginning. And, inasmuch as the

¹ While the DRP was ultimately approved by both houses of the legislature, the sweep of RGGI auction revenues originated with the Executive.

² See Attachment 1, Coalition sign-on letter opposing the sweep of RGGI revenues, October 30, 2009.

³ *Indeck Corinth, L.P. v. David Paterson et al.*, New York State Supreme Court, Albany County, Index No. 5280-09.

⁴ <http://www.nytimes.com/2009/03/06/nyregion/06paterson.html>

proposed SFY 2010-2011 Executive Budget unveiled on January 19 did not include any additional sweeps of auction revenues, it appears that Governor Paterson has now backed up his statements of support for RGGI with corresponding wise policy decisions.

We are generally pleased that Staff has narrowed the focus of the Plan, thereby increasing the impact of the programs supported. The following are our specific comments on various components of the Plan.

Rapid Disbursement Critical

As far back as December 2008, NYSERDA illustrated its desire to move the RGGI revenues expeditiously with its Early Action Plan to invest funds from the first auction. This strategy was unfortunately thwarted by the Indeck lawsuit, which effectively stalled any spending of proceeds, and ultimately led to the sweep of the idle funds.

While it appears the numerous outstanding circumstances that have stifled efforts to move forward have been resolved, we strongly urge NYSERDA to approve the Plan and formally commit or encumber the funds for the various programs as rapidly as possible. Doing so will not only allow the State to finally begin to realize the environmental and economic benefits of the RGGI program, but will also reduce the likelihood that RGGI auction proceeds in the future will be spent in a manner that is completely unrelated to the fundamental premise of the RGGI program.

With this in mind, we urge Staff (to the extent practicable) to focus first on investing in the implementation of programs that require minimal lead time. Supporting the worthwhile components of the Plan that necessitate a greater degree of design is also important, but the number one priority from our perspective at this point is to “move the money” and fund those elements of the Plan that can be implemented swiftly.

Strong Support of Energy Efficiency

We strongly support the Plan’s retention of investments in energy efficiency across all sectors, accounting for a robust 40 percent of the overall three year budget. While the allocations have been reduced in many cases, Staff appears to have successfully retained a critical mass of funding for residential, commercial, and industrial efficiency work—proven to be the most cost-effective means of reducing GHG emissions in the near term. The RGGI proceeds will provide Staff with a unique tool to fill gaps in existing programs already supported by the SBC, Energy Efficiency Portfolio Standard (EEPS), and federal stimulus money. As future funding gaps for energy efficiency across all fuels are identified, we urge Staff to consider reallocating proceeds to capture those opportunities.

Opportunities for Clean Distributed Generation and Combined Heat and Power (CHP)

We are pleased to see that the Revised Operating Plan retains a number of opportunities for utilizing auction proceeds to support the installation of clean distributed generation (DG), and CHP in particular. The immediate environmental benefits of these technologies are well-documented, and RGGI can provide a key funding stream to expand their use in a number of areas with compromised air quality, particularly downstate.

Funding the replacement of oil and propane heating systems with clean DG and CHP is a prime example. The *Multifamily Performance Program* is currently funded by SBC funds, and RGGI proceeds can be used to reduce oil and propane energy use in multifamily buildings by providing incentives to upgrade or replace space and domestic water heating systems. Given that about one-third of the multifamily buildings in New York are heated with fossil fuels, this program provides an excellent opportunity for achieving cost-effective GHG reductions. In particular, we urge Staff in structuring these programs to incorporate incentives for the conversion of No. 6 fuel oil-fired boilers with CHP installations. Doing so would not only assist in meeting GHG reduction targets, but would also provide the co-benefits of total fuel conversion efficiency, reductions in net criteria pollutants that impact local air quality, contributions to disaster resilience (*i.e.* facilities of refuge),

reliability improvements, and savings from avoided or delayed investments in transmission and distribution infrastructure

We support including clean DG and high-efficiency CHP as elements of these programs, and are confident that if the full value of the technologies' co-benefits are incorporated into any cost-benefit analyses, such measures would justify funding. The availability of RGGI auction proceeds could be used to augment existing programs and enable conversion of inefficient, heavily-polluting fuel oil based units currently in use at hundreds of multifamily buildings, particularly in New York City. A recent study completed by Environmental Defense Fund includes an excellent GIS map that illustrates the magnitude of this problem, identifying almost 9,000 buildings that would be prime candidates for the aforementioned CHP replacements of No. 6 and No.4 oil burning boilers.⁵

Green Jobs—Green New York

We support the reshuffling of allocations by Staff to ensure that the programs mandated by the Green Jobs-Green New York (GJ-GNY) statute receive the appropriate funding, while avoiding any redundancy with the workforce training and residential efficiency allocations in the previous version of the Operating Plan. Achieving an effective transition to a 21st century clean energy economy will require not only investment in measures and technologies to reduce greenhouse gas emissions, but also supporting the programs vital to training a 21st century workforce. The allocations made in the Revised Plan will go a long way towards achieving this end.

Furthermore, the innovative financing mechanisms such as on-bill recovery included in GJ-GNY will help tap into potential energy savings that have to date been difficult to capture. And the revolving loan fund structure being pursued under GJ-GNY will allow for the leveraging of RGGI dollars with private sector investment, thereby enabling the state to stretch the funds further that otherwise would have been achieved through direct grants.

Environmental Justice

Our organizations strongly support efforts by Staff to both include environmental justice (EJ) groups in the RGGI Advisory Group process, and ensure EJ issues are adequately addressed in the Plan. The proposals included in the Plan must be thoroughly analyzed to ensure that a significant portion of funding helps address under-served communities, and that programs take into account the many adverse environmental effects that disproportionately impact minority and low-income populations.

For example, EJ issues often arise from the existence of low-cost housing next to industrial sites, and programs targeted at reducing emissions from commercial facilities will inevitably reduce emissions of particulate matter and other harmful co-pollutants of CO₂ in these communities. We urge Staff to explore such opportunities for investing RGGI proceeds in programs that help achieve the state's GHG reduction goals *and* result in improvements in local air quality in EJ communities.

Eliminate Carbon Capture and Sequestration Funding

The original Operating Plan included \$15 million allocated for Carbon Capture and Sequestration (CCS); the revised Plan proposes to retain \$9 million to fund CCS work to be spent over three years. We question the efficacy and impact of investing a relatively small amount of money—\$3 million per year—in a technology that remains unproven and undemonstrated anywhere in the western hemisphere. To date, the federal government has invested hundreds of millions of dollars in demonstration projects and CCS research and development

⁵ http://www.edf.org/documents/10085_EDF_Heating_Oil_Report.pdf
<http://www.edf.org/article.cfm?contentID=10068&redirect=dirtybuildings>

programs, largely in regions that are highly reliant on coal. By contrast, New York has no active coal mines within its borders, and coal accounts for barely 12 percent of the state's electrical generation. Furthermore, sponsors of the single New York proposal to construct a CCS power plant in Jamestown learned in December 2009 that they would not be receiving any of the U.S. DOE's Clean Coal Power Initiative funding for which they had applied.

Our objection to this component of the Plan is unrelated to whether or not CCS will play a part in national and global efforts to reduce the carbon intensity of our energy supply. Rather, this is a question of whether or not it is prudent to allocate the relatively finite RGGI funds for this purpose. Our position is that this \$9 million could be much more effectively utilized in one of the other program areas listed, such as energy efficiency and clean, renewable technologies, rather than unproven and extremely costly CCS efforts that would be better left to federal support. As stated in Pace's March 2009 comments on the draft Operating Plan:

RGGI auction revenues should be spent on programs that maximize impact. In the case of each proposed program, we urge NYSERDA to consider what impact the RGGI auction proceeds will have on the success of the program. In other words, will the additional spending make a difference in achieving meaningful reductions in CO₂ emissions? In some cases, the additional revenue from RGGI auction proceeds may be very small compared with the overall cost of the program, and it is difficult to measure any incremental impact of the expenditure.

Climate Smart Communities Support

We support the Plan's inclusion of the original funding level for the Climate Smart Communities Program at \$6.6 million. With this relatively modest sum, this program will help jumpstart efforts at the local level to address greenhouse gas emissions.

To date, 46 towns have signed on to the Climate Smart Communities pledge on the Department of Environmental Conservation's (DEC) website. After making that commitment, municipal officials must then begin to inventory and reduce their emissions. Building upon the efforts of DEC in this arena, these funds will enable municipalities that often lack the funds and/or expertise to craft and implement comprehensive GHG reducing programs. The enormity of the challenge presented by climate change requires progress at all levels of government, from international agreements right down to the individual town or village initiatives. This program will fill a vital need at the municipal level for supporting sound climate policy design and implementation, while also serving as a channel through which local officials can identify GHG reduction opportunities that may have otherwise been missed by state and federal officials.

Climate Research and Analysis

In August 2009 Governor Paterson signed Executive Order No. 24, establishing a Climate Action Plan and committing New York to a policy that will reduce economy-wide GHG emissions 80 percent by the year 2050, including a mid-term target of reducing emissions 25 percent by the year 2025. In order to identify policies and measures to achieve these ambitious goals, the state is currently in the process of drafting a Climate Action Plan, led by NYSERDA and DEC.

We support the Plan's commitment to this effort, as evidenced by only a modest reduction—from \$9 million to \$8 million—in the funding necessary to support research and analyses contributing to the Climate Action Plan. This Plan will be the foundation for all New York climate policy going forward. Furthermore, we recommend that NYSERDA consider similar modest yet highly-effective investments in such work with future auction proceeds as the need arises.

Conclusion

Pace Energy and Climate Center, Environmental Advocates of New York, and the Natural Resources Defense Council appreciate this opportunity to comment on the Plan, and look forward to continued collaboration with Staff to implement and revise the programs supported by RGGI auction proceeds in the future. Please contact us if you have any questions regarding our comments.

Very truly yours,

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Conservation Law Foundation * Conservation Services Group * Earthjustice *
EarthKind Solar * Environment America * Environmental Advocates of New York *
Environmental Defense Fund * Environment Northeast * National Wildlife Federation *
Natural Resources Defense Council * New York Interfaith Power & Light *
New York Public Interest Research Group *
New York Solar Energy Industries Association * Pace Energy and Climate Center *
Renewable Energy Long Island * Solar One * Starphire New Energy Technologies *
Sustainable South Bronx * Union of Concerned Scientists *
Western New York Climate Action Coalition *
Western New York Sustainable Energy Association * Working Families Party

October 30, 2009

RE: Governor Paterson's Proposed Raid of RGGI Monies

ATTN:

Senate Majority Conference Leader John Sampson
Senate Minority Leader Dean Skelos
Assembly Speaker Sheldon Silver
Assembly Minority Leader Brian Kolb

On October 15, 2009, Governor David Paterson released a deficit reduction plan to address New York State's estimated \$5 billion budget gap, including a proposal to sweep \$90 million in auction revenues from the Regional Greenhouse Gas Initiative (RGGI) into the State's general fund.

We strongly urge you to reject this proposed raid on RGGI funds when you return to Albany to engage in budget negotiations in order to address the State's deficit.

The Regional Greenhouse Gas Initiative is a 10-state plan that reduces climate-altering power plant pollution; it is the first of its kind in the nation. The program is designed to both reduce the emissions that cause global warming and save New Yorkers money on their heating and energy bills—but only if the proceeds generated by the auction of pollution permits under RGGI are invested wisely in energy efficiency and clean renewable energy, not swept for budget relief as the Governor has proposed.

Both houses of the New York State Legislature recently exhibited leadership on the wise use of RGGI proceeds when the Green Jobs-Green New York Act was passed. The Governor followed suit by signing the legislation into law at a recent ceremony in Syracuse, only to announce two days later that he planned to sweep the remainder of RGGI monies into the general fund, leaving the account empty and the programs it supports stalled until the summer of 2010. The proposal is particularly alarming because it contradicts repeated public statements by Governor Paterson reaffirming his

commitment to investing the money in the manner intended, both in comments to the media and in written statements to concerned groups.¹

Such a scenario is unacceptable. The relatively minor role this action will have on balancing the budget pales in comparison to the jobs, on-the-ground investments, and savings on energy bills that these resources would have otherwise generated for New Yorkers across the State. Taking energy conservation funds away from growing New York's clean energy economy is not the kind of leadership New York needs during a recession. Such actions hurt both consumers and the environment and contradict the Governor's own goals to decrease the State's overall energy use and diversify our energy mix.

Years of research found that the overall success of the RGGI program hinges on how participating states invest auction proceeds. For instance, economic modeling conducted by the Massachusetts Division of Energy Resources for the RGGI states shows that investing in energy efficiency will reduce household electric bills in the Northeast by up to \$109 annually. The Governor's proposal flies in the face of these findings, as well as the Memorandum of Understanding signed by all 10 RGGI governors, which commits states to invest auction revenues in programs that will further reduce emissions and minimize the cost of the program for both consumers and power plants.²

Furthermore, the Governor's proposal would violate state regulations that govern how RGGI revenue can be spent. New York State Energy Research & Development Authority (NYSERDA) regulations explicitly state what auction revenue may be spent on, including a range of measures to reduce carbon dioxide emissions through efficiency and renewable energy investments—not budget relief.³ The Legislature should carefully consider the implications NYSEERDA regulations have for the Governor's proposed sweep before coming to any agreement.

To use RGGI auction proceeds for budget relief is a betrayal of the fundamental premise upon which the program is based—proceeds from selling carbon allowances are to be invested to further reduce the State's global warming emissions while creating green jobs, spurring innovation, and saving businesses and households money on their energy bills. If approved, Governor Paterson's proposal would set a dangerous precedent for

¹ "I want to assure you that auction proceeds will be used to support investments and projects that reduce carbon dioxide emissions, and that the investment and supported projects will be developed through an open and transparent process." Response letter from Deputy Secretary for Energy Paul DeCotis to the Center for Working Families, 12/26/08.

² RGGI Memorandum of Understanding, 2005 http://rggi.org/docs/mou_final_12_20_05.pdf

³ NYSEERDA NYCRR Part 507.4 (d): "The proceeds of the CO₂ Allowance Auctions will be used by the Authority to promote and implement programs for energy efficiency, renewable or non-carbon emitting technologies, and innovative carbon emissions abatement technologies with significant carbon reduction potential, and for reasonable administrative costs incurred by the Authority in undertaking the activities described in Part 507 and for administrative costs, auction design and support costs, and program design and support costs associated with the CO₂ Budget Trading Program, whenever incurred."

other RGGI states and send the wrong message to leaders in Washington, D.C. where federal plans to reduce global warming pollution are being debated.

The undersigned organizations call on the New York State Senate and Assembly to restore New York's status as a national leader on climate policy by rejecting the Governor's irresponsible proposal to raid RGGI monies.

We will reach out to you soon to further discuss this issue. Please don't hesitate to contact any one of the undersigned groups below if you have any questions regarding our position. Thank you.

Sincerely,

Dave Palmer
Interim Director
Center for Working Families

Adrienne Esposito
Executive Director
Citizens Campaign for the Environment

Seth Kaplan
Vice President for Climate Advocacy
Conservation Law Foundation

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CC:

Governor David A. Paterson
Larry Schwartz, Secretary to the Governor
Thomas Congdon, Deputy Secretary for Energy
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Peter Iwanowicz, Assistant Secretary for the Environment
Frank Murray, President/CEO NYSERDA
Pete Grannis, DEC Commissioner
Garry Brown, Chairman Public Service Commission
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Assembly Environmental Conservation Committee Chair Robert K. Sweeney
Assembly Energy Committee Chair Kevin Cahill
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