



March 11, 2008

To: Deborah Rabin, Maryland Department of the Environment

CC: Diane Franks, Maryland Department of the Environment

Regarding: BCSE Comments on Maryland Carbon Dioxide Budget Trading Program

Submitted Via Email to: drabin@mde.state.md.us
dfranks@mde.state.md.us

On behalf of the members of the Business Council for Sustainable Energy (the Council), we appreciate the opportunity to provide comments on the proposed regulations for the Maryland CO₂ Budget Trading Program (COMAR 26.09).

The Council would like to offer a general comment: The Council recognizes that Maryland has chosen to make clean energy technology deployment central to program design of the Maryland CO₂ Budget Trading Program through specific, dedicated use of both allowance set-asides and auction revenues. On behalf of the Council's members, we strongly commend Maryland's decision to establish the Consumer Energy Efficiency Account to support energy efficiency, directly mitigate electricity ratepayer impacts, promote renewable or non-carbon emitting energy technologies, and stimulate or reward investment in the development of innovative carbon emissions abatement technologies with significant carbon reduction potential. Further, we commend the decision to establish a Voluntary Renewable Set-Aside Account; however, we find that over the long term, a set-aside of less than one percent of total allowances is insufficient to cover voluntary renewable energy market purchases in Maryland and that the state should consider increasing this set-aside to meet market demand.

Introduction

The Business Council for Sustainable Energy is a broad-based coalition of energy efficiency, natural gas and renewable energy industries that advocates energy and environmental policies that promote markets for clean, efficient and sustainable energy products and services. The Council's coalition includes power developers, equipment manufacturers, independent generators, green power marketers, retailers, and gas and electric utilities, as well as several of the primary trade associations in these sectors.

The Council and its members have advised legislators and regulators on the development of domestic and international clean energy, clean air and climate change initiatives for over a decade. The Council's coalition represents available technologies that offer vastly deployable solutions to energy challenges and global climate change.

The Council continues to participate actively in the RGGI stakeholder process and has met with many working group members and agency heads during the past several years. Our members view RGGI as an important vehicle to reduce greenhouse gas emissions and create a workable national model to address climate change.

Please be aware that not all Council members work on, or take positions on, RGGI.

Dedicated Use of Auction Proceeds to Benefit Energy Efficiency, Renewable Energy and Clean Generation

Should Maryland create an advisory stakeholder group to guide the use of auction revenue – an approach being adopted in Massachusetts and New York and under consideration in other RGGI states – the Council respectfully requests to be considered for participation in this advisory group of stakeholders for the Consumer Energy Efficiency Account on how to best utilize auction revenue funds to support energy efficiency, directly mitigate electricity ratepayer impacts, promote renewable or non-carbon emitting energy technologies, and stimulate or reward investment in the development of innovative carbon emissions abatement technologies with significant carbon reduction potential.

Although Maryland has not chosen to use an output-based allocation methodology, which would have strongly promoted clean and efficient electric power generation, the auction revenue provision has significant potential to focus funding toward clean energy activities and advance a more sustainable regional energy future. It is imperative that actions taken by MDE vis-à-vis the distribution of auction revenues provide as much certainty as possible to send clear and consistent signals to the clean energy market. The Council recommends that MDE develop a transparent decision-making process on the distribution of their respective auction proceeds as soon as possible to assist clean energy project developers in decision-making. We specifically call upon MDE to further clarify the goals and objectives of the Consumer Energy Efficiency Account within COMAR 26.09, and the process by which the Consumer Energy Efficiency Account will decide upon program funding requirements and distribution of auction proceeds.

Maryland has several incentives to encourage clean energy and we commend Maryland on its current renewable and efficiency programs, recognizing the substantial potential for growth of these programs with additional funding from auction revenues. The Council looks forward to working with each of these programs to identify specific incentives and programs that should be expanded through use of auction revenue, as well as the potential development of new programs.

Even with Maryland's admirable programs, there is still more that can be done to promote clean, cost-effective renewable and energy efficiency projects in Maryland. Specific, transparent and dedicated use of Maryland's RGGI auction proceeds can be used to achieve these objectives. The Council offers the following list of criteria to ensure that auction revenue is directed to provide the greatest benefit. These criteria include:

1. Reduce the carbon intensity and promote the efficiency of electric generation
2. Reduce energy demand
3. Provide benefit to the state's economy
4. Promote private investment through partial funding of investments
5. Enhance complementary energy program benefits
6. Help establish new energy programs
7. Increase the market potential of new technologies

Finally, consistency and transparency in auction design will be essential to conducting successful auctions. The Council commends Maryland for including clear signals in COMAR 26.09.02.03 (Sec. (3)(b) pp. 31-32) for RGGI stakeholders by establishing a common pattern for setting auction dates. We look forward to learning more details on Maryland's proposed auction in the coming weeks.

Retirement of Allowances for Renewable Energy Purchases

The Council commends MDE for inclusion of a voluntary renewable set-aside provision – the Voluntary Renewable Set-Aside Account – under the Maryland CO₂ Budget Trading Program (COMAR 26.09.02.03, Section C(2)(c). p. 31). Beyond increasing the use of renewables within utilities' portfolios under the state's RPS, the customer-driven voluntary renewables market is an important catalyst for renewable energy

development in Maryland and the Voluntary Renewable Set-Aside provision will increase compatibility between the cap-and-trade program and the voluntary market.

To encourage further growth in Maryland's voluntary market, the Council recommends that the credits retired through the Voluntary Renewable Set-Aside Account grow in proportion to the size of Maryland's voluntary market, rather than be capped at a maximum of 350,000 allowances (less than one percent of CO₂ allowances) to be retired per year. As previously suggested by the Renewable Energy Marketing Association in comments to Secretary Wilson in November 2007, a sound approach to managing the voluntary renewable account would be to start with an initial allocation of allowances and subsequently true-up the account in the following year, based on actual sales. This will ensure that Maryland customers who purchase renewable energy through the voluntary market are indeed receiving the environmental benefits they have sought to buy. Further, generation from renewables and combined heat and power via the customer-driven voluntary market benefits state economic interests and all ratepayers, as capital costs for the additional generation are borne by the customer.

Lastly, to provide further clarity in the proposed regulations, the Council recommends that MDE include a definition for "renewable energy attribute credit" within the General Administration Provisions, Section 26.09.01.02.

Offsets

The Council strongly encourages a broader use of offsets within RGGI to provide compliance flexibility, lower compliance costs and promote technology innovation and deployment.¹ We encourage Maryland and other RGGI states to work with RGGI stakeholders to develop expanded eligible offset categories that go beyond projects that either capture and destroy landfill methane, avoid sulfur hexafluoride emissions, sequester carbon through afforestation, provide end-use energy efficiency, or avoid methane emissions from agricultural management operations. The Council commends Maryland for supporting the future addition of two new offset categories: 1) carbon sequestration through salt marsh restoration and conservation, and 2) carbon sequestration through the creation or enhancement of urban forests. A strengthened and expanded offset program will have a secondary benefit by allowing non-capped sectors to participate in creating additional reductions beyond levels set by RGGI Member States. The Council looks forward to working with Maryland and other RGGI states to design expanded offset program categories that will evolve over time to capture significant emissions reductions beyond RGGI's current offset categories.

Harmonization With a Mandatory Federal Greenhouse Gas Program

The RGGI regional model will play a significant role in the development of a federal greenhouse gas program. As such, the Council encourages Maryland and all other RGGI states to develop clear and consistent provisions in their state RGGI rules to transition to a national program.² The Council calls for additional clarity in COMAR 26.09 on how the Maryland CO₂ Budget Trading Program will harmonize with an eventual federal greenhouse gas program.

Conclusion

We appreciate the opportunity to share our perspectives with you. Again, should MDE create an advisory stakeholder group to guide the use of auction revenue for the Consumer Energy Efficiency Account, we respectfully request to be considered for participation in this advisory group.

¹ Please see the attached paper for a more thorough discussion of the Council's position on offsets: *Recommendations for a Federal Greenhouse Gas Offset Program*, BCSE, September 2007, also available at: http://www.bcse.org/publications/press_releases/BCSE_Offset_Principles_final_9_5_07.pdf.

² For example, see recommendations from Public Service Enterprise Group (PSEG) as part of the RGGI Draft Model Rule stakeholder comment process at <http://www.rggi.org/docs/pseg.pdf>, p. 4. Also see New Jersey's legislation on implementing RGGI, which requires "substantial comparability" between the New Jersey program and an eventual federal greenhouse gas program, available at: http://www.njleg.state.nj.us/2006/Bills/AL07/340_PDF, Sec. 1, p. 2, and Sec. 10, pp. 10-11.

We thank you for your consideration of these recommendations and we look forward to continued collaboration with the Maryland Department of the Environment and other agencies and programs that will ultimately implement the renewable energy, energy efficiency and clean generation programs of the MD RGGI Rule. If you have any questions, please feel free to contact me at (202) 785-0507 or via email at ljacobson@bcse.org.

Sincerely,

A handwritten signature in cursive script that reads "Lisa Jacobson".

Lisa Jacobson
Executive Director

CC: Diane Franks, Maryland Department of the Environment