



# The Business Council For Sustainable Energy

*An Energy Agenda for the 21<sup>st</sup> Century*

February 1, 2007

To: New York State Department of Environmental Conservation

Regarding: BCSE Comments on New York Pre-Proposal for Draft RGGI Rule

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The Business Council for Sustainable Energy (BCSE) is pleased to provide the following comments on the New York pre-proposal for its draft state rule for the Regional Greenhouse Gas Initiative (RGGI). The pre-proposal draft rule specifies that 100 percent of the New York allowances will be auctioned for the benefit of the Public Benefit Set-Aside and that auction proceeds are to be used for "energy efficiency and clean energy technology purposes," defined to mean the "promotion of energy efficiency measures, promotion of renewable or non-carbon-emitting energy technologies, and stimulation or reward of investment in the development of innovative carbon emissions abatement technologies with significant carbon reduction potential." While the Council has not taken a position on the auction approach, the Council strongly supports the central role that New York is envisioning for clean energy and energy efficiency in implementation of its RGGI emissions reduction targets. The following comments provide specific recommendations on how this can be most effectively achieved.

## **Background**

The Council was created in 1992 by companies in the energy efficiency, renewable energy, natural gas, electric utility and independent power industries. Our membership has a broad base and includes companies such as NiSource, PG&E, PPM Energy, PSEG, Plug Power, Sempra Energy, Brookfield Power, Enel North America, Inc., Sun Edison LLC and American Standard/Trane as well as industry trade associations representing the wind, solar, hydropower, energy efficiency, natural gas and insulation industries. The Council promotes public policies that reduce the environmental footprint of energy production and use, while encouraging economic growth and energy independence.

The Council has taken an active role in the RGGI process and has been working with RGGI leaders to recommend ways to effectively implement the Regional Greenhouse Gas Initiative's cap-and trade program (RGGI) and how to direct its Public Benefit Set-Aside resources. The Council has held several issue forums with those involved in RGGI over the past few months, including an Issue Forum in New York City on October 3, 2006 focused on using the RGGI Public Benefit Set-Aside to drive clean energy investments. Our members view RGGI as an important vehicle to reduce greenhouse gas emissions and create a workable national model to address climate change.

Our recommendations to New York have focused on the incorporation of clean energy generation and energy efficiency into its RGGI implementation plan. Specifically, we have recommended that New York's draft RGGI rule include:

1. Output-based allowance allocation policy, should allowances be distributed to generators under New York's RGGI program
2. Expansion of the minimum 25 percent Public Benefit Set-Aside program
3. Designation of New York's Public Benefit Set-Aside resources to energy efficiency and clean generation, such as renewable energy and combined heat and power (CHP)

The New York "pre-proposal" is very consistent with these recommendations. The proposed 100 percent allocation to the Public Benefit program will create a large funding pool that can be used to promote carbon dioxide emissions reductions and reduce program costs through the promotion of clean energy and energy efficiency resources. In addition, the increased state and regional power capacity that can result from the combination of demand efficiency and new clean generation under this program will help prevent leakage and reduce pricing pressures caused by inefficient natural gas usage by the power sector. The Council strongly supports this focus on clean energy and energy efficiency resources.

To ensure that the Public Benefit program resources most effectively support project development and financing, allowance value under the program should be granted as directly and simply as possible to clean energy generators and investors in energy efficiency, based on megawatt hours generated or reduced consumption. *The Council offers the following recommendations for the application of New York's Public Benefit program resources.*

### **Expansion of Existing NYSERDA Programs**

The Council would like to commend NYSERDA on its current programs for renewable energy and energy efficiency. NYSERDA's significant and effective portfolio demonstrates New York's commitment to clean energy and environmental stewardship. The Council offers several recommendations for the improvement and extension of these programs through RGGI Public Benefit program resources. Using program funding to enhance effective programs is a simple and efficient approach that will result in more clean energy and energy efficiency projects in the state.

To boost energy efficiency and renewable energy development, the Council suggests channeling Public Benefit program funds into NYSERDA's Energy \$mart Programs. NYSERDA's \$mart Equipment Choices Program, Assisted Home Performance Grants and Energy \$mart New Construction Program all provide financial assistance to owners or contractors who install energy efficiency measures. The Council recommends increased funding of these programs to spur further energy efficiency improvements and expansion of these programs to include a variety of CHP technologies.

The Council would also recommend that New York use its Public Benefit program funds to help implement an energy efficiency portfolio standard (EPS). Although New York's Renewable Portfolio Standard (RPS) requires a large percentage of generation from renewables, CHP systems are only allowed to participate if they are burning biomass or biofuel. Our members strongly encourage all of the RGGI states to implement an efficiency portfolio standard (EPS) as a separate class or tier from the main RPS. In New York, this would be accomplished by creating a third tier solely for energy efficiency projects, both end use and supply side (such as CHP). States with current EPS such as Connecticut or Pennsylvania require between 4 to 10 percent of

generation to come from energy efficiency. With New York's RPS target at 25 percent, adding an EPS component could make one third of total generation in New York come from clean generation or efficiency resources.

Another area that would benefit from further funding is the state's building code training and enforcement program. Code compliance is often uneven and investments in enforcement and training enhance overall compliance. Although codes may require more efficient building techniques, insulation, appliances, and lighting efficiency, such as daylighting, among other actions, these codes are only effective if they are understood and implemented. For example, states like California work closely with industry on daylighting mandates in commercial buildings to substantially reduce energy consumption and greenhouse gas emissions. We recommend that funding be directed to the State Division of Code Enforcement and Administration, or a non-profit such as the Building Codes Assistance Project or the Northeast Energy Efficiency Partnership to administer training.

BCSE members also recommend more funding going towards general outreach and education regarding energy efficiency and renewables. If educated about the environmental benefits and potential financial opportunities associated with clean energy and energy efficiency, more people would be willing to undertake these projects. The Council also believes that owners or contractors of larger buildings, in both existing and new construction, should be educated about and then required to assess the feasibility of self-generation.

### **Adopt "Beyond Code" Building Standards**

The Council recommends that New York and other RGGI states adopt a "beyond code" standard for state funded buildings, including schools, similar to a requirement recently implemented on the federal level. This would be based on the December 2006 DOE energy standard for new federal commercial and residential buildings that adopts by reference ASHRAE 90.1-2004 for commercial buildings and high-rise residential buildings, and the 2004 IECC for low-rise residential buildings. The standard further directs federal agencies to exceed these standards by 30 percent or more, if it is life-cycle cost effective.

### **CHP Incentives and Supply-Side Efficiency Measures**

New York's main source of funding for CHP is through NYSEERDA's distributed generation CHP Demonstration Program. However, this program is oversubscribed and could benefit from Public Benefit program funding. The Council recommends directing funding toward the incremental investment in systems that maximize energy efficiency. This might include financial support for the addition of heat recovery components or other equipment that enable a system to achieve the highest efficiency rates.

The Council also believes a technology verification program aimed at private investors should be created. A verification program administered by NYSEERDA in combination with their CHP Demonstration Program could provide a "technology guarantee." This would mitigate the technology risk that can deter private financing of CHP projects and, thus, increase the number of projects NYSEERDA's CHP program can support.

In addition, to achieve effective implementation of RGGI, the New York Department of Environmental Conservation should work with the Public Service Commission and other stakeholders to pursue "decoupling" legislation. When utilities make their profit from the amount of energy they sell (electricity or gas), it is difficult for these utilities to support energy-efficiency programs that may impact their profits. By understanding this conflict and working with utilities to develop policies and measures that respond to

shareholders while separating the sale of BTUs from profits, New York and its utilities will be able to advance energy-efficiency programs together.

### **Expanding Renewable Energy in New York**

To increase renewable energy projects in New York, allowance value should be granted to renewable energy generators in a direct and consistent manner. Further, to maximize effectiveness, Public Benefit program funds should support and expand existing programs that have a proven track record in supporting renewable energy projects. Such programs include the state's RPS and clean power purchasing program.

Specifically, Public Benefit program resources should be used to fill gaps in funding that occur for the Customer-Sited tier of NY's RPS. NY's Customer-Sited Tier currently provides funding to fuel cells, photovoltaics, wind turbines and methane digesters that began operation on or after January 1, 2003. It is the Council's understanding that financial support for the Customer-Sited Tier is moving out of New York's SBC budget and into its RPS budget, which results in a significant shortfall. The Council wholeheartedly recommends that funding for the Customer-Sited Tier be restored and the RGGI Public Benefit program provides a potential source of funds to accomplish this.

Further, Public Benefit program funds could be targeted to provide stability for incentives for renewable energy generation, such as the federal renewable energy Production Tax Credit (PTC). The PTC receives short-term renewals that result in uncertain project financing. Using Public Benefit program funds to smooth out the cyclical renewable energy development process would send a clear and dramatic positive signal to investors and result in more projects in the ground in New York.

Finally, Public Benefit program funds could be used to review and enhance complimentary energy policies such as New York's net metering rules, RPS, renewable credit discrepancies, and ISO policies that support integration of renewable energy.

### **Clean Generation Production Incentives**

Another vehicle to support clean energy projects in New York is a production incentive program funded with Public Benefit Program resources. Production incentives could either be given through cash from auction proceeds or may come through direct allowance allocations from the Public Benefit program to qualifying facilities based on their generation or energy efficiency benefits (reduced consumption). Such payments or allowance transfers are direct methods of driving clean energy and energy efficiency and are simpler than many other rate-related initiatives that have been used in the past. However, with limited Public Benefit program resources, the Council encourages New York to focus on getting projects in the ground and to avoid heavy administration costs that may be involved with establishing new programs.

### **Harmonization With a Mandatory National Program**

The RGGI regional model will play a significant role in the development of a federal greenhouse gas program. As such, the Council encourages New York and all other RGGI states to develop clear and consistent provisions in their state plans to transition to a national program.<sup>1</sup>

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<sup>1</sup> 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.

## Summary

As New York prepares its draft RGGI state rule, the BCSE would like to emphasize that increased use of energy efficiency and renewable resources will be critical to RGGI's success -- reducing carbon emissions, lowering compliance costs and electricity rates for consumers and reducing leakage.

New York's pre-proposal appropriately focuses on clean energy and energy efficiency as primary solutions to reduce the state's carbon emissions. We support the pre-proposal's specific allocation of its Public Benefit program resources to clean energy technologies and energy efficiency and offer specific recommendations on where to direct these resources. Should New York decide to allocate allowances to generators under New York's RGGI rule, we urge that they be distributed to generators and efficiency developers based on energy output rather than on heat input or historic emissions. This can most effectively be achieved through an output-based allocation policy.

Thank you for the opportunity to provide comments on New York's RGGI pre-proposal. If you have any questions or comments please feel free to contact me at the Council's offices (202-785-0507) or via email at [ljacobson@bcse.org](mailto:ljacobson@bcse.org).

Sincerely,

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

Lisa Jacobson  
Executive Director