September 28, 2018

BY ELECTRONIC MAIL

Valerie Gray
DNREC – Division of Air Quality
Department of Natural Resources and Environmental Control
100 W. Water Street, Suite 6A
Dover, DE 19904

RE: *Proposed Amendments to 7 DE Admin. C. §1147*
RGGI CO_2 Budget Trading Program

Dear Ms. Gray:

These comments are offered in response to the proposed amendments to Delaware's CO_2 Budget Trading Program published in the August issue of the Delaware Register of Regulations. The proposed amendments implement changes approved by the nine states participating in the Regional Greenhouse Gas Initiative ("RGGI"), and require electricity generators in Delaware to further reduce CO_2 emissions by an additional 30% by 2030. As policymakers, we believe that regulatory initiatives adopted by the State of Delaware should achieve benefits that outweigh costs and outcomes that are consistent with the regulation's intended purpose. Our review of RGGI and the proposed amendments to Regulation 1147 lead us to conclude that mandating additional CO_2 reductions from the electricity generating sector is neither warranted nor necessary at this time. Delaware has already far surpassed the targeted 10% reduction in CO_2 emissions established by the General Assembly when it authorized participation in RGGI.[1] We believe that mandating further reductions will place an unnecessary cost on ratepayers and reduce the economic competitiveness of Delaware's in-state generators in favor of more carbon intensive generation from out-of-state.

Electricity generators in Delaware have paid more than $100 million to purchase CO_2 allowances since Delaware joined RGGI. The added cost of allowances increases the wholesale "offer price" of Delaware generators selling into the regional energy market, and ultimately the retail cost paid by electric ratepayers. While these added costs have produced auction proceeds to fund Sustainable Energy Utility ("SEU") and DNREC energy efficiency, weatherization and bill assistance programs, we do not believe these costs can be shown to have produced any significant reductions in emissions beyond those electricity generators created in response to market forces and economic influences.

Delaware's participation in RGGI has coincided with a dramatic transformation of the energy industry from coal to "cleaner" and less expensive natural gas. When Delaware joined RGGI, coal accounted for 2/3 of the state's net generation; today a single remaining coal plant accounts for less than 5% of Delaware's in-state generation. During this same time period, natural gas-fired generation rose dramatically, increasing from less 20% of the state's net generation in 2008 to more than 90% by 2017. The emissions reductions associated the energy sector's transition to natural gas were already occurring when RGGI first went into effect. According to information from the United States Energy Information Administration ("EIA"), Delaware CO_2 emissions from coal generation fell from 5.8 million metric tons in 2007 to 3.2 million metric tons in 2009. The downward trajectory of coal-based CO_2 emissions accelerated rapidly after 2009, with emissions falling to just 700,000 metric tons by 2015, the last year for which the EIA published data.

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[11] See 7 *Del. C.* §6043(a)(8) adopted through passage of Senate Bill 263 of 144th General Assembly in 2008.

As a result of market driven fuel switching to natural gas, Delaware's total electric generation-related CO_2 emissions each the past 10 years have been substantially less than the initial emissions cap set forth in the RGGI enabling legislation.[2] In fact, in-state generators have been so successful in reducing emissions that Delaware achieved by 2017 both the 2025 goal of the Paris Agreement and the 2030 goal of the now-stayed EPA Clean Power Plan ("CPP"). While emissions from electricity generators are now less than half of the initial RGGI cap, vehicle and transportation sector emissions, which have remained remarkably static for the past 25 years,[3] have been the largest source of state-based CO_2 emissions since 2009, the first RGGI compliance year. Consequently, we believe the in-state businesses that generate electricity in Delaware have more than done their part to reduce carbon emissions. Mandating that these businesses achieve an additional 30% reduction by 2030 will impose substantially higher costs to achieve incrementally smaller gains.

In addition, we have a real concern that cost estimates associated with the proposed amendments have not been accurately assessed. Estimates prepared for RGGI, Inc., show that implementing the proposed amendments to Regulation 1147 will cause CO_2 allowance prices to increase by 300% to 600% by 2030, from the current price of approximately $4/ton to between $12.50/ton and $24/ton. These increased costs become a part of wholesale energy costs and ultimately flow to electric ratepayers. The analysis for RGGI, Inc., acknowledges that higher allowance costs increase wholesale energy prices, but contends that such higher costs are offset by investments in energy efficiency programs that lower end prices. A critical assumption in the analysis, however, is that 70% of RGGI auction proceeds are in fact re-invested in efficiency programs. That assumption has not proven to be true for Delaware. Delaware directs 65% of its RGGI proceeds to the SEU, which has a substantial cash reserve of unspent RGGI proceeds. SEU and DNREC administrative costs further reduce the amount of auction proceeds that are actually re-invested in programs. The key assumption upon which DNREC has based its cost impact assessment in the Regulatory Impact Analysis issued in connection with the proposed amendments to Regulation 1147 is, therefore, incorrect and Delaware should not move forward with any changes to the RGGI program until an accurate, comprehensive assessment of cost impacts is prepared.

We also have significant concerns with the affect the proposed changes to Regulation 1147 will have on Delaware's electricity generators. Increasing the cost of emissions allowances makes Delaware generators less competitive within the regional energy market managed by PJM Interconnection. Delaware is in an energy constrained area of PJM and, as a net importer of electricity, should seek to preserve in-state sources of reliable baseload generation. Requiring Delaware-based electricity generators to acquire more and higher priced CO_2 allowances places our in-state generators at an unnecessary competitive disadvantage relative to electricity produced by generators in non-RGGI states that also sell into the PJM market.[4] Placing Delaware businesses in an unfavorable economic position is not an appropriate regulatory outcome in our opinion, particularly where electricity prices are involved, which are already higher in Delaware relative to other states in our region that do not participate in RGGI.

The policy goals set by the General Assembly when the RGGI-enabling legislation was enacted have been achieved and far exceeded. Instead of requiring further emissions reductions based on mandates instead of the market forces, we believe Delaware should instead follow the EPA's promulgation of the Affordable Clean Energy Rule ("ACE"), the replacement for the CPP, and adopt a flexible plan to achieve further emissions reductions in a cost-neutral manner across all sectors.

[2] Section 6043(a)(9) recites the initial Delaware emissions cap of 7,559,787 short tons of CO_2 set forth in the RGGI enabling Memorandum of Understanding.

[33] According to information published by the EIA, transportation sector CO_2 emissions were 4.5 million metric tons in 1990 and 4.4 million metric tons in 2015, ranging between a high of 5.2 million metric tons in years 2005-2007 and a low of 4.1 million metric tons in years, 2011 and 2013.

[4] Delaware, Maryland and New Jersey (which is scheduled to rejoin RGGI) are the only RGGI states within PJM. The other RGGI participating states are part of other regional grids.

Respectfully,

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