

TO: Robert Sydney, Massachusetts Division of Energy Resources
Transmitted via email to Robert.Sydney@state.ma.us

cc: Nicholas Bianco, Massachusetts Department of Environmental Protection

FROM: Northeast Regional Greenhouse Gas Coalition¹

DATE: September 24, 2007

RE: **Comments on Proposed RGGI Regulation**

Introduction

This memo provides the Northeast Regional Greenhouse Gas Coalition's (GHG Coalition) comments on Massachusetts Division of Energy Resources' (MA DOER) proposed RGGI auction regulation (225 CMR 13.00).

The GHG Coalition members have participated as official stakeholders to the RGGI process since its inception, participating in every RGGI meeting and workshop and submitting consensus recommendations throughout the entire process. See www.ghgcoalition.com/resources for comments submitted to the RGGI process to date.

The GHG Coalition believes that programs to address climate change should be national in scope. The objective of the GHG Coalition throughout the RGGI process has been to provide recommendations so that RGGI could serve as a model for a national program that would have a reasonable likelihood of adoption. Thus, it is essential that the RGGI implementing rules avoid potential parochial barriers and instead incorporate program elements that can be easily implemented at the national scale. In addition, the GHG Coalition strongly contends that when a mandatory national climate change program is implemented, the RGGI program must be superseded with a smooth transition for RGGI affected sources and related programs. The regulatory elements of the RGGI program (including implementing regulations at the state level) must be superseded by the national regulatory program so as not to have redundant and possibly conflicting programs.

¹ The GHG Coalition members are BP America, Inc.; Conectiv Energy; Consolidated Edison, Inc.; Constellation Energy; Dominion Energy New England; Public Service Enterprise Group, Inc.; and Waste Management, Inc.

Massachusetts is the first state to propose RGGI auction regulations, which means that if a regional auction is not developed in a timely fashion, Massachusetts could hold the first RGGI allowance auction in 2008. The results of the Massachusetts auction could have significant impacts on the RGGI program. The GHG Coalition accordingly encourages Massachusetts to seriously consider pilot auctions with RGGI affected sources participating prior to executing the first “live” RGGI auction. Furthermore, the GHG Coalition encourages Massachusetts to hold its first auction as early in 2008 as feasible to aid in price discovery for 2009 RGGI allowances. These comments focus several of the main areas of the proposed regulation.

Auction Advisory Committee

The Auction Advisory Committee, while a good concept, is under the exclusive control of the Secretary of the Executive Office of Energy and Environmental Affairs. In fact, two of the four members of the Committee fall under the auspices of EOEEA. As a result, the Secretary has complete authority over all aspects of the allowance auctions including 1.) whether to participate in a multi state auction or hold a state only auction, 2.) whether to make changes to the auction design, 3.) what to do with unsold allowances in the event that a reserve price is utilized, and 4.) how the revenues from the auction will be spent.

The Auction Advisory Committee should include at least two additional groups: representatives from the New England Independent System Operator and the Massachusetts legislature). Furthermore, the regulatory language should be more explicit with regards to the use of the auction proceeds (see below).

Reserve Price

The proposed regulation provides the authority to DOER to include a reserve price in the auction – the minimum price DOER is willing to accept for each CO₂ allowance. The proposed rule indicates that the auctions may be held with or without a reserve price. The proposal indicates that any CO₂ allowances left unsold in any auction shall be re-

applied to a subsequent auction or group of auctions – as determined by DOER in consultation with the Auction Advisory Committee.

The GHG Coalition does not believe that a reserve price is essential, but understands why the concept is of interest to the Commonwealth and other stakeholders. However, if a reserve price is utilized, then any CO₂ allowances left unsold should be re-applied to subsequent auctions, rather than being permanently retired as some environmental advocates have contended.

The GHG Coalition also recommends that the regulation provide DOER with the authority to set a *predetermined price cap* to prevent the price for allowances in the auction from escalating to unacceptable levels. The price cap could escalate over time and be subject to the same conditions as the reserve price – DOER may elect not to publish or announce such price until following the auction.

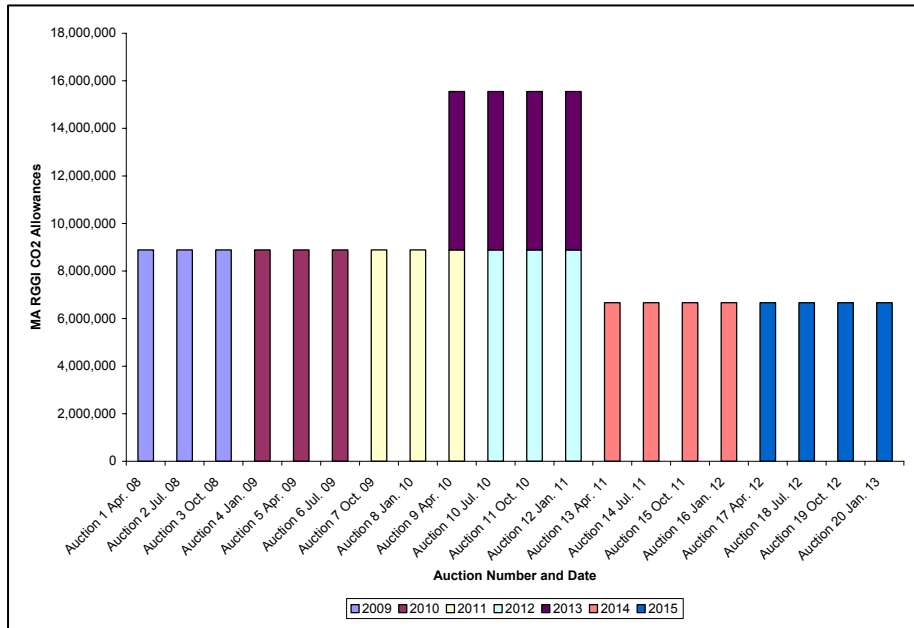
Auction Timing

The timing of the auctions in the proposed regulatory language is tied to the timing of the allowance allocations as imposed by the RGGI Model Rule and reflected in MA DEP proposed regulatory language. All allowances for the 2009-2012 allocation years must be allocated to accounts by January 1, 2009. Then, by January 1, 2010 allowance allocations for the next year (2013) must be allocated to accounts, and by January 1, 2011 allowances allocation for 2014 must be allocated to accounts and so on. The DEP proposed rule indicates that it will allocate the CO₂ allowances to the Massachusetts Auction Account for the 2009-2012 allocation years by January 1, 2009.

The GHG Coalition supports the timing of the auctions as outlined in the proposed rule and encourages the Commonwealth to hold the first auction as early as possible in 2008 to provide for the necessary price discovery. Because CO₂ Budget Sources primarily sell power through multi-year bilateral contracts, it is imperative to know what the CO₂ allowance prices will be so they can be factored into the power prices contained in such contracts. The timing of the auctions appears reasonable to understand current and future

prices. However, it appears that the proposed regulations provide enough flexibility for MA DOER to change the timing of the auctions as necessary.

In addition, it also appears that there will be an overlap of different allowance vintages starting in 2010. The regulatory language should clarify how that overlap of allowance vintages will be handled in the auction design. Below is a chart depicting the estimated timing of allowance auctions for the 2009-2015 vintage years based on the GHG Coalition analysis of the proposed language. We assume that MA DEP will allocate allowances to DOER early in 2008 and that the first auction is held in April 2008.



Auction Design

The GHG Coalition recognizes that the proposed regulations mirror the draft RGGI auction study recommendations regarding the auction design that is currently underway. However, while the proposed rule provides the direction, it still leaves considerable flexibility and considerable discretion for the Auction Advisory Committee without a clear indication that there will be a public stakeholder process to provide input into the auction design elements.

Proceeds of the Auction

The GHG Coalition supports the concept of a public advisory group that can provide input to how the Commonwealth spends the auction proceeds. However, leaving the ultimate decision to the Secretary of EOEEA is questionable. The GHG Coalition recommends that MA DOER outline in its proposal the specific percentage breakdown for the uses of the auction proceeds and revenue generated from the direct sale of RGGI allowances based on the RGGI MOU categories outlined below:

1. To promote energy efficiency,
2. To directly mitigate electricity ratepayer impacts,
3. To promote renewable or non-carbon emitting energy technologies,
4. To stimulate or reward investment in the development of innovative carbon emissions abatement technologies with significant carbon reduction potential, and/or
5. Fund administration of this Program.

Participants in the Auctions

The GHG Coalition welcomes the approach that DOER is proposing regarding the three categories of auction participants. The categories are as follows: 1) owners of CO₂ budget units located in Massachusetts; 2) owners of CO₂ budget units located outside of the Commonwealth but within a participating state; and 3) other market participants such as brokers, environmental groups, financial and investment institutions and generators not subject to a CO₂ budget trading program.

It is imperative that DOER have the authority to determine who can and who can not participate in the auctions. However, instead of the first auction being opened to all categories of auction participants, the GHG Coalition recommends limiting the first auction to only MA CO₂ Budget Sources. Other participants from the other two categories could then be phased in as appropriate over time. Alternatively, there should be limitations on the quantity of allowances that the three individual categories of auction

participants could obtain in any given auction and/or RGGI CO₂ Budget Sources should be exempted from the financial surety requirements.

Timing of Release of Auction Information

The proposed regulation notes that DOER will publish the dollar amounts of the winning bids 6 months following each auction. The GHG Coalition disagrees with the 6 month lag time for the release of the auction results. The auction results should be released as soon as possible after the auction for transparency purposes. This information will facilitate efficient functioning of the secondary allowance market and provide a data point for auction participants to factor in as they prepare for the next auction. For example, for the SO₂ allowance auctions that take place annually as part of the Acid Rain program, EPA immediately provides the clearing price for the allowances, the winning bidders, the amount of allowances won by each bidder and the total allowance costs paid by each bidder.²

We look forward to continued participation in the Massachusetts RGGI process and thank you for this opportunity to provide input.

² See the following U.S. EPA web site for more information on the auction information that is released after each annual auction <http://www.epa.gov/airmarkt/trading/2007/docs/auction2007.xls>