New York's Regional Greenhouse Gas Initiative
Operating Plan Amendment for 2015

Comments of the Joint Stakeholders
May 22, 2015

The Alliance for Clean Energy New York, the Consolidated Edison Company of New York, Environmental Advocates of New York, the Environmental Defense Fund, National Grid, Orange and Rockland Utilities, and the Pace Energy and Climate Center (collectively the "Joint Stakeholders") submit the following comments for consideration in response to the New York Regional Greenhouse Gas Initiative ("RGGI") Draft Operating Plan Amendment ("2015 Amendment"), dated April 22, 2015.

We appreciate the opportunity to provide comments. We also appreciate the New York State Energy Research and Development Authority's ("NYSERDA") extension of the comment deadline to May 22, 2015. Given the release of the 2015 Amendment only one day before the stakeholder briefing on April 30, the additional time allowed us to more carefully review the Amendment and provide feedback.

The Joint Stakeholders are committed to making New York's RGGI effort a success and have strong, direct interest in the timely, transparent, and efficient use of RGGI funds. We have participated in past stakeholder briefings on the use of RGGI proceeds and have long supported RGGI's implementation in New York. We have submitted comments on past Operating Plans and Amendments that have suggested ways to improve outcomes.

Our comments on the 2015 Amendment are divided into two sections. First, we offer principles on the best uses of the funds. We also recommend several changes to improve transparency and ensure stakeholder views are thoroughly considered before finalizing the plan. In section two, we offer a few specific observations on the 2015 Amendment itself.

We note that approximately 70 percent of the allocations in this Amendment are now directed by statutory language included in the 2015-16 State Budget. While NYSERDA remains the primary implementer of the RGGI Operating Plan, the Governor and the Legislature are taking an increasingly large role in programming these funds. Although New York clearly has the legal authority to spend RGGI funds through the current administrative model, given the interest of state policy-makers in the use of these funds, we encourage NYSERDA and the New York State Department of Environmental Conservation ("DEC") to advance a statutory commitment to guide the future use of RGGI proceeds in order to reduce greenhouse gas emissions through measures that are both quantifiable and verifiable.

I. General Comments

We advance the following principles to guide the use of RGGI funds.

1. All RGGI auction proceeds should be used to reduce greenhouse gas emissions

("GHGs") in direct and measurable ways, in alignment with State and Federal emissions reductions goals, and with a priority focus on cost-effective efficiency and renewable energy in the electricity sector and electrification of current inefficient uses of petroleum, such as transportation and heating.

A number of efforts now included in the 2015 Amendment such as the Renewable Heat NY initiative, as well as certain state appropriations, are not fully consistent with these goals. Renewable Heat NY is focused on a technology that may not reduce state greenhouse gas emissions on a net basis, and may actually work at cross-purposes to New York's other air pollution goals. Over time, programs funded by RGGI that are not consistent with this principle should be phased out of the RGGI Operating Plan. Other initiatives in the RGGI program portfolio focus more on economic development than on direct GHG reductions. While economic development is important for the State, the connection from these types of initiatives to GHG reduction is in some cases tenuous.

2. RGGI funds should not be used for state general fund relief.

Using RGGI funds to support the general operations of state government is contrary to existing state regulations. As stated earlier, these funds should be used help New York reach its greenhouse gas reductions goals.

3. RGGI auction proceeds should continue to be used to supplement and not supplant existing clean energy programs.

This principle has become more difficult to evaluate given the current transition underway regarding incentives for clean energy using ratepayer funds. Given that the next iteration of the Clean Energy Fund ("CEF") proposal is now due in June, outside stakeholders do not now have the information to evaluate how the 2015 Amendment works with other clean energy efforts in the State. RGGI funds should be deployed in a strategic manner to align with and support other State initiatives. As the State transitions to a more distributed clean energy future in step with the Public Service Commission's ("PSC") Reforming the Energy Vision proceeding and in line with U.S. Environmental Protection Agency's proposed GHG emissions reduction targets, the most effective use of RGGI funds could be to support programs that advance these efforts.

Certain programs within the Amendment such as the Clean Energy Business Development program also appear to have very similar objectives as earlier drafts of the CEF's new market development portfolio. We recognize that aligning the new CEF portfolios with the RGGI funds is complicated and that this exercise is happening in real time. However, we seek greater clarity on the ways in which the pieces will fit together, and as a result support the one-year timeframe for the 2015 Amendment.

4. Decision-making regarding the use of RGGI proceeds should be subject to procedures similar to the State Administrative Procedures Act to increase transparency and stakeholder input.

NYSERDA has annually held a stakeholder meeting on the contents of the Operating Plan, solicited comments, and published annual and quarterly reports on the uses of the RGGI funds. With some exceptions, these processes generally mirror the stakeholder engagement and process requirements of the State Administrative Procedures Act.

We recommend, however, NYSERDA consider adopting two additional steps before finalizing changes to the 2015 Amendment and future Operating Plans. We encourage NYSERDA to develop a responsiveness summary on the comments received on the plan. All stakeholders would benefit from seeing the rationale for why suggested changes to the plan were accepted or rejected, as well as a detailed listing of changes made as a result of stakeholder feedback. We note that the PSC procedure for considering party comments in its Orders would be an excellent model to help demonstrate the consideration of outside feedback. Secondly, we encourage NYSERDA to publish formal notice of each annual Operating Plan Amendment in the New York State Register, as well as providing notice through its current stakeholder list.

5. The allocation and investment of RGGI proceeds should be timely and transparent, with full accountability in annual public reports that summarize revenue, transfers, allocations, commitments, expenditures, standing balances, and awards - listed by state economic development region and by county.

NYSERDA should accelerate the pace of RGGI proceeds spending. New York has put fewer of its RGGI funds to work than any other RGGI state on a percentage basis, with only 40 percent of proceeds spent for intended purposes as of March 31, 2015. New York holds four times more unexpended funds than the state with the next largest unexpended balance, representing a huge opportunity to make a difference in our state today. Just to our east, Massachusetts has expended more than 97 percent of its RGGI proceeds in programs that are working cooperatively with other utility and state programs and are actively reducing emissions, supporting green jobs, and reducing energy consumption now.

Although there have been several delays regarding the implementation of New York's RGGI proceeds plan due to various legal challenges, we remain concerned that after accounting for the $90 million loaned to the General Fund for state budget relief required by statute in 2009, only $266 million has been spent on activities through the end of calendar year 2014. Approximately $200 million is either committed or encumbered in some fashion, but the funds sitting in NYSERDA accounts do little to benefit ratepayers or reduce greenhouse gas emissions.

In an effort to restore New York's position of leadership in the deployment of clean energy, NYSERDA should make every effort to fully allocate, encumber, and responsibly disburse these funds in a more timely manner. If the funds continue to move slowly, NYSERDA should consider establishing specific timelines and milestones to assist with speeding up spending, or at the very least conduct an analysis investigating the barriers to moving money more quickly. In the event that NYSERDA is unable to improve its RGGI program expenditure performance, NYSERDA could loan RGGI funds to over-subscribed public policy programs currently funded by SBC and RPS collections – or the successor programs included in the Clean Energy Fund – provided that the funds would be replenished at a later date.

While some of the Joint Stakeholders supported the use of RGGI funds as a short-term measure to continue solar incentives on Long Island, we are concerned about the RGGI Operating Plan's ongoing carve outs for Long Island efficiency and solar programs. Continued funding of these efforts on Long Island through RGGI resources is not fair to other customers in the state who are compelled to pay both renewable energy and energy efficiency surcharges as well as RGGI carbon allowance charges. Consistent with the REV effort, the Long Island Power Authority ("LIPA") should require the system operator to encourage energy efficiency and renewable energy deployment and establish funding mechanisms to advance these objectives. All customers who contribute to the RGGI funds via their energy purchases (essentially this is all customers in the State) should have an equal opportunity to participate in RGGI programs.

NYSERDA's reports on RGGI spending program activities have *greatly* improved over the years, in part based on stakeholder suggestions. We appreciate the efforts that have gone into providing better information about the uses of these funds. In an effort to further increase transparency, we encourage NYSERDA to provide even more *award level* detail in Appendices to its reports. All New Yorkers should be able to clearly see the benefits that RGGI funds are bringing to their communities. These data need not release sensitive personal or confidential business information. In the past, NYSERDA has been willing to release this information upon request, but regular releases of award level data would allow for independent analysis and evaluation of the RGGI program spending. We note the map in the RGGI Annual Status Report showing where projects have been conducted is helpful. This good idea should be expanded upon in future reports.

II. Specific Comments

Funding Assumptions
The 2015 Amendment, as drafted, projects a conservative allowance price of $5.38 as a baseline for making assumptions about program revenue. We also note the recent surge in RGGI allowance prices, in response at least in part to RGGI's likelihood as compliance mechanism within the Clean Power Plan and the reductions in the overall RGGI cap.

The 2014 Operating Plan amendment used its baseline assumption of RGGI prices at $3.22 and additional revenues were collected in excess of the amounts programmed in the Operating Plan. In the event that program revenue once again exceeds the assumptions, we strongly recommend that these revenues be used to cover the operating deficit of $20.6 million.

Greenhouse Gas Reduction Pilot
NYSERDA should continue the Competitive GHG Reduction Pilot (Pilot), and should consider converting that program to a permanent initiative in its portfolio of RGGI investments, provided that the effort produces meaningful greenhouse gas reductions. The Competitive GHG Reduction Pilot allowed electric generators to compete for funds to make investments that directly reduce the GHGs emitted. The pilot also provides customers with cost relief because reduced GHGs from generators lower the clearing price for carbon allowances in the RGGI market. By mitigating price increases caused by the declining GHG cap in the RGGI market, the Competitive GHG Reduction Pilot supports customer energy affordability while at the same time reducing overall carbon emissions. In its annual report, NYSERDA should provide a detailed

analysis of the Pilot's performance, award winners, as well as an analysis of the price suppression impact to allow stakeholders to make more informed decisions.

Transfer to State

Of the total $41 million transfer required by the state budget, $23 million was identified to support solar and other clean energy tax credits. Using RGGI funds to cover the projected costs of "as of right" statutory tax credits opens a Pandora's box of budgeting issues and raises a number of questions. Will RGGI funds be called upon as the source for these credits in future years? What would happen if the funds were unavailable in future years, e.g., through an unexpected drop in allowance prices? Have other sources of funding been identified to fill this gap?

Further, of the $18 million that was ostensibly transferred to the Environmental Protection Fund, none was dedicated to specific accounts or categories dedicated to projects to reduce greenhouse gas emissions. We urge the DEC and NYSERDA to specifically account for the ways in which these funds were spent in the Annual Status Report and identify the greenhouse gas reductions achieved or projected to be achieved, from each project.

III. Conclusion

New York State is attempting an ambitious transition in the way it promotes the deployment of clean energy. At the same time, New York is preparing to respond to federal efforts to control greenhouse gas emissions from the power sector and prepare its appropriate compliance plans. These twin drivers have highlighted the importance that RGGI funds will play in reducing greenhouse gas emissions in the future.

We look forward to working with NYSERDA, the DEC to craft a long-term RGGI spending plan that stays true to the principles on which RGGI was founded and are advanced in this document. We encourage the timely and transparent deployment of RGGI funds. And we encourage NYSERDA to consider making changes to its process to respond to the suggestions offered by the Joint Stakeholders.

On behalf of the Joint Stakeholders, respectfully submitted by,

David Gahl
Pace Energy and Climate Center