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Comments of the Fiscal Policy Institute on the New York State Energy Research and Development Authority's Proposed Rulemaking, I.D. No. ERD-43-07-00027-P

The Fiscal Policy Institute (FPI) is a nonpartisan research and education organization that focuses on the broad range of tax, budget, economic and related public policy issues that affect the quality of life and the economic well-being of New York State residents. Founded in 1991, FPI's work is intended to further the development and implementation of public policies that create a strong economy in which prosperity is broadly shared by all New Yorkers. FPI welcomes this opportunity to comment on proposed rulemaking (I.D. No. ERD-43-07-0027-P) to create the CO_2 Allowance Auction Program to operate in conjunction with the Department of Environmental Conservation's CO_2 Budget Trading Program.

On December 20, 2005, New York entered into the Regional Greenhouse Gas Initiative (RGGI), an agreement with nine other Northeast and Mid-Atlantic states to reduce greenhouse gas emissions from power plants in the region by 10 percent by 2019. In order to carry out New York State's commitment under the RGGI agreement, the New York State Department of Environmental Conservation (DEC) has proposed to establish a CO_2 Budget Trading Program. In conjunction with this program, it is proposed that the New York State Energy Research and Development Authority (NYSERDA) will auction off the CO_2 emissions allowances with the proceeds of the auction to be allocated to a "Energy Efficiency and Clean Energy Technology Account" and used to "promote and reward investments in energy efficiency, renewable or non-carbon emitting technologies, and/or innovative carbon emissions abatement technologies with significant carbon reduction potential and for the administration of the CO_2 Budget Trading Program."

FPI strongly supports the proposal to auction off 100 percent of the allowances. FPI's comments on NYSERDA's proposed rulemaking (ID No.ERD-43-07-00027-P) will be limited to a discussion of (a) the need to allocate a portion of the proceeds from the auction to the mitigation of the negative distributional impacts on low-income New Yorkers; and (b) ways in which those impacts can be mitigated efficiently.

Three paragraphs ((d), (e) and (f)) of the proposed Part 507.4 address the proceeds of the allowance auctions:

> **Part 507.4: The Energy Efficiency and Clean Energy Technology Account**
> (d) the proceeds of the auctions will be placed into a segregated Authority funding account, and shall not be commingled with other Authority funds.
> (e) the proceeds of the auctions will be used to promote and implement programs for energy efficiency, renewable or non-carbon emitting technologies, and innovative carbon emissions abatement technologies with significant carbon reduction potential, and for reasonable administrative costs incurred by the Authority in undertaking the activities described in Part 507 and for administrative costs, auction design and support costs, and program design and support costs associated with the CO_2 Budget Trading Program, whenever incurred.
> (f) the Authority shall annually convene an advisory group of stakeholders representing a broad array of energy and environmental interests to advise it on how to best utilize said funds to achieve the goals of the Account.

1) When advocating for the auctioning of the allowances under RGGI, many parties emphasized the need to mitigate the adverse impact of price increases on low-income consumers but the proposed rule does not require NYSERDA to utilize any of the auction proceeds for this purpose.

The RGGI initiative will increase the cost of electricity for all New Yorkers. Since in New York and other RGGI states, electric power is bought and sold on wholesale spot markets, the price of electricity will rise to the same extent under RGGI whether the allowances are given to the generators for free or auctioned for the benefit of the public. One of the strong arguments for auctioning off the allowances is that the proceeds of the auction can be used to mitigate the negative impacts of the higher electricity prices. For example, in May 2, 2006, comments presented on his behalf by Assistant Attorney General J. Jared Snyder to a RGGI stakeholders meeting, Attorney General Eliot Spitzer explained the connection between the need for auctioning and the mitigation of negative distributional impacts as follows:

> "As mentioned above, distributing allowances by auction eliminates the windfall to emitters and allows the proceeds to be used to defray the increased prices. <u>Through mechanisms such as rebates, credits and offsets, some portion of the proceeds can be returned directly to the ratepayers</u> who would otherwise bear the increased cost of the electricity. In addition, auction proceeds can be used to fund energy efficiency programs directed at reducing consumers' electricity usage. In this way, the effect of increased electricity prices on consumers' bills will be tempered, if not eliminated completely."[1]

The importance of using the auction proceeds to deal with the impact of price increases on low income consumers was also emphasized by a broad range of environmental groups from throughout the region, including New York State. In September 2005, for example, in joint comments on the RGGI Staff Working Group's August 24, 2005, proposal, from thirty environmental groups from throughout the region, including Environmental Advocates of New York and New York PIRG, made this point in the following manner:

> "At least 50 percent of the allowances should be auctioned to generators initially, with the percentage growing over time. The funds should be used exclusively for the benefit of consumers, primarily to fund energy efficiency programs (including incentives for efficient self-generation), develop renewable energy, and <u>provide consumer rebates, particularly for low-income households</u>."[2]

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[1] "Preliminary Oral Comments of New York State Attorney General Eliot Spitzer on the Allocation of Carbon Dioxide Allowances Pursuant to the Regional Greenhouse Gas Initiative Cap-and-Trade Program," Delivered by New York State Assistant Attorney General J. Jared Snyder, Hartford, CT, May 2, 2006, http://www.massclimateaction.org/RGGI/SpitzerStatement050206.pdf

[2] "Comments on RGGI Staff Working Group Proposal of August 24," From Clean Power Now, Conn. Audubon Society, Conn. Citizen Action Group, Conn. Clean Water Action, Conn. League of Women Voters, Conn. PIRG, Conservation Law Foundation, Environmental Advocates of New York, Environmental League of Mass, Environment Council of Rhode Island, Environment Maine, Interreligious Eco-Justice Network, Mass Clean Water Action,

Despite the broad understanding that exists regarding the need for auctioning and the need to use the proceeds from auctioning to mitigate negative distributional impacts particularly on low-income households, nothing in the proposed rule directs NYSERDA to use the proceeds of the allowance auctions, or even a portion of those proceeds, to address the impact of higher electricity prices on New York consumers in general or low income consumers in particular. In fact, the language of the proposed paragraph 507.4(e) probably limits the ability of NYSERDA to use the a portion of the auction proceeds for customer rebates of the type discussed before the RGGI in explaining the need for the auctioning of the permits.

(2) Although estimates of bill impacts on typical New York residential customers are modest, lower income households may still need to be protected from price increases. If these estimates are wrong or if future initiatives call for greater reductions in carbon emissions, low-income households will almost certainly be faced with higher energy bills. Therefore, New York should establish a mechanism to mitigate the negative impact on poor families now.

Even a small increase in energy prices can have a big impact on low-income families because such a high percentage of their income is already required to meet energy needs. Data from the U. S. Energy Administration's 2001 Residential Energy Consumption Survey (RECS) shows that New York families with incomes below the federal poverty guidelines spend approximately 10.6% of their income on electricity --- more than four times greater than the 2.4% of income spent by families with income above the federal poverty guidelines. The following table shows estimates of the percent of income spent on all energy and on electricity by New York families in various income categories. No matter how one defines "low income," higher energy prices will clearly impose a disproportionate burden on lower income families.

In addition, low-income families have less ability to respond to higher energy prices by conserving energy because they do not have the capital to invest in more energy efficient appliances and vehicles. As carbon limits are extended beyond the electrical generation sector to transportation and other sources of emissions, low income households will be hit by higher prices not just for home energy but for transportation and all the goods and services they purchase and will have the least ability to replace their inefficient vehicles and appliances.

Although the Department of Environmental Conservation (DEC) projects only very small increases in residential customer bills as a direct result of RGGI, the failure to recognize the need to protect the lowest income households from adverse impacts sets a poor precedent for future climate change policies which may have more significant bill impacts. [3]

Mass Climate Action Network, Mass PIRG, Natural Resources Council of Maine, New Hampshire Citizens Alliance, New Hampshire Clean Water Action, New Hampshire PIRG, New Jersey PIRG, New York PIRG, Ocean State Action, Peoples' Action for Clean Energy, Rhode Island Clean Water Action, Rhode Island PIRG, Sustainable Energy Resource Group, Union of Concerned Scientists, Vermont Natural Resources Council, Vermont PIRG, Vermonters for a Fair Economy and Environmental Protection, September 13,2005.

[3] For a typical New York residential customer (using 750 KWh per month), the projected increase in monthly charges as a result of the RGGI will be about 0.7 percent or $0.78 in 2015 and only 1.0 percent or $1.13 in 2021.

Total Energy Expenditures as a Percent of Income: New York Households

Income	Total Energy Expenditures as a Percent of Income	Total Expenditures on Electricitiy as a Percent of Income
Less than $5,000	50.1%	24.1%
$5,000 to $9,999	16.2%	6.6%
$10,000 to $14,999	11.4%	6.0%
$15,000 to $19,999	8.2%	4.6%
$20,000 to $29,999	5.8%	3.0%
$30,000 to $39,999	4.6%	2.4%
$40,000 to $49,999	4.2%	2.0%
$50,000 to $74,999	2.9%	1.5%
$75,000 to $99,999	2.2%	1.1%
$100,000 or more	1.6%	0.8%
Total	6.7%	3.4%
Income Below 100% of Federal Poverty Guidelines	22.3%	10.6%
Income Above 100% of Federal Poverty Guideline	4.6%	2.4%
Income Below 125% of Federal Poverty Guidelines	18.7%	9.3%
Income Above 125% of Federal Poverty Guideline	4.2%	2.1%
Income Below 150% of Federal Poverty Guidelines	15.9%	7.9%
Income Above 150% of Federal Poverty Guideline	3.8%	1.9%
Eligible for HEAP	13.1%	6.5%
Not Eligible for Heap	3.3%	1.6%

Source: DOE/EIA Residential Energy Consumption Survey, 2001. Microdata analyzed by Fiscal Policy Institute

Using methodology developed by CBO and data from the Bureau of Labor Statistics' Consumer Expenditure Survey, the Center on Budget and Policy Priorities estimates that households in the poorest fifth of the population would, on average, face an estimated $750 to $950, a year in added costs (in today's dollars) if nationally total carbon emissions were reduced a modest 15 percent below projected levels. These households have average income only just over $13,000 so this would make a real impact on their ability to maintain a basic standard of living. Moreover, those added costs would grow over time as the emissions-control targets become stricter.[4]

(3) Targeted energy efficiency programs for low income households are necessary but not sufficient to mitigate adverse impacts on low income households. Low income ratepayers will also need direct financial assistance, either through low income rates, energy rebates or tax credits and/or enhanced LIHEAP benefits.

While the proposed rule does not specify what kinds of programs would be funded by the proceeds, NYSERDA notes in its cost impact statement that "the Authority currently administers application-based offerings and implements programs, under the Systems Benefits Charge (SBC) program, that are similar to the energy efficiency and clean energy technology programs that the Authority expects to administer and implement through the use of auction proceeds, under the CO2 Allowance Auction Program."

These SBC programs include a low-income program that has been providing energy efficiency services to low-income households across the state since 1998. NYSERDA has a good track record of working closely with the New York State Weatherization Network that is the main provider of low-income weatherization assistance in New York. According to a March 2007 NYSERDA' report, between 1998 and 2006, the low income program provided services to 60,000 New York households, less than 7 percent of the 850,000 New York households eligible for the Low Income Home Energy Assistance Program (LIHEAP).[5]

Meanwhile the NYS Weatherization Network cannot keep up with the current demand for its services with low-income households waiting years in many upstate areas for weatherization assistance. According to Denise Harlow, Chief Executive Officer of the New York State Community Action Association, over 100,000 low-income households are currently on weatherization waiting lists because funds do not exist to reach these households.[6] A portion of the proceeds from the allowance auctions should be transferred to this network to enhance its capacity to serve low-income households.

These weatherization and other energy efficiency investment programs should be supplemented with more direct assistance through New York's LIHEAP program. Last year New York's LIHEAP program provided over one million benefits to 850,000 low-income households. LIHEAP reaches both renters and homeowners and provides benefits that vary by income, energy burden and vulnerability of household members. No additional administrative expense would be required to increase LIHEAP benefits and the increases in benefits could be easily phased in as emission controls phase in.

[4] Center on Budget and Policy Priorities, " Designing Climate-Change Legislation That Shields Low-Income Households From Increased Poverty And Hardship," November 2007.

[5] New York State Energy Research and Development Authority, New York Energy Smart[SM] Program Evaluation and Status Report, Year Ending December 31, 2006, Report to the System Benefits Charge Advisory Group, Final Report, March 2007.

[6] Denise Harlow, Testimony before the NYS Office of Temporary and Disability Assistance HEAP Bureau, Hearing on the on the Development of the New York State HEAP Plan, February 6, 2007.

(4) The regulatory language regarding the "advisory group of stakeholders" should be amended to provide explicitly for representation of low-income consumers.

The proposed language describing the advisory group of stakeholders calls for representation of "a broad array of energy and environmental interests." Regulations should also mandate representation of low-income households on this group. There is not guarantee that environmental and energy experts would have the expertise to assess program design for low-income households.

Conclusion

New York's participation in the RGGI is a critical first step in the national movement to reduce carbon emissions. New York has set an important national precedent by calling for the auction of 100 percent of the allowances. Now New York has the opportunity to establish the precedent that a portion of these proceeds will be used to protect the most vulnerable households from unintended adverse consequences of these climate change policies. FPI urges NYSERDA to amend the proposed rule to include low-income protection as an explicitly mandated purpose for Energy Efficiency and Clean Energy Technology Account and to add at least one low-income advocate to the list of stakeholders to be included in the advisory group.