

RGGI in Context: What's Happened and What's Next?

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October 18, 2007

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Climate Change: A Few Thoughts

- "The supreme reality of our time is ... the vulnerability of our planet." (John F. Kennedy, 1963)
- "The scientific consensus presented in this comprehensive [United Nations-commissioned] report about human-induced climate change should sound alarm bells in every national capital and in every local community." (Klaus Topfer, United Nations Environment Program, commenting on the IPCC's Third Assessment Report – 960 participating scientists, including 300 expert reviewers, 2001)
- "We need a radical shake-up of the way we use energy, and we need to generate energy in new, sustainable ways ... We have to develop new technologies. We have to "do our bit" to tackle climate change." (John Prescott, UK Deputy Prime Minister)
- "We are on the verge of a significant transformation of the electric utility industry that will, 50 years from now, perhaps seems as significant as Edison's invention." (Terry Svelte, Bonneville Power Administration)

Overview Of RGGI Goals

- Initial Goals
 - Reduce carbon emissions from power plants
 - Develop multi-state GHG “cap-and-trade” program
 - Minimize impact on electric-system reliability and pricing
 - Retain and even increase energy spending and investment in the region
 - Establish a model for other programs nationwide

- Future Goals?
 - Expand the program to non-electric-generating sources
 - Reduce dependence on fossil and imported fuels through encouragement of non-emitting sources

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RGGI Essentials: Just The Facts

- MOU signed December 2005

- Current Participants
 - Signatories: CT, DE, MA, MD, ME, NH, NJ, NY, RI and VT (MA, MD and RI, all later additions)
 - “Observers”: DC, PA, Eastern Canadian Provinces and New Brunswick

- Fundamentals of State Participation
 - State emission caps must decrease 10% by 2018
 - States must dedicate minimum 25% of emissions to “consumer benefit or strategic energy purpose”
 - States must implement Model Rule by Jan. 1, 2009

- What’s Next?

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RGGI in the Context of Evolving Law and Policy: The Bigger Picture

- Massachusetts v. EPA (U.S.S.C., April 2007), Its Legacy
 - Regulating carbon dioxide: Mandatory or optional?
 - Addressing scientific questions, and the limits of "deference"
 - Standing, and its evolving standards
 - Dissenting concessions
- Coke Oven Environmental Task Force v. EPA (pending, D.C. Circuit Court of Appeals)
 - The future for electric-generating stations
 - Predictions for EPA action?
- Green Mountain Chrysler v. Crombie (U.S.D.C. VT, September 17, 2007)
- The National Scene in an Election Cycle
 - Political speech in an election cycle: The Great Debate?
 - Political will in an election cycle?
 - Political action: Will Congress intervene?

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RGGI Essentials: The Hard Questions

- Playing Devil's Advocate: Does RGGI Matter?
 - Did RGGI effect the outcome in Massachusetts v. EPA?
 - If so, how much?
 - If so, for how long?
- Crystal Ball: RGGI, a Decade from Now
 - Vis-a-vis other state programs (e.g., "Western RGGI")
 - Vis-a-vis federal program(s)
- Crystal Ball: Assessing the Immediate RGGI Legacy
 - The auction dynamic
 - New models for integration

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RGGI and Climate Change As Economic Engines?

- Capitalizing on Climate Change
 - Winners and losers
 - Is it all talk?
 - How much?
 - Benefits of early action through RGGI
- Venture Capital and Private Equity
 - From good works to good investment?
 - Is this market necessary for RGGI and the national climate change initiatives to succeed?
 - The California dynamic: Lessons in success
 - The Clean Tech phenomenon
 - Bubble?
- The Local View
 - Can RGGI help states in the region get ahead?
 - Will it have a regional effect?
 - What will the economic effects of a national eclipse of the RGGI initiative be?

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RGGI Trenches: Old Divisions and Strange Bedfellows

- Regulated utilities (wires and public service)
- Merchant power and fossil-fuel generators: The historic industry position and recent inroads: "The future of BP is in the sun and hydrogen." Peter Knoedel, Duetschen BP.
- The nuclear sector: Square peg, round hole?
- Renewables, carbon trading and the clean tech business sector: Opportunities and growth
- Environmental groups: Opting in?
- The American public
- Governments, large and small: Emerging differences?

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Tough Questions: Environmental and Energy Interplay

- When Does Environmental Regulation Amount to Managing the Electric Supply?
 - Maintaining a reliable, diverse and affordable electricity supply
 - Daily system management
 - The trump card: Who holds it?
 - Energy control, and risking RGGI?
- Involving Appropriate Agencies/Experts to Optimize:
 - Regulatory design: Accounting for expertise
 - Allocation of allowances
 - Control of emergency "circuit-breakers"
 - Distribution of program funds

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Unanswered Questions About Climate Change Initiatives

- Renewable Energy: A Viable Solution
 - Addressing access: Is FERC's order enough?
 - Addressing intermittency: The need for base load supply and the touchstone of reliability
 - The new frontier: Price
 - Will the American public pay?
 - How much?
- A Finger on the Pulse of America
 - What is it?
 - How long will it last?
 - How far does it extend?
 - What does it mean?
- The Future of Renewable Portfolio Standards

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A Few Details For Devotees: RGGI State Obligations

- Select Emission Allowance Allocation Strategy
 - E.g., direct allocation v. sales
- Determine Distribution Strategy for a Minimum of 25% of Allowances Dedicated to “Consumer Benefit or Strategic Energy Purpose”
- Design Auctions (When Used)
 - E.g., regional v. local; participation; frequency
- Distribute Funds Generated by Program

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A Few Details For Devotees: Generator Obligations under RGGI

- Obtain Allowances to Cover Emissions During Three Year Compliance Periods (Four Years if Specified “Trigger” Events are Met)
 - Initial use of offsets limited to 3.3% of emissions
 - Offsets available only from 5 categories of pre-approved projects
- No Provision in RGGI Model Rule for:
 - New facilities
 - Existing long-term power purchase agreements

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Examples of Individual RGGI State Initiatives

- New York: Pre-Proposal Draft Regulations (Dec. 2006)
 - 100% auction of allowances
 - Revenues to promote energy efficiency and clean energy technology
- Massachusetts: Draft Regulations (Aug. 2007)
 - Replace existing 310 CMR 7.29 regulations applicable to CO₂ emissions from six facilities
 - 100% auction of allowances
 - Revenues to promote cost minimization to electricity customers, energy efficiency, reliability, demand response, peak shaving and other strategic energy goals of the Commonwealth

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Examining Auctions: Aspirations And Expectations

- Who Wants Them, Who Doesn't and Why?
 - The sale of the RGGI Region's budget in 2009 would generate:
 - ~ \$188 million at \$1/allowance
 - ~ \$940 million at \$5/allowance
- Allocation Versus Auction: Is There a Real Difference?
- What Are the Precedents?
- How Is the RGGI Initiative Different?

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The Practical Perspective

- Navigating Evolving Regulatory Environments
- Planning for RGGI or, at Least, Climate Change Regulation
- Participation: Is It Too Late?
- Corporate Strategies:
 - Commitments and goals
 - Public Relations: Opportunities and risks
 - Leading or following?

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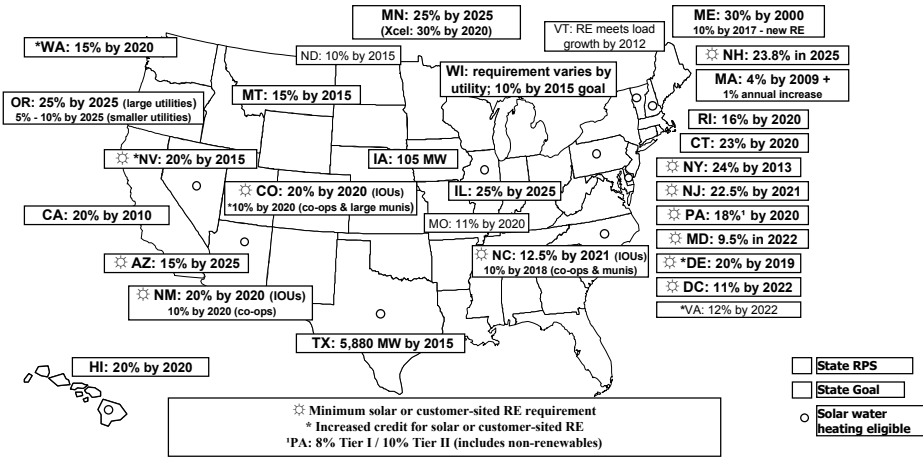
Pitfalls For The Unwary

- Rulemaking Blunders
 - Strategic commenting
 - Preserving rights
 - Challenges, its risks and rewards
- Risk and Disclosure
 - SEC requirements
 - NY AG's subpoenas of energy companies for information relating to their disclosures to investors of potential liabilities relating to carbon emissions
- Hedging: Can It Work Here?
- Trade Associations and Pitfalls of the Common View

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Unique Considerations

Renewable Portfolio Standards



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