STATE OF VERMONT
PUBLIC SERVICE BOARD

Order re implementation of the Regional Greenhouse Gas Initiative auction procedures and set-aside program for voluntary renewable purchases	)))

Order entered: 4/2/2014

RGGI AUCTION PROCEDURES AND VOLUNTARY RENEWABLE ENERGY SET-ASIDE PROGRAM

I. INTRODUCTION

The Regional Greenhouse Gas Initiative ("RGGI") is a cooperative effort by nine Northeastern and Mid-Atlantic states, including Vermont, to reduce carbon dioxide emissions – a greenhouse gas that contributes to global climate change. Central to this initiative is the implementation of a multi-state cap-and-trade program with a market-based emissions trading system. The Public Service Board ("Board") has been tasked by statute, 30 V.S.A. § 255, to implement the auction provisions of the RGGI program. As described below, the Vermont Agency of Natural Resources ("ANR") is also tasked with implementing the RGGI program.

On July 18, 2008, the Board issued an Order for the implementation of the RGGI auction procedures and disbursement of auction proceeds. On August 19, 2009, the Board issued an Order for the implementation of the RGGI set-aside program for voluntary renewable purchases.

On February 7, 2013, the RGGI states released the results of a two-year comprehensive program review in the form of an updated RGGI Model Rule that incorporated recommended revisions to the RGGI program. The RGGI program revisions provide for a 45 percent reduction in the overall CO_2 emissions cap. On November 13, 2013, ANR amended the Vermont CO_2 Budget Trading Program Regulations to reflect the RGGI program revisions, including the reduction in CO_2 emissions cap.

In this Order, we make modifications and clarifications to the Vermont implementation of the RGGI program that include both the auction procedures and the set-aside program for voluntary renewable purchases. With the exceptions of the modifications and clarifications, this Order adopts the previous requirements of the July 18, 2008, Order implementing the auction procedures and the August 19, 2009, Order implementing the set-aside program. Accordingly, this Order supercedes the July 18, 2008, and August 19, 2009, Orders.

In addition, consistent with the 2013 updates to the RGGI program, we direct the retirement of 487,438 CO_2 allowances, which represent Vermont's offered allowances that were not sold in the auctions during the 2012-2013 period of the RGGI program.

II. Background

RGGI is a cooperative effort by Northeastern and Mid-Atlantic states (Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island and Vermont) to reduce carbon dioxide emissions – a greenhouse gas that contributes to global climate change.[1]

Central to this initiative is the implementation of a multi-state cap-and-trade program with a market-based emissions trading system. The proposed program requires certain electric power generators in participating states to purchase allowances for their CO_2 emissions. To support the state CO_2 Budget Trading Programs, the RGGI participating states have implemented a regional auction platform to sell CO_2 allowances.

Under the multi-state cap-and-trade program, a CO_2 allowance represents a limited authorization to emit one short ton of CO_2. A regulated power plant must hold CO_2 allowances equal to its emissions to demonstrate compliance at the end of each three-year compliance period.[2] Allowances for the first compliance period (2009-2011) were used to meet 2009-2011 compliance obligations, or were banked for use in future compliance periods. CO_2 allowances for the second compliance period (2012-2014) can only be used to meet compliance obligations

1. Vermont committed to participate in RGGI when then Governor James Douglas signed the RGGI Memorandum of Understanding, on December 20, 2005, with the governors of the other participating states. The Vermont Legislature then enacted statutory provisions, 30 V.S.A. § 255, to implement the RGGI program in Vermont.

2. The first compliance period took effect on January 1, 2009, and concluded on December 31, 2011. The second control period took effect on January 1, 2012, and concludes on December 31, 2014.

for compliance periods beginning in 2012. CO_2 allowances issued by any participating state can be used in any RGGI state program, so that the nine individual state CO_2 Budget Trading Programs, in aggregate, form one regional compliance market for CO_2 emissions.

Under 30 V.S.A. § 255, the Board must establish a process to allocate the carbon credits that Vermont receives as part of its participation in RGGI. The Board is also authorized to appoint a Trustee or Trustees to "receive, hold, bank, and sell tradeable carbon credits created under this program."

On July 18, 2008, the Board issued an Order for the implementation of the RGGI auction program which included a model for a Trustee and procedures for disbursing auction proceeds. On August 19, 2009, the Board issued an Order for the implementation of the RGGI set-aside program which included a process for retiring CO_2 allowances in proportion to participation in voluntary renewable programs.[3]

Pursuant to 30 V.S.A. § 255(d), Vermont's auction proceeds are deposited into the electric efficiency fund created under 30 V.S.A. § 209(d)(3). The state's Energy Efficiency Utilities combine the RGGI proceeds with other funding sources to offer a variety of services and incentives that result in improved building performance and heating system efficiency, thereby creating jobs, saving Vermonters money and reducing Vermont's greenhouse gas emissions.

As called for under the initial Memorandum of Understanding establishing the RGGI Program,[4] participating states conducted a comprehensive program review starting in 2012, culminating in the release of an updated RGGI Model Rule, on February 7, 2013, that incorporated recommended revisions to the RGGI program.[5] The 2013 program revisions included a decision to lower the regional CO_2 cap from 165 million tons to 91 million tons in 2014 and annually reduce the cap by 2.5 percent through 2020.

3. The Board Orders implementing the Vermont RGGI program can be found at: http://psb.vermont.gov/docketsandprojects/electric/rggi.

4. The Memorandum of Understanding establishing the RGGI program can be found at http://www.rggi.org/design/history/mou.

5. More information on the 2013 RGGI program revisions, including the updated Model Rule, can be found at http://rggi.org. Created in September 2007, RGGI, Inc. is a non-profit corporation established to provide technical support to the states participating in RGGI and facilitating the administration of the regional cap-and-trade program.

Pursuant to 30 V.S.A. § 255, ANR is also tasked with implementing the RGGI program. On November 13, 2013, ANR amended the Vermont CO_2 Budget Trading Program Regulations to reflect 2013 RGGI program revisions.[6]

The 2013 RGGI program revisions include two interim adjustments to the regional cap to account for banked allowances. The first interim adjustment for banked allowances is a reduction to the RGGI cap equivalent to the private bank of first compliance period allowances (2009-2011). The adjustment is applied to each state's annual CO_2 allowance budget for the 2014-2020 period. After the first interim adjustment announced on January 13, 2014, Vermont's state CO_2 budget for 2014 is 594,405 allowances. Vermont's state CO_2 budget for 2015-2020 will be further reduced by the second interim adjustment, which was announced on March 17, 2014 and will reduce the state CO_2 budget by an additional 101,540 allowances annually.

On February 6, 2014, a draft copy of today's Order was circulated to members of the informal RGGI Advisory Committee[7] established under Paragraph 2 of the Board's July 18, 2008, Order. In response to the draft order, the Vermont Energy Investment Corporation submitted comments expressing its support for the issuance of the order.[8] No other comments on the draft order were received.

III. Discussion

RGGI Auction Procedures

On July 18, 2008, the Board issued an Order for the implementation of the RGGI auction procedures and disbursement of auction proceeds.

The July 18, 2008, Order required that during the 2009-2011 compliance period all allowances would be evenly distributed across the auctions in the compliance period. We have adopted a similar practice during the 2012-2014 compliance period. These auctions have to date

6. More information can be found at: http://www.anr.state.vt.us/air/htm/ProposedAmendments.htm#CO2Budget.

7. The July 18, 2008, Order established an informal Advisory Committee that is self-selecting. All requests for Board action, comments, and Board decisions with regard to the RGGI program are sent to the Advisory Committee. This Order retains the informal Advisory Committee.

8. Letter of Michael Wickenden, Director of Regulatory Affairs, to Susan Hudson, Clerk of the Board, dated February 20, 2014.

been held on a quarterly basis. The Board will continue to release the allowances on an even basis across each year during each compliance period.

The July 18, 2008, Order established a process for the RGGI Trustee to release allowances to auction and to retire allowances following direction from the Board. However, ANR, as the agency administering the Vermont accounts in the CO_2 Allowance Trading System ("COATS"),[9] has primary responsibility for directly managing the movement or retirement of allowances in the auction accounts in COATS. We clarify that while the Board will continue to direct the Trustee on the release and retirement of allowances, the actual management of allowances in COATS will be performed by the Vermont agency administering the COATS auction accounts. Currently, ANR administers the COATS auction accounts.[10]

With the exception of the above modifications and clarifications, this Order otherwise adopts the previous requirements of the July 18, 2008, Order implementing the auction procedures. Thus, today's Order now supercedes the July 18, 2008, Order.

Set-Aside for Voluntary Renewable Energy Programs

On August 19, 2009, the Board issued an Order for the implementation of the RGGI set-aside program for voluntary renewable purchases.[11]

The August 19, 2009, Order required that one percent of CO_2 allowances from the RGGI auctions be held for retirement in proportion to participation in voluntary renewable programs. Any allowances not used for voluntary renewable programs in a given year are required to be rolled over and used for the following year set-aside, and the following year set-aside of one percent will be reduced by the amount rolled over.

With the implementation of the 2013 RGGI program revisions, the number of allowances requested to be retired for voluntary renewable energy purchases will likely approach or exceed

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9. COATS is the electronic platform that records and tracks data for each state's CO_2 Budget Trading Program. COATS facilitates participation in the CO_2 allowance market and enables the public to view, customize, and download reports of RGGI program data and CO_2 allowance market activity.

10. At a future date, it is possible that the Board may assume responsibility for the management of the auction accounts in COATS.

11. *Order re implementation of the Regional Greenhouse Gas Initiative set-aside program for voluntary renewable purchases*, Order of August 19, 2009 ("August 19, 2009, Order").

the one percent set-aside.[12] In order to maintain a sufficient number of allowances in the set-aside account, we will no longer require that the following year set-aside be reduced by the amount of any carried forward allowances. Instead, any allowances held in the set-aside account not used for voluntary renewable programs in a given year shall be carried forward into future years and remain available for authorized applicants to request for retirement. In the event the number of CO_2 allowances requested by authorized applicants exceeds the amount held in the set-aside account, the Board shall seek comment from the Advisory Committee on whether to withhold greater than one percent of CO_2 allowances from RGGI auction for retirement.

With the exception of the above modification, this Order adopts the previous requirements of the August 19, 2009, Order implementing the set-aside program for voluntary renewable purchases. Thus, today's Order now supercedes the August 19, 2009 Order.

Retirement of Unsold Allowances

The State of Vermont holds 487,438 allowances that were offered for sale at auction and were not sold for the 2012-2013 period of the RGGI program. The Board concludes that it is appropriate to direct the RGGI Trustee to retire Vermont's unsold allowances for the 2012-2013 period.

The retirement of allowances is consistent with the 2013 RGGI program revisions that have resulted in a 45 percent reduction in the overall CO_2 emissions cap. The retirement of allowances will reduce the oversupply of allowances from the 2012-2013 period and will enable the achievement of the long-term CO_2 emissions cap.[13]

In addition, pursuant to Section 255(c)(2), the retirement of allowances is consistent with the requirement that the Board establish a process to allocate Vermont's CO_2 emissions budget to accomplish the following goals: (1) optimize the revenues received from the management and sale of carbon credits for the benefit of Vermont energy consumers and the Vermont economy;

12. In 2013, the Board directed the retirement of 6,285 allowances in the set-aside account for voluntary renewable energy purchases in 2012. The set-aside account in 2014 will contain 5,944 allowances based on one percent of the 2014 Vermont CO_2 budget of 594,405 allowances.

13. On March 29, 2012, the Board directed the retirement of 788,109 CO_2 allowances for the first compliance period (2009-2011).

(2) minimize any incentives from operation of the cap and trade program for Vermont utilities to increase the overall carbon emissions associated with serving their customers; and (3) ensure that carbon credits allocated under the RGGI program and revenues associated with their sale remain public assets managed for the benefit of the state's consumers.

Accordingly, we direct the RGGI Trustee to retire 474,391 CO_2 allowances of 2012 vintage and 13,047 CO_2 allowances of 2013 vintage, which represents Vermont's offered allowances that were not sold in the auctions during the 2012-2013 period of the RGGI program.

IV. CONCLUSION

In this Order, as discussed above, we have made modifications and clarifications to the Vermont implementation of the RGGI program that includes both the auction procedures and the set-aside program for voluntary renewable purchases. With the exceptions of the modifications and clarifications, this Order adopts the previous requirements of the July 18, 2008, Order implementing the auction procedures and the August 19, 2009, Order implementing the set-aside program. Accordingly, this Order supercedes the July 18, 2008, and August 19, 2009, Orders.

In addition, pursuant to Section 255(c)(2) and consistent with the 2013 revisions to the RGGI program, we direct the RGGI Trustee to retire 474,391 CO_2 allowances of 2012 vintage and 13,047 CO_2 allowances of 2013 vintage, which represents Vermont's offered allowances that were not sold in the auctions during the 2012-2013 period of the RGGI program.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board ("Board") of the State of Vermont that:

1. This Order supercedes: (a) the July 18, 2008, Order regarding the implementation of the Regional Greenhouse Gas Initiative ("RGGI") auction procedures and disbursement of auction proceeds; and (b) the August 19, 2009, Order regarding the implementation of the RGGI set-aside program for voluntary renewable purchases.

2. A Trustee will be appointed by the Board to release RGGI CO_2 allowances to auction and collect and disburse auction proceeds. The Trustee shall perform the necessary ministerial

work involved in these tasks. The Board will direct the Trustee as to the number of allowances to release to auction and how the funds should be disbursed. CO_2 allowances shall be released to auction on an even basis across each year during each compliance period.

3. The Trustee shall be selected through a competitive solicitation process when the contract ends for the existing selected Trustee.

4. The Board will continue to use the established informal Advisory Committee that is self-selecting; interested parties can ask to be put on an e-mail distribution list. All requests for Board action, comments, and Board decisions will continue to be sent to the Advisory Committee. Prior to making substantive decisions regarding the use of the proceeds and allowances, the Board will request comments from the Advisory Committee. If the Board determines that a more formal advisory process is appropriate in the future, it may request comments on whether the current process should be altered.

5. The Trustee shall collect auction proceeds and disburse these funds as directed by the Board, using the following process:

(a) The costs associated with the Trustee and the administrative costs paid to RGGI, Inc. shall be reimbursed by RGGI auction proceeds, pursuant to 30 V.S.A. § 255(c)(2)(B).

(b) The Agency of Natural Resources ("ANR") and the Department of Public Service ("Department") shall have the opportunity to request that appropriate and reasonable administrative costs associated with their administration of RGGI be paid from the auction proceeds and to request funds to "stimulate or support investment in the development of innovative carbon emissions abatement technologies that have significant carbon reduction potential", pursuant to 30 V.S.A. § 255(c)(2)(G).

(c) Subject to the opportunity for comment pursuant to subsection (d) herein, the Board may decide to use auction proceeds to pay the Board's reasonable administrative costs associated with its administration of RGGI.

(d) The Advisory Committee shall have the opportunity to file comments before the Board disburses any auction proceeds to ANR, the Department, or itself to defray reasonable administrative costs associated with the administration of RGGI, or to fund any requests made pursuant to 30 V.S.A. § 255(c)(2)(G) by the Department or ANR.

(e) Net of any funds to be disbursed pursuant to subparagraphs (a)-(d), above, the remaining auction proceeds shall be deposited into the electric efficiency fund created by 30 V.S.A. § 209(d)(3), in accordance with 30 V.S.A. § 255(d).

6. The Trustee shall withhold one percent of CO_2 allowances from a RGGI auction for retirement in proportion to participation in voluntary renewable programs.

7. CO_2 allowances held in the set-aside account shall be retired, in an amount approved by the Board, up to the number of tons requested by authorized applicants in order to reflect the purchase and retirement of renewable energy credits ("RECs") made by applicants during a given compliance year.

8. Any allowances held in the set-aside account not used for voluntary renewable programs in a given year shall be carried forward into future years and remain available for authorized applicants to request for retirement. In the event the number of CO_2 allowances requested by authorized applicants exceeds the amount held in the set-aside account, the Board shall seek comment from the Advisory Committee on whether to withhold greater than one percent of CO_2 allowances from a RGGI auction for retirement.

9. The set-aside for voluntary renewable programs shall be available to programs offered by Vermont electric utilities and other qualifying entities that purchase and retire RECs on behalf of Vermont customers.

10. Renewable energy generation projects shall be located in a RGGI-participating state to be eligible for the set-aside program.

11. An applicant shall submit a written request to the Board to retire a specified number of CO_2 allowances in the voluntary purchase set-aside account. All requests for the retirement of allowances from the voluntary renewable energy market set-aside shall be submitted by July 1, immediately following the allocation year for which they are being made. The requests shall include the following information to verify and document that the voluntary renewable energy purchases demonstrate accreditable CO_2 emissions reductions or avoidance:

(a) Documentation of the number of RECs, in MWh, purchased on behalf of retail consumers, in Vermont, during the previous calendar year;

(b) Documentation that the RECs were purchased and retired by the applicant;

(c) Documentation of the calendar year when the retail purchase(s) was made;

(d) State from which the RECs were purchased, including documentation of facility name, unique generator identification number, and fuel type;

(e) Documentation that the RECs: (i) have received a Statement of Qualification from the Massachusetts Division of Energy Resources certifying that the generating facility meets the requirements of eligibility as a New Renewable Generation Unit; or (ii) have been approved by the Connecticut Department of Public Utility Control as a qualified Class I Renewable Portfolio Standards Generator; or (iii) are consistent with the requirement of 30 V.S.A. § 8002(1)(A)(i) and meet the definition of new renewable energy resource under § 8002(4);

(f) Any additional information to demonstrate that the RECs are eligible in Vermont and not being credited in more than one participating state, and are not being credited toward any renewable portfolio standard.

12. The total tons of CO_2 retired shall be equal to the MWh purchase of voluntary renewable energy multiplied by the marginal CO_2 emissions rate for the region where the electricity represented by the sale was generated. Specifically, the total tons of CO_2 retired shall be determined using the following equation:

CO_2 tons = MP × MER/2000

where:

CO_2 tons = the number of allowances (in tons rounded to the nearest whole ton) to be placed in the retirement account.

MP = the number of renewable energy credits (RECs) voluntarily purchased on behalf of Vermont consumers during the calendar year (in equivalent MWh), which have been generated within a participating RGGI state.

MER = the most recently published annual average marginal emission rate (in lbs. of CO_2 per MWh) as reported by the corresponding participating state's regional transmission organization.

13. After review of applicant requests and providing for Advisory Committee input, following the July 1st application deadline, the number of CO_2 allowances equal to the amount of avoided CO_2 emissions from the previous calendar year, as determined by the equation above, shall be retired from the set-aside account upon instruction of the Board.

14. The Trustee shall retire 474,391 CO_2 allowances of 2012 vintage and 13,047 CO_2 allowances of 2013 vintage, which represents Vermont's offered allowances that were not sold in the auctions during the 2012-2013 period of the RGGI program.

Dated at Montpelier, Vermont, this 2nd day of April, 2014.

s/ James Volz	PUBLIC SERVICE
s/ John D. Burke	BOARD
s/ Margaret Cheney	OF VERMONT

OFFICE OF THE CLERK

FILED: April 2, 2014

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and Order.