September 28, 2018

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Comments of Center for Resource Solutions (CRS) in Response to the DNREC-DAQ Update to Regulation 1147 to Incorporate the 2016 Regional Greenhouse Gas Initiative (RGGI) Program Review Amendments

Ms. Gray,

CRS appreciates this opportunity to submit comments in response to the open stakeholder comment period associated with the DNREC-DAQ update to Regulation 1147 to incorporate amendments resulting from the 2016 RGGI Program Review. The intent of these comments is to advocate for the incorporation of a voluntary renewable energy set-aside mechanism in Delaware's RGGI regulation. Much of what is stated here echoes our previous comments submitted on March 1, 2016 in conjunction with Acadia Center, CLF, Environment America, Natural Resources Council of Maine, Natural Resources Defense Council, Pace Energy and Climate Center, Sierra Club, and Union of Concerned Scientists.[1]

Background on CRS and Green-e® Certification

CRS is a 501(c)(3) nonprofit organization that creates policy and market solutions to advance sustainable energy. CRS has broad expertise in renewable energy policy design and implementation, electricity product disclosures and consumer protection, and greenhouse gas (GHG) reporting and accounting. CRS administers the Green-e® programs. Green-e® is the leading certification program for voluntary renewable electricity products in North America. For over 20 years, Green-e® staff have worked with independent third-party auditors to annually verify renewable energy purchases in the voluntary market and ensure purchasers receive the full environmental benefits and sole ownership of each megawatt-hour (MWh) of renewable energy they purchase. Verification procedures ensure there is no double counting between voluntary and compliance markets, and that other renewable energy or carbon policies do not claim any of the environmental benefits of certified renewable energy. In 2017, Green-e® certified retail sales of over 60 million MWh, representing over 1.6% of the total U.S. electricity mix. In 2017, there were over 1,107,000 retail purchasers of Green-e® certified renewable energy, including 54,000 businesses.

Value of Voluntary Renewable Energy (VRE) Set-Asides in RGGI States

The RGGI Model Rule includes an optional VRE set-aside provision, which a state regulatory agency may use to allocate a certain number of tons from the CO_2 Budget to a VRE set-aside account for each control period, based on the voluntary renewable energy purchases in the state during this period that represent

[1] Joint Stakeholder Comments for the March 1, 2016 Public Workshop and Listening Session Regarding the Delaware Clean Power Plan. Available at: https://resource-solutions.org/wp-content/uploads/2016/03/Joint-Stakeholder-Comments-DNREC-CPP-Workshop.pdf

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renewable energy generation in one or more participating states.[2] Delaware is the only RGGI state that does not include a voluntary renewable energy set-aside provision in its regulation. Currently, Green-e® certification cannot certify voluntary sales of renewable energy from within RGGI to customers in Delaware, due to Delaware's lack of a set-aside. This is because, without this mechanism, a cap on emissions from the power sector limits the ability of producers and consumers of renewable energy to make avoided emissions claims related to this generation.

Under an emissions cap, renewable energy generation reduces emissions from the sector but does not affect the level of allowed emissions, i.e. the cap. As a result, the emissions reductions from renewable energy generation driven by voluntary purchases can be reversed if those actions are not considered in the design of the cap-and-trade program. Emissions cannot exceed the cap, but emissions reduced below the cap due to renewable energy can be made up elsewhere. In other words, renewable energy simply frees up room under the cap for more emissions. Without a VRE set-aside, there can be no verifiable avoided grid emissions associated with renewable energy purchases, and this means voluntary action eases compliance obligations for regulated entities.

For voluntary buyers and investors in renewable energy, it is important that their generation has some effect on emissions. An allowance set-aside for voluntary renewable energy does just that, and it effectively restores the avoided emissions of these purchases that would otherwise be lost. It is because of these consumer expectations that the use of a VRE set-aside is an industry best practice, and this is why Green-e® certification requires a set-aside or similar allowance retirement mechanism for all certified sales in capped regions across the U.S. and Canada.

VRE Set-Asides Support Emissions Reductions and the Growth of Renewable Energy

A cap on emissions from the power sector not only affects the claims associated with the emissions benefits of voluntary renewable energy but also impacts voluntary demand for and investment in renewable energy. Companies and individuals that purchase and invest in renewable energy voluntarily do so in order to take steps beyond the actions attributable to state or federal policy. These voluntary market participants seek to go beyond what an RPS or cap-and-trade program, for example, might require. In this way, their investment has an incremental impact on the market. This difference is often referred to as "regulatory surplus."

However, where renewable energy sold into the voluntary market does not have this effect, and instead only serves to help regulated entities comply with existing regulatory requirements, this production cannot be considered surplus, therefore diminishing the demand for voluntary purchases.
Where voluntary demand for renewable energy is limited, by extension, so is the overall development of renewable energy and the associated emissions reductions. Regulatory surplus is critical to sustaining clear voluntary claims and has been very helpful in the RGGI region in sustaining voluntary investment in renewable energy beyond what is already required by regulation.

A set-aside mechanism preserves regulatory surplus for voluntary renewable energy by lowering the emissions cap and explicitly recognizing those emissions reductions as incremental to what would otherwise be achieved due to the cap. In doing so, a set-aside can help leverage private capital to produce voluntary renewable energy generation in excess of state mandates. CRS has written extensively on the

[2] See Section XX-5.3(l) of the RGGI Model Rule, revised 12/19/17. Available at: https://www.rggi.org/sites/default/files/Uploads/Program-Review/12-19-2017/Model_Rule_2017_12_19.pdf

value of set-aside mechanisms in protecting the impact of voluntary action and has recently published an *Air Regulator's Guide to Corporate and Voluntary Renewable Energy in State Greenhouse Gas Policy*[3], as well an accompanying VRE set-aside fact sheet.[4]

VRE Set-Asides Would Remove a Barrier to Investment in Delaware

At this time, because of its lack of a voluntary renewable energy set-aside, there is no Green-e® certified voluntary market for Delaware renewable energy generation in the state or for RGGI renewable energy generation to be sold into Delaware. This means that voluntary buyers in Delaware must get their certified renewable energy from outside of the RGGI region. Since 2015, there have been over 435,000 MWh of Green-e® certified sales to retail customers located in Delaware. This shows strong demand for voluntary renewable energy in the state. Adoption of a VRE set-aside in Delaware would allow for this demand to be met by resources in Delaware and RGGI, allowing Delaware the opportunity to capture the private investment dollars that are currently going elsewhere. In other words, the set-aside removes a significant barrier to investment and the development of renewable energy in Delaware beyond that mandated by the RPS, and this could lead to increased revenue from voluntary purchasers for Delaware generation.

To date, there has been no explanation given for Delaware's decision not to adopt the RGGI set-aside provision that has been adopted in all other RGGI states. CRS respectfully requests an explanation of this decision. Should the DNREC-DAQ have any additional questions relating to these comments or the suggestions contained herein, CRS would be happy to provide clarifying information and participate further as these regulatory updates are implemented.

Respectfully submitted,

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[3] Available at: https://resource-solutions.org/wp-content/uploads/2017/10/Corporate-and-Voluntary-RE-in-State-GHG-Policy.pdf

[4] Available at: https://resource-solutions.org/wp-content/uploads/2017/11/Voluntary-RE-Fact-Sheet.pdf