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## CLIMATE CHANGE AND ENERGY EFFICIENCY IN MAINE

By Stephen Ward

Last year Maine began to benefit from an infusion of new revenue that improves the state's energy profile, strengthens energy-related infrastructure and lowers customer's bills for electricity. These things happened not because of an influx in federal dollars but because of the state's participation in the ten-state Regional Greenhouse Gas Initiative program ("RGGI"). RGGI will provide a substantial and durable stream of revenue over the next decade for improvements in energy efficiency at schools, public buildings, residences, small businesses and manufacturing sites across Maine.



The RGGI program places a ceiling on the amount of carbon dioxide power generating facilities (at 25 megawatts or above) are permitted to release into the atmosphere and then progressively reduces that ceiling by 10% as of 2018. Maine's involvement in the design of the RGGI program began in 2004 when the director of the Maine DEP Air Bureau, Jim Brooks, joined with his counterparts at environmental protection agencies in other Northeastern states to convene a Stakeholder Group consisting of 33 individuals, businesses or organizations, and assisted by a 17-person Resource Panel of technical advisors. In addition to the New England Governors (excepting initially Massachusetts and New Hampshire), the other stakeholders represented the states of New York, New Jersey and Delaware. Subsequently Maryland, the District of Columbia, Massachusetts and New Hampshire also joined the multi-state agreement.

The participating RGGI states essentially chose to act because of inertia in addressing climate change at the federal level and in order to establish a blueprint for eventual action at the Environmental Protection Administration ("EPA") in Washington. RGGI is road-testing a so-called "cap and trade" system for managing and reducing carbon emissions. It requires designated power generators in each state to purchase emission allowances in an amount that, over a

The Multi-State Regional Greenhouse Gas Initiative is a road test for a workable cap and trade system for the rest of the country.

three-year compliance period, equals their baseline level of carbon emissions in the 2000 to 2002 period. A cap and trade mechanism has been used successfully (although on a smaller scale) to limit sulfur dioxide and other emissions in previous EPA programs nationally. The RGGI system depends on a regional auction of emission allowances that is coordinated and conducted every three months by a regional entity designated by the RGGI states. The auction sets the price for the purchase of allowances needed by an individual generator or sought by a trader or an interested environmental organization. Thus far there have been two RGGI auctions in 2008, both designed as “pre-compliance” exercises to establish whether the auction mechanism actually works as intended. The first compliance auction takes place this month.

The quarterly auctions attracted a substantial number of bidders, driving up the demand for the price of an emission allowance to well above the pre-set “reserve price” level. At the first RGGI auction on September 25, 2008

some 59 bidders participated, setting a final auction price of \$3.07 per emission allowance (or ton of carbon dioxide emitted into the atmosphere). That auction generated \$38.6 million of which Maine’s share came to \$2,670,000. The second “pre-compliance” RGGI auction attracted even more participation, with 69 bidders seeking more than three times the supply of allowances to be auctioned. The final price set at the December 17 auction was \$3.33, netting more than \$2.9 million in revenue for Maine.

However, an increasing demand for RGGI allowances tends to drive up the price of wholesale electricity throughout the ten-state region, ultimately to the detriment of retail consumers. This is because a higher allowance price will create higher bid prices in wholesale electric markets managed by ISO-New England, the New York ISO and the Mid-Atlantic PJM pool. In these hour-to-hour markets, a single price is set for all electricity supplied in that hour – with all generators (nuclear, oil, natural gas or wind-powered) receiving the same price for that hour’s

generation regardless of their actual operating costs. This pricing scheme for electricity allows RGGI compliance costs to be fully reflected in the electricity costs that customers in Maine ultimately see in their monthly bills. But it also creates a windfall for generators who have no RGGI compliance costs themselves (like nuclear, hydro or other non-emitting resources) but nonetheless receive the same market-clearing price as RGGI-regulated generators. Clearly, this raises questions about whether the privatized generation markets in the Northeast will create an excessive cost for “cap and trade” systems, compared with the circumstance in other parts of the country where power prices are set under PUC-style regulation and are not managed in bid-based markets.

### The Policy Debate

The policy debate now turns to how Maine should spend the revenue created by the quarterly auctions. How can we invest in ways that provide a lasting benefit for Maine’s economy, for individual Mainers as well as improvements in global climate?

The Legislature has acted with forethought – in two ways. First, the Legislature went out of its way to establish the Energy and Carbon Savings Trust as an off-budget Trust that is not subject to the overall appropriations process. They also required the Trustees to resist efforts to divert RGGI revenues from their intended purposes. Secondly, the Legislature was clear and specific about what those intended purposes were: achieving the largest amount of electricity conservation and/or emission reductions at the lowest possible cost in each RGGI Trust dollar expended. Further, the Legislature specified that no less than 85% of RGGI program funds must be targeted at electric efficiency programs, with no more than 15% of funds going to efforts at reducing fossil fuel emissions. An oil heat conservation program is now underway due to the Trustees’ decision to grant \$750,000 in auction revenue to MaineHousing, Community Concepts, and the Passamaquoddy Tribe to weatherize residential buildings for which no other funding is available. That decision

## Timeline for Implementation of the RGGI Program in Maine: 2005 to 2009

### December 2005:

Memorandum of Understanding establishing the multi-state Regional Greenhouse Gas Initiative signed by the Governors of Maine, Connecticut, Vermont, Rhode Island, New York, New Jersey and Delaware. New Hampshire, Massachusetts, District of Columbia and Maryland subsequently join.

### June 2006:

Governor Baldacci signs PL 2005, Chapter 330, authorizing DEP to submit legislation implementing Maine’s previously adopted Climate Action Plan and to participate in negotiations over the design of RGGI.

### June 2007:

Governor Baldacci signs PI 2007, Chapter 317, establishing the Energy and Carbon Savings Trust, the Maine Energy Conservation Board, DEP’s program for compliance with regional RGGI rules and procedures and calling for future rulemakings and studies.

### July 2007:

As provided in the RGGI statute, electricity customers who receive service at transmission-level or sub-transmission voltage levels are prospectively exempted from paying in electric rates the \$.00145 per kilowatt-hour charge that supports Efficiency Maine and become ineligible to apply for Efficiency Maine funding.

### January 2008:

DEP submits to the Legislature its report on methods for policing regional RGGI auctions in order to deter or prosecute attempts to “game”, bid-rig or collude in the purchase of emission allowances.

### January 2008:

The Public Advocate submits its report to the Legislature on ways of consolidating the administration of energy efficiency programs in Maine in order to maximize effectiveness and diminish management costs.

### July 2008:

The Efficiency Maine program at the Maine PUC transfers \$175,000 in start up funds to the Energy and Carbon Savings Trust (ECST) as directed by the RGGI statute.

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implemented an emergency RGGI rule authorizing such programs because of distress caused by the current economic climate.

The RGGI Trustees have adopted rules for managing periodic bid competitions that focus on practical ways of achieving the big bangs for each RGGI buck, in promoting large programs that capture efficiency opportunities at multiple locations across the state, as well as matching private funding for investments in more efficient manufacturing or industrial technology. These rules need final ratification by the Legislature before they can take effect, later this year. With the revenue from two auctions in hand, the Trustees are working closely with the Maine Energy Conservation Board and with a wealth of interested parties to prepare for the first bid competitions this summer when actual programs and projects will be evaluated for RGGI funding.

There remains a final set of questions that will certainly receive attention in the current legislative session – and possibly in future sessions as well. There now are at least four entities

that have been engaged in the delivery of energy efficiency programs in Maine: Maine State Housing Authority, Efficiency Maine, Maine's transmission and distribution utilities (CMP, Bangor Hydro, Maine Public Service and the consumer-owned local utilities) and the RGGI Trust. How can the management of these multiple programs be best coordinated? How can the administrative bureaucracy that independently oversees these programs be reduced? And how can Maine's efficiency programs operate in a setting that maximizes the long-term benefits of program planning and delivery, and minimizes near-term confusion?

Since early Fall 2008, the members of the Maine Energy Conservation Board have been engaged in an ongoing dialogue about the best feasible designs for the statewide management of energy efficiency programs and have invited advice and expertise from locations as diverse as Oregon, Nova Scotia, New Jersey and Vermont. These discussions have come to a focus on two somewhat different models: establishing an entity outside of state government that is accountable for the

management of successful efficiency programs for all fuel types and customer locations (a so-called Oregon model), or establishing a single agency within state government that adapts to the changing priorities of the Legislature and Governor for the most opportune management of funding for Maine's efficiency programs.

It is expected that some of the participants in these debates at the Energy Conservation Board will present their recommendations to the Maine Legislature in the form of bills for restructuring and consolidating Efficiency Maine and the RGGI Trust. Speaker Pingree's bill, for example, LD 886, "An Act to Secure Maine's Energy Future", has resulted from the collaboration of a number of these stakeholders and is now before the Joint Select Committee on Maine's Energy Future. The Governor is likely to weigh in on this question, as well, with an interest in retaining some degree of control over the management of RGGI policy. It also remains to be seen what role, if any, Maine's electric utilities may take in these legislative debates given their absence from all efficiency efforts since electric

restructuring got underway in 2000. It is not necessarily the case, of course, that there will be a final decision by the Legislature on questions of program management in the First Regular Session ending in June. There is, however, a deadline looming: the contractors currently comprising Efficiency Maine's statewide workforce will face contract expiration in mid-2010. The issue of how best to harmonize and coordinate Maine's multiple delivery systems for energy efficiency programs needs to be addressed, at least by then. The question of how to provide the most professional – and least politicized – management of Maine's efficiency programs really needs to be decided in the next few months.

## RECOMMENDATIONS FOR MOVING FORWARD

**Establish Efficiency Program-  
ing in an Entity Outside  
of Government:** At present, efficiency programs in Maine are largely operated with the personnel rules and procedures of Maine government, at Efficiency Maine and MaineHousing. Their success in meeting long-term planning objectives is jeopardized by revamping at every legislative

### August 2008:

The Maine PUC completes the appointment of three Trustees of the ECST and the Maine Energy Conservation Board (ECB) gets underway with four gubernatorial appointments and three state agency representatives (DEP, Energy Independence and Security and the Public Advocate).

### September 2008:

The first regional RGGI auction sells 12.5 million emission allowances, generating \$38,600,000 in total revenue of which \$2.67 million in proceeds comes to Maine. Auction allowance price = \$3.07 per ton of carbon dioxide.

### October 2008:

The ECST Trustees adopt Emergency Rules for funding fossil fuel conservation programs for low-income residential households in Maine and initiate a Request for Proposals process for accepting bids totaling \$750,000 for this purpose.

### November 2008:

The ECST Trustees issue Proposed Rules for the administration of Trust-funded programs, plans and evaluations, following an informal stakeholder review process in October 2008.

### December 2008:

The second regional RGGI auction sells 31.5 million emission allowances, generating \$106.5 million in total revenue of which \$2.9 million comes to Maine. Auction allowance price = \$3.38 per ton of carbon dioxide.

### January 2009:

The ECST announces final bid awards totaling \$750,000 for fossil fuel conservation programs at Maine State Housing Authority, Community Concepts and the Passamaquoddy Tribe to address low-income emergency needs.

### January 2009:

The Legislature's Utilities and Energy Committee, Natural Resources Committee and Select Committee on Maine's Energy Future begin consideration of the ECST rules, the 2007 RGGI statute and possible amendments.

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session or with the arrival of a new Governor. And the government model lacks the leanness and flexibility that the best efficiency administrations demonstrate. To prevent RGGI-funded programming from being at the mercy of short-term agendas, Maine should follow the example of Oregon and Vermont and place the administrator of efficiency programs in a non-profit corporation that is located outside of state government but which is subject to a performance-based contract with the Maine PUC. This is the model proposed in Speaker Pingree's bill, LD 886. It is possible to succeed with multi-year plans for energy efficiency programming if the RGGI Trust is accountable under a multi-year contract and if the Maine PUC retains at all times the right to revoke or renew that contract. Under such a regime, it will be possible to attract and hire competent staff and generate lasting credibility in the distribution of \$10 to \$15 million in RGGI revenues annually.

**Enable the RGGI Trust to Operate with Adequate Administrative Funding.** At present, the RGGI trustees are not compensated for their time in any way and rely on the services of a staff director on loan from the Maine PUC. That is because the Legislature in 2007 enacted an unstable compromise in the RGGI statute: creating a RGGI Trust that is managed on an "all-volunteer" basis, while leaving undisturbed Efficiency Maine's status as a division within the Maine PUC. This compromise does not work. What is needed is a repeal of the 2% cap in the RGGI statute for all costs incurred by the Trustees in managing Trust programming so that: 1) Trustees and staff can be compensated in a manner that attracts expertise and ability; 2) the Trust can hire qualified contractors with experience in the management of efficiency programs; and 3) Maine does not fall further behind other Northeastern states in developing a range of efficiency programs that actually secure bill reductions for energy consumers across the state.

**Efficiency Maine's Programs Should be Rolled into the RGGI Trust.** At present, weatherization, auditing, efficiency and related programs are offered by three entities in Maine government – MaineHousing with authority over all LIHEAP-related funding for low-income households, with Efficiency Maine and the RGGI Trust both targeting electricity savings. MaineHousing's budget alters each year in response to a new Congressional appropriation for LIHEAP and, by all accounts, has been effective in increasing participation rates (and benefit levels) for participating low-income households. There is no good reason to disturb MaineHousing's operations. But Efficiency Maine and the RGGI trust essentially target the same markets, deliver similar services and respond to program applications from the same bidders. There is every reason to anticipate confusion in the marketplace if the two continue to operate independently. The best solution is for the Legislature to study the "best

practices" and most workable models elsewhere in the country and then roll Efficiency Maine and the RGGI Trust into the same administrative unit outside of Maine government.

## About the Author

Stephen Ward served as Maine's Public Advocate from 1986 to 2007 under four successive Governors, representing the interests of utility customers at the Maine PUC, FERC, the FCC, the Maine Legislature and Congress. Ward was President of the National Association of State Utility Consumer Advocates from 2000 to 2002. He currently serves on the board of the Maine Center for Economic Policy.

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