

June 19, 2020

Senator Gene Yaw
Chairman, Senate Environmental Resources
and Energy Committee
Senate Box 203023
Harrisburg, PA 17120-3023

Senator Steven Santarsiero
Minority Chair, Senate Environmental Resources and
Energy Committee
Senate Box 203010
Harrisburg, PA 17120-3010

RE: LS Power's Comments and Recommendations on Draft Proposed CO2 Budget Trading Program Regulation

Dear Chairman Yaw and Senator Santarsiero:

We appreciate the opportunity to offer comments on the Department of Environmental Protection's (the "Department") Draft Proposed CO2 Budget Trading Program Regulation as it was outlined by staff at the April 23 joint meeting of the Air Quality Technical Advisory Committee ("AQTAC") and the Citizens Advisory Council ("CAC").

LS Power is a development, investment and operating company focused on the North American power and energy infrastructure sector with a substantial and growing footprint in Pennsylvania. LS Power currently operates 2.7 GW of natural gas and pumped storage hydro generation in the Commonwealth, along with a growing electric vehicle charging business and a demand-response and energy efficiency company.¹ LS Power announced in April 2020 that it is acquiring an additional natural gas plant in the state, which will bring its Pennsylvania fleet to 3.8 GW or approximately 13 percent of total peak load in Pennsylvania.²

LS Power is also a leading investor in renewable energy technologies that lower carbon emissions, with a substantial and growing clean energy portfolio. LS Power owns and operates solar, wind, pumped storage hydro, battery storage and transmission projects throughout the U.S. EVgo, an LS Power company, operates the largest public fast-charging network for electric vehicles in the country, including seventeen locations

¹ LS Power is a development, investment and operating company focused on the North American power and energy infrastructure sector. Since its inception in 1990, LS Power has consistently been at the leading edge of the industry's evolution, often introducing or commercializing new technologies and developing new markets. To date, LS Power has developed, constructed, managed or acquired more than 42,000 MW of power generation, including utility scale solar, wind, hydro, natural gas-fired and battery storage projects, and over 630 miles of transmission, for which it has raised in excess of \$45 billion in debt and equity financing to support North American infrastructure. Additionally, LS Power actively invests in businesses and platforms focused on distributed energy resources and energy efficiency. For more information, please visit www.LSPower.com.

² LS Power Announces Acquisition of Hummel Station in PA (www.lspower.com). LS Power's current Pennsylvania assets: Ironwood combined cycle, Lebanon, PA; Springdale combined cycle and peaker, Springdale, PA; Gans peaker, Gans, PA; Chambersburg peaker, Chambersburg, PA; Armstrong peaker, Shelocta, PA; Seneca Pumped Storage, Warren, PA. Percentage of peak load based on PJM 2018 Pennsylvania State Infrastructure Report, May 2019.

in Pennsylvania. LS Power’s demand response and energy efficiency company, CPower, helps business and government customers reduce energy use and lower carbon emissions.

LS Power supports market-based approaches to lower carbon dioxide emissions from the energy, transportation and building sectors. An electric sector CO₂ cap-and-trade program, such as the Regional Greenhouse Gas Initiative (“RGGI”), is an example of a market-based approach that can help states achieve their carbon reduction goals while preserving the economic benefits of competitive wholesale electricity markets. **However, RGGI’s success depends on its design. Pennsylvania must be careful to avoid structuring RGGI in such a way that it undermines market-based competition or serves as a “handout” to individual companies.**

Comments on the Department’s Draft Proposed CO₂ Budget Trading Program Regulation

LS Power offers the following comments on the Department’s Draft Proposed CO₂ Budget Trading Program Regulation. These comments also address LS Power’s perspective on the importance of ensuring RGGI proceeds are invested in a manner that advances clean energy development.

1. Preserve RGGI’s True Market-Based Approach: No Handouts to Select Companies or Generators.

LS Power cautions that no handouts should be provided to any “favored” generators or companies, whether through the allocation of RGGI allowances, the proceeds from the sale of RGGI allowances, compliance exemptions or special offsets, as this will undermine the competitive and carbon-reducing benefits of the RGGI program and harm Pennsylvania businesses and consumers. Fossil generators are expected to recover some or all of their RGGI costs by the increase in wholesale energy prices projected in the RGGI modeling presented by the DEP at the April 23 joint AQTAC and CAC meeting. Non-fossil generators, such as nuclear and wind, are expected to benefit from RGGI due to capturing the increase in power prices RGGI will produce, without incurring a corresponding RGGI cost. Effectively, the RGGI program already acts as a subsidy to non-fossil generators.

As evidence of this, Energy Harbor on March 13, 2020 announced that it would rescind deactivation notices for its Beaver Valley nuclear plant, citing Pennsylvania’s move to join RGGI³. Using the allowances or money from the RGGI program to further subsidize these resources would only take away money from programs that could otherwise advance Pennsylvania’s clean energy infrastructure or offset the cost of RGGI to consumers.

Rather than subsidizing existing resources, LS Power recommends the state consider directing RGGI proceeds toward renewable energy and energy efficiency programs in order to maximize carbon-reductions and increase clean energy development. The state should also consider using the funds to incentivize clean

³ Energy Harbor Corp Rescinds Deactivation Notice for Nuclear Generating Plant in Pennsylvania
<https://energyharbor.com/en>

energy development in communities underrepresented in the green energy economy or to offset any increases in customer bills resulting from the implementation of RGGI.

Eliminate Proposed Allowance Set Aside for Waste Coal in RGGI Program.

LS Power understands and acknowledges the environmental legacy that the state's waste coal power plants seek to remedy. However, we believe there are more efficient ways to address RGGI's impacts on waste coal plants than providing more than nine million free allowances a year. The proposed set aside represents 12 percent of the proposed initial CO₂ allowance budget of 78 million tons, and would represent 16 percent of the annual budget in 2030 of 58 million tons. In dollar terms, the set aside in the first year could be worth approximately \$54 million⁴; money that could be otherwise directed to more efficient uses such as offsetting the RGGI cost impact on consumers, investing in Pennsylvania's clean energy infrastructure or even directly funding remediation of coal-contaminated lands.

The set aside would also have a distorting effect on the market whereby waste coal plants would be incentivized to maximize operations in order to fully capture the value of the nine million allowances allocated to them each year, rather than operating in the most economic fashion for customers. Waste coal plants would also receive a double benefit – first, from the increase in energy prices and second, from the allowance set aside. As noted, it is these distorting effects of handouts that underlie our objection to special treatment to any generators. If Pennsylvania decides to mitigate the impact of RGGI on its waste coal plants, it has better alternatives that preserve market-based competition available to it, such as through its Alternative Energy Portfolio Standard.

2. Delay Implementation of RGGI to 2023 In Order to Account for the Unexpected Economic Impacts of the COVID-19 Public Health Crisis.

In light of the COVID-19 pandemic and the uncertainty surrounding its impact on the economy, we believe it would be appropriate to target January 1, 2023 as the start date for Pennsylvania's participation in RGGI.

First, the impact of COVID-19 on the Commonwealth's energy sector, economy and carbon emissions are not yet fully known, nor is its duration. The rulemaking process should incorporate additional time to analyze the effects of the crisis and to integrate the new information into its extensive modeling of RGGI's impacts, including any impacts on the allowance budget, among other factors. Second, Pennsylvania should allow its energy sector, businesses and consumers sufficient time to recover from the economic and disruptive impacts of COVID-19, which could be felt for an extended period of time, before implementing a significant new regulation that will increase costs to consumers.

⁴ Based on a RGGI allowance price of \$6/ton.

3. The Department Should Conduct A Study to Analyze RGGI Related Carbon Leakage Issues and Address Such Issues in Rulemaking Process.

Modeling results presented at the April 23 joint meeting of the AQTAC and CAC showed that fossil fueled power generation and CO2 emissions in neighboring states that are not members of RGGI would increase when Pennsylvania joined RGGI. This leakage issue undermines the overall effectiveness of the RGGI program. Pennsylvania should endeavor to reduce carbon emissions while ensuring its RGGI program does not benefit CO2-emitting power plants in other states such as Ohio and West Virginia that will not bear the financial obligations of RGGI compliance. To that end, the Department should study how to avoid significant leakage in order to ensure that joining RGGI does not result in regional increases in CO2 and other pollutants resulting from the increased operation of fossil fuel generation from other states.

LS Power appreciates the opportunity to provide these comments and recommendations on the Draft Proposed RGGI Regulation. We respectfully ask for the opportunity to meet virtually at your earliest convenience to further the conversation on this important topic.

Sincerely,

Scott Alan Carver, Sr. Vice President
General Counsel at LS Power Development