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Independent Regulatory Review Commission
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VIA E-MAIL

**Re: Environmental Quality Board
Regulation No. 7-559: CO₂ Budget Trading Program
IRRC Number 3274**

To the Independent Regulatory Review Commission ("IRRC"):

Pursuant to the IRRC's process for reviewing proposed agency regulations, the Industrial Energy Consumers of Pennsylvania¹ ("IECPA") submits this letter regarding the above-referenced proposed regulation before the Pennsylvania Department of Environmental Protection's ("DEP") Environmental Quality Board ("EQB") pertaining to Governor Wolf's determination to commit the Commonwealth of Pennsylvania to the Regional Greenhouse Gas Initiative ("RGGI"). Specifically, with this letter, IECPA, as an association of energy-intensive and trade-exposed² industrial entities taking electric and natural gas service from a variety of regulated utilities in Pennsylvania, provides its perspective regarding the public interest implications of the DEP's proposed new RGGI regulations.

As the IRRC is aware, IECPA previously submitted Comments to the EQB on the proposed regulations on January 12, 2021. Those Comments addressed limited issues with the proposed rulemaking as presented. That said, those Comments should not be construed as support for such regulations. IECPA generally supports efforts within the Commonwealth to responsibly conserve the environment, including reasonable measures to control the emissions of carbon dioxide and other greenhouse gases. For the following reasons, however, IECPA does not believe that the proposed regulations are in the best interest of the Pennsylvania public.

¹ IECPA's current membership consists of the following industrial and manufacturing entities: Air Products & Chemicals, Inc.; AK Steel Corporation; Arconic, Inc.; Benton Foundry, Inc.; Carpenter Technology Corporation; Cleveland-Cliffs Inc.; Domtar Paper Company, LLC; East Penn Manufacturing Company; Keystone Cement Company; Knouse Foods Cooperative, Inc.; Marathon Petroleum Corporation; Praxair, Inc.; Proctor & Gamble Paper Products Company; and United States Gypsum Company.

² "Energy-intensive" means that because of the large amounts of energy consumed, small changes in energy rates translate into large changes in cost. "Trade-exposed" refers to the inability to pass cost increases on to customers without risking the loss of those customers to global competition.

Potential Overwhelming Cost of Compliance

As previously indicated, IECPA does not take issue with the goals underlying the proposed RGGI regulation of reducing carbon emissions; rather, IECPA is concerned that these regulations will impose unnecessary additional costs on electric generators in Pennsylvania that will be passed down to all consumers of electricity in the Commonwealth, and particularly to large energy-intensive, trade-exposed industrial manufacturing businesses. Based on available data, IECPA believes that this cost will be massive.

According to the modeling results released by DEP, and as noted in Table 1 below,³ which was included as an exhibit with IECPA's Comments to the EQB, the cost to Pennsylvania electric customers through utility compliance with RGGI regulations may increase by over *\$2.6 billion* during the first 11 years of the RGGI program.

Table 1						
Energy Prices (Nominal \$/MWh)	2020	2022	2025	2028	2030	11 Year Total
PA DEP Reference Case	\$ 27.7	\$ 24.4	\$ 26.5	\$ 30.4	\$ 31.7	
PA DEP Policy Case	\$ 27.8	\$ 25.8	\$ 27.8	\$ 31.8	\$ 32.8	
Policy Case vs Reference	\$ 0.07	\$ 1.5	\$ 1.3	\$ 1.4	\$ 1.1	
Electric Customer Impact	\$ 9,524,988	\$ 214,199,415	\$ 189,405,677	\$ 197,277,683	\$ 157,661,976	\$ 1,782,082,594
Percentage Increase	0.2%	6.1%	4.9%	4.5%	3.4%	
Capacity Prices (Nominal \$/kW-yr)	2020	2022	2025	2028	2030	
PA DEP Reference Case	\$ 36.5	\$ 51.1	\$ 76.3	\$ 68.5	\$ 61.0	
PA DEP Policy Case	\$ 36.5	\$ 51.1	\$ 80.2	\$ 75.2	\$ 62.9	
Policy Case vs Reference	\$ -	\$ -	\$ 3.9	\$ 6.7	\$ 1.9	
Electric Customer Impact	\$ -	\$ -	\$ 118,525,339	\$ 203,539,411	\$ 58,778,736	\$ 821,433,576
Percentage Increase	0%	0%	5%	10%	3%	
Total Customer Impact (Energy + Capacity)	\$ 9,524,988	\$ 214,199,415	\$ 307,931,016	\$ 400,817,094	\$ 216,440,712	\$ 2,603,516,170

As already referenced in IECPA's Comments,⁴ looking at the annual amount of RGGI auction revenues collected in each participating state spread over the electric power sector, CO₂ emissions in those states results in a cost of \$3.35 per metric ton. When applied to 82.1 metric tons of electric power sector CO₂ emissions in Pennsylvania, the financial impact on Pennsylvania just from the RGGI carbon allowance auction would be approximately \$275 million per year in additional costs to electric generators that would be passed along to consumers. This amount does not consider the costs of additional secondary market CO₂ allowances that generators may need to

³ Source: "Pennsylvania RGGI Modeling Report," Pa. DEP, September 25, 2020. Total customer impact is based on electrical usage (MWh) information available from the U.S. Energy Information Administration with load data provided by the Pa. Public Utility Commission report, "Electric Power Outlook for Pennsylvania 2018-2023," published August 2019. The cost totals depicted are for the first 11-year period of RGGI compliance; however, since data is not provided for each year, the prior year's data is used for any missing year up to the next year of data that is provided in order to develop the 11-year total.

⁴ IECPA Comments, p. 3.

purchase, or the increased cost to electric generators to reduce CO₂ emissions in order to comply with RGGI.

As also referenced in IECPA's Comments before the EQB, these costs would be layered on top of the massive investment that electricity consumers have already had to contribute toward Pennsylvania electric utilities' compliance with Act 129 energy efficiency and conservation ("EE&C") measures. Since the beginning of the EE&C Program in June 2009, utility customers have paid more than *\$2 billion* into these Act 129 compliance programs through the payment of associated EE&C utility surcharges. Specifically as it pertains to *just the industrial and manufacturing sector alone*, the cost of these surcharges has equated to approximately *\$1 billion*. That investment by industrial and manufacturing businesses has largely gone without a return to those entities that are unable to participate in utility EE&C offerings due to the fact that they have already invested in their own operational improvements to be as efficient as possible in order to remain competitive. Because these manufacturing businesses are exposed to global trade, they cannot merely pass additional costs on to their customers without risking the loss of those customers to their global competition.

Adding a potential \$2.6 billion of RGGI compliance costs onto the massive expenses already incurred by Pennsylvanians through existing EE&C obligations is not sustainable for the Pennsylvania public.

Impact on Industrial and Manufacturing Businesses and Employment

Energy-intensive, trade-exposed businesses cannot afford to pay the cost of multiple energy efficiency and environmental compliance programs and policy initiatives that are passed through to them without recourse. To that end, IECPA is very concerned that adoption of any proposed regulations to comply with RGGI will jeopardize the survival of manufacturing and industrial concerns in Pennsylvania. This, in turn, will undoubtedly impact job retention throughout the Commonwealth.

In its Comments submitted to the EQB, IECPA noted one study by the CATO Institute that, using data from the U.S. Bureau of Economic Analysis, compared the economic impacts of RGGI-participating states to other states that do not participate.⁵ Without restating those Comments, IECPA respectfully directs the IRRC to the CATO Institute's findings, which show dramatic detrimental impacts to RGGI-participating states with respect to overall economic growth and the loss of production from energy-intensive businesses such as primary metals, food processing, paper products, petroleum refining, and chemicals.

According to the National Association of Manufacturers,⁶ manufacturers in Pennsylvania account for 11.89 percent of the total output in the state, employing 9.33 percent of the Commonwealth's workforce. Total output from manufacturing was \$93.75 billion in 2018, with

⁵ IECPA Comments, pp. 4-5.

⁶ <https://www.nam.org/state-manufacturing-data/2020-pennsylvania-manufacturing-facts/>

an average of 565,000 manufacturing employees in Pennsylvania in 2019. The annual average compensation for manufacturing employees in 2018 was \$75,948. As IECPA also noted in its Comments to the EQB, durable manufacturing also has one of the highest total indirect job impacts at 744 jobs per 100 direct jobs.⁷ IECPA is concerned that if the proposed regulations are imposed, then many of these critical jobs will be at risk -- and this does not account for the impact that the Commonwealth's response to the current novel coronavirus pandemic has already had on all job sectors in Pennsylvania.

Other Economic Impacts

The impact of the additional massive costs pursuant to the proposed RGGI regulations will extend beyond just the ongoing sustainability and long-term viability of industrial and manufacturing businesses and jobs. Specifically, that impact will negatively affect the entirety of the Pennsylvania economy, obviously starting with the energy and power production sector.

Pennsylvania is an energy producing state. In fact, DEP itself reports that Pennsylvania remains a "Leading Electricity Exporter;" however, under the proposed RGGI regulations, Pennsylvania will be penalized for the role that it plays in energy production.

As demonstrated in Table 2 below,⁸ DEP's Integrated Planning Model ("IPM") results indicate a reduction of over 230 million MWh of Pennsylvania-based generation exports during the first 11 years. Furthermore, using Pennsylvania energy prices within the DEP's IPM modeling indicates a loss in overall electricity export sales of over \$2 billion during this period.

⁷ IECPA Comments, p. 4, citing Josh Bivens, "Updated employment multipliers for the U.S. economy," Economic Policy Institute, January 23, 2019 available at: <https://www.epi.org/publication/updated-employment-multipliers-for-the-u-s-economy/>

⁸ Source: "Pennsylvania RGGI Modeling Report," Pa. DEP, September 25, 2020. Baseload generation data assumes 90 percent availability, and TWh data was converted to MWh for represented totals. The cost totals depicted are for the first 11-year period of RGGI compliance; however, since data is not provided for each year, the prior year's data is used for any missing year up to the next year of data that is provided in order to develop the 11-year total.

Table 2						
Transmission Flows (TWh)						
Pennsylvania						
PA DEP Reference Case						
	2020	2022	2025	2028	2030	11 Year Total
Imports from PJM RGGI	2	5	8	10	11	
Imports from PJM Non-RGGI	12	7	8	6	5	
Imports from NYISO	0	0	1	1	1	
Imports from Non-PJM	0	0	0	0	0	
Total Imports	14,039,884	11,865,464	16,717,189	17,092,167	16,508,153	164,520,216 MWh
Exports to PJM RGGI	73	97	93	82	72	
Exports to PJM Non-RGGI	1	8	14	19	16	
Exports to NYISO	5	2	3	3	4	
Exports to Non-PJM	1	0	1	1	1	
Total Exports	80,320,934	108,390,996	111,008,126	104,301,415	93,275,824	1,120,717,887 MWh
Net	(66)	(96)	(94)	(87)	(76)	
PA DEP Policy Case						
	2020	2022	2025	2028	2030	
Imports from PJM RGGI	3	6	6	9	9	
Imports from PJM Non-RGGI	11	6	7	5	5	
Imports from NYISO	0	-	0	1	1	
Imports from Non-PJM	0	-	0	0	0	
Total Imports	13,468,721	12,372,305	13,619,336	15,457,605	15,523,390	151,350,965 MWh
Exports to PJM RGGI	75	76	72	63	61	
Exports to PJM Non-RGGI	1	3	8	11	13	
Exports to NYISO	5	2	3	3	4	
Exports to Non-PJM	1	0	0	0	0	
Total Exports	81,824,803	80,683,443	83,279,038	77,648,624	78,260,756	889,095,052 MWh
Net	(68)	(68)	(69)	(62)	(62)	
Difference in Imports	(571,163)	506,840	(3,097,853)	(1,634,562)	(984,762)	(13,169,251) MWh
Difference in Exports	1,503,869	(27,707,554)	(27,729,088)	(26,652,791)	(15,015,067)	(231,622,835) MWh (2,671) MW
Lost Export Energy Sales	\$ 39,200,206	\$ (608,540,210)	\$ (622,194,008)	\$ (645,617,276)	\$ (363,061,421)	\$ (2,200,212,708)

Accordingly, IECPA is concerned that compliance with RGGI through the proposed regulations, by reducing overall energy production in the Commonwealth, would not only be inconsistent with other efforts to grow Pennsylvania-based energy production,⁹ but would present such a detrimental impact on the Pennsylvania economy as a whole such that approval of the proposed regulations could not be deemed to be in the public interest.

* * *

⁹ For example, House Bill 732 would create a new "local resource manufacturing tax credit" for companies that invest at least \$400 million and create at least 800 construction and permanent jobs to build petrochemical or fertilizer plants that use dry natural gas produced in Pennsylvania.

IECPA appreciates the burden that the IRRC carries for reaching a determination on DEP's proposed regulations for implementing the RGGI requirements, as well as the opportunity to submit this letter in that process. For all of the significant policy reasons stated above,¹⁰ IECPA respectfully submits that the proposed regulations under review by the IRRC do not constitute a measure that is in the public interest.

Respectfully submitted,

SPILMAN THOMAS & BATTLE, PLLC

A handwritten signature in blue ink, appearing to be "Derrick Price Williamson" or "Barry A. Naum", written over a horizontal line.

By

Derrick Price Williamson

Barry A. Naum

*Counsel to the Industrial Energy Consumers of
Pennsylvania*

BAN/sds

¹⁰ In addition to these substantial public interest concerns stated herein, IECPA also generally questions the overall legality of the effort to commit Pennsylvania to RGGI, as reflected by DEP's proposed regulations.