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Apr 08 2021
Independent Regulatory
Review Commission

RESOLUTION NO. 1 - 2021

**TOWNSHIP OF FREEPORT,
GREENE COUNTY, PENNSYLVANIA**

**A RESOLUTION OF THE TOWNSHIP OF FREEPORT,
GREENE COUNTY, PENNSYLVANIA, URGING
PENNSYLVANIA'S INDEPENDENT REGULATORY REVIEW
COMMISSION TO REJECT THE PROPOSED CARBON
DIOXIDE BUDGET TRADING PROGRAM REGULATION AS
PART OF THE REGIONAL GREENHOUSE GAS INITIATIVE.**

WHEREAS, On October 3, 2019, Governor Wolf directed the Department of Environmental Protection (DEP) by Executive Order 2019-17 to develop regulations that would facilitate Pennsylvania's entry into partnership with the Regional Greenhouse Gas Initiative (RGGI); and

WHEREAS, in coordination with RGGI, Inc., the private, nonprofit administrator of RGGI, and member states Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont, the Pennsylvania DEP submitted a proposed carbon dioxide trading program regulation to, and received approval from, the Environmental Quality Board (EQB) on September 15, 2020, which is subject to public comment and review by the Independent Regulatory Review Commission (IRRC); and

WHEREAS, RGGI is a multistate program in which each state regulates carbon dioxide emissions from electric generation plants by imposing a cap and then a tax on those emissions, intended to reduce in-state carbon dioxide emissions and generate revenues to fund various non-fossil-fuel-related projects; and

WHEREAS, Under the act of January 8, 1959 (P.L.2119, No 787), known as the Pennsylvania Air Pollution Control Act, there is no reference to carbon dioxide under the definition of "air pollution," let alone express statutory authorization to regulate, cap and tax

carbon dioxide emissions, and in contrast to the Federal definition of “air pollutant,” the Air Pollution Control Act definition also requires an air pollutant to be “inimical to public health. . . injurious to humans. . . or which unreasonably interferes with the enjoyment of life or property, “unlike carbon dioxide which is necessary to sustain life; and

WHEREAS, According to DEP and data from the International Panel on Climate Change (IPCC), carbon dioxide emissions from all Pennsylvania energy production sources, not just from electric plants, represent approximately 0.19% of global carbon dioxide emissions, and according to DEP models, any carbon dioxide reductions in Pennsylvania would be offset by increased carbon dioxide emissions from neighboring, non-RGGI states, like West Virginia and Ohio, and thus fail to meet the Air Pollution Control Act mandate that the RGGI regulation must also meaningfully “prevent, control, reduce, and abate” climate change; and

WHEREAS, there is no Federal court, Federal Agency or Commonwealth mandate that the Commonwealth cap and tax carbon dioxide emissions; and

WHEREAS, under Pennsylvania Supreme Court precedent, “the power of taxation, in all forms and of whatever nature lies solely in the General Assembly” and a regulatory fee is “intended to cover the cost of administering a regulatory scheme”, and

WHEREAS, the RGGI revenue generating mechanism, which according to DEP will generate \$2.4 billion in revenue over 10 years, is a tax because only a small portion will be used to pay the administrative expenses of the RGGI regulatory scheme; and

WHEREAS, Consistent with the Constitution of Pennsylvania and Supreme Court precedent, the Air Pollution Control Act mandates that the EQB may only establish “fees sufficient to cover the indirect and direct costs of administering” the act and Federal Clean Air Act, however DEP intends to utilize RGGI revenues beyond that purpose; and

WHEREAS, The Constitution of Pennsylvania precludes the General Assembly from delegating taxing power to an unelected board or commission, such as the EQB, by declaring “[t]he General Assembly shall not delegate to any special commission, private corporation or association, any power to levy taxes or perform any municipal function whatever”; and

WHEREAS, the \$2.4 billion RGGI tax will be imposed on all coal and natural gas electric generation plants in Pennsylvania, and according to DEP’s modeling will eliminate over 87% of existing Pennsylvania coal generation by 2022 and impair the future competitiveness of all natural gas plants; and

WHEREAS, RIGGI represents the single most significant energy generation restructurings in the history of Pennsylvania, and the forced early retirement of coal and natural gas plants will lead to the loss of thousands of direct and indirect jobs supporting the electric generation industry; and

WHEREAS, if all coal plants and many natural gas plants within Pennsylvania are forced to close as a result of the RGGI fee, Pennsylvania electric customers will be at risk for significant price spikes and potentially rolling brownouts as have occurred in other states that have moved away from fossil electricity before ensuring that non fossil fuel electricity was available to meet customer demand; and

WHEREAS, every state with RIGGI has enacted legislation that specifically governs entry into the initiative or otherwise expressly authorizes the regulation of carbon dioxide, and nearly all of those state statutes appropriate RGGI revenues to assist low- income families with direct bill pay assistance, which DEP acknowledged cannot occur under its proposed rulemaking; therefore be it

RESOLVED, that the Township of Freeport urges Pennsylvania's Independent Regulatory Review Commission to reject the proposed carbon dioxide budget trading program regulation as contrary to State statute and the Constitution of Pennsylvania; and be it further

RESOLVED, that the Township of Freeport, Greene County, Pennsylvania deem this resolution to serve as its official public comment for the proposed carbon dioxide budget trading program regulation; and be it further

RESOLVED, that the Township of Freeport, Greene County, Pennsylvania has and will continue to advocate for the Legislature of the Commonwealth of Pennsylvania consider statutory energy policy reforms that make sense for Pennsylvania workers, consumers, and employers; and be it further

RESOLVED, that a copy of this resolution be transmitted to the Governor, the Department of Environmental Protection, the IRRC and the EQB.

RESOLVED, that a copy of this resolution be transmitted to the Governor, the Department of Environmental Protection, the IRRRC and the EQB.

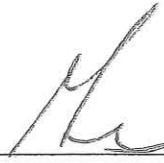
ADOPTED by the Board of Supervisors of the Township of [FREEDOM] County of [CLERKE], the Commonwealth of Pennsylvania, this 22 day of MARCH, 2021.

ATTEST:

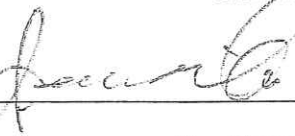
MUNICIPALITY:



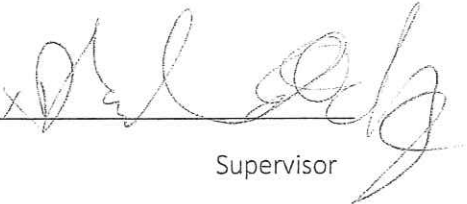
Secretary

By: 

Chairman

By: 

Vice Chairman

By: 

Supervisor

PAM SNYDER, MEMBER
50TH LEGISLATIVE DISTRICT

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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

CHAIR, SOUTHWEST DEMOCRATIC DELEGATION

DEPUTY WHIP

COMMITTEES

AGRICULTURE & RURAL AFFAIRS, SECRETARY
CONSUMER AFFAIRS, SUBCOMMITTEE CHAIR
ON CONSUMER PROTECTION
ENVIRONMENTAL RESOURCES & ENERGY
LABOR & INDUSTRY, SUBCOMMITTEE CHAIR
ON WORKERS COMPENSATION

CAUCUSES

BROADBAND CAUCUS, CO-CHAIR
COAL CAUCUS, CO-CHAIR

April 1, 2021

Hon. Patrick McDonnell, Secretary
PA Department of Environmental Protection
Rachel Carson Office Building
Market St, 16th Floor
P.O. Box 2063
Harrisburg, PA 17101

RE: Local Government RGGI Comments

Dear Secretary McDonnell:

Please see the attached documents from Freeport Township, Greene County. I am proud to represent this small community in the most southwestern corner of Pennsylvania. Our region is dependent on the existence of the coal industry, and I applaud the local township supervisors for speaking out against state policy that will negatively affect their municipality.

The proposed Regional Greenhouse Gas Initiative will have devastating impacts on my district. As you know from our meetings, both private and public, I strongly oppose this program as well. It is my sincere hope that the Administration will consider the thoughts and opinions of the local municipal officials, like the attached resolution, in the coal field regions that RGGI will devastate if imposed.

Though the comment period for the Environmental Quality Board has closed, Freeport Township asked that I pass along its resolution opposing RGGI.

Thank you for your prompt attention. Please do not hesitate to contact me if I can provide any further information.

Sincerely,

A handwritten signature in cursive script that reads "Pam Snyder".

Pam Snyder
State Representative
50th Legislative District

attach.

cc: Freeport Township