From: jean cahill <jcesrisk@gmail.com>
Sent: Thursday, December 2, 2021 12:22:42 PM (UTC-05:00) Eastern Time (US & Canada)
To: Strategies, Climate (DEP) <climate.strategies@mass.gov>
Subject: Comments on Clean Energy Standard and decarbonisation schedule

Thank you for accepting public comments on proposed regulatory updates of electric sector greenhouse gas emissions from Massachusetts.

1. We can all agree that the electricity retail cost in MA is high. While I appreciate investor-owned utility and power company concerns for consumer price and affordability, the proposed remedy of decelerating goals for decarbonization to benefit ratepayers is disingenuous. It follows three decades of PR campaigns by associated industries to derail climate-responsible public policy and regulation.

2. Public trust and confidence in public and private sector leadership has eroded, as societal costs of delaying mitigation of climate-changing emissions accrue. We are faced daily with compounding losses from climate disruption, and pay the indirect, externalized, mounting cost of past and current fuel choices.

3. An accurate account of total greenhouse gas impacts from new and existing power sources is needed to achieve the intent of mandated state greenhouse gas reduction goals. Reporting on real progress and demonstrating feasibility of stabilizing climate are essential to improve prospects for next generations.

4. Incentives must go to clean generation sources and equipment, including a transmission grid that can handle the full generation capacity eg of rooftop solar.

5. Low income customers must be protected from clean energy-regulation changes that increase costs to residential renters and homeowners. A percentage of income rate cap should apply to building energy costs passed to consumers.

6. Meeting 2030 goals for clean energy must be linked to an incentivized rate structure that rewards low-intensity consumption, and charges a higher rate per usage to inefficient, peak- and high power-consuming entities. Allowances for high-efficiency electric vehicle and heat pumps should be accomodated.

It is beyond frustrating to see that the preponderant sources of greenhouse gas emissions go unaddressed by statutes and policy. The prodigious waste of the commercial sector alone is evidenced by every single light on in unoccupied buildings at night, cavernous air conditioned spaces, unoccupied light and heavy duty vehicle engines left idling. We in Massachusetts' complacently excuse this behavior as business as usual. It normalizes institutional and personal irresponsibility, reinforces habits of waste, messages community denial, and accelerates and expands the global climate emergency.

Commercial/industrial interests focus leverage on decision-makers to defer appropriate climate planning, policies, and implementation. It is time to target emissions reduction goals and responsibilities on C/I sectors for building and vehicle operations.

I promised my 23 year old that I would speak up for her and the youth who understand climate change. They have little hope for bearing children into a bleak future.
Please act with every conceivable set of mechanisms to rehabilitate this faithless generation's prospects for continuation of life.

--
Jeanne M. Cahill, Ph.D.
Environmental Scientist
774-267-1539

From: Ken McDonnell <klmcdonn@gmail.com>
Sent: Thursday, December 2, 2021 1:26:28 PM (UTC-05:00) Eastern Time (US & Canada)
To: Strategies, Climate (DEP) <climate.strategies@mass.gov>
Subject: Stakeholder Comments on 310 310 7.74 and 7.75

Dear Secretary Theoharides and Commissioner Suuberg, ,

I urge you to extend until December 31 the stakeholder comment period on regulations pertaining to reducing CO2 emission from electricity generating units (310 CMR 7.74 and 7.75). This extension expands the opportunity for more meaningful participation by community members and groups who deal with emissions from power plants across the Commonwealth. This action relates directly to the passage of S.9 and ongoing development of the Massachusetts Clean Energy and Climate Plan. Decarbonization of the power sector is fundamental to reducing emissions 50% by 2030 and to net zero by 2050 as required by state law. The review of 310 CMR 7.74 and 7.75 holds great potential to lead to accelerated decarbonization of the electric sector, which will support the timely, cost-effective meeting of Massachusetts' climate goals.

Please give your fellow Massachusetts citizens a greater voice in this vital legislation.

Thank you.
Kenneth McDonnell
22 Armington Lane
Holden, MA 01520

Comments from *Clean the Grid Working Group*, 350Mass

VIA ELECTRONIC MAIL / climate.strategies@mass.gov

Secretary Kathleen Theoharides
Massachusetts Executive Office of Energy and Environmental Affairs
100 Cambridge St. Suite 900
Boston, MA 02114

Commissioner Martin Suuberg
Massachusetts Department of Environmental Protection
One Winter Street Boston, MA 02108

RE: 310 CMR 7.74 and 310 CMR 7.75 2021 Program Review Stakeholder Discussion Comments

Dear Secretary Theoharides and Commissioner Suudberg:

Please accept the following comments from the *Clean the Grid Working Group* of 350Mass. We are the division of 350Mass that focuses on advocating for an electric energy grid that is no longer dependent on fossil fuels.

General Comment: We recommend that, before you review comments and continue with rule making, that you and your staff read the recent article, published in the journal *Climate*, that outlines the rapid changes occurring in the New England climate. The article reveals that Massachusetts, is warming quickly, with average temperature up three and one-half degrees between 1900 and 2020.

This information means that, whatever was done before and is happening now, IS NOT WORKING.

It is urgent that you and your staff **redouble your efforts** to reduce climate change's impact on Massachusetts. The alternative is future drastic measures, taken in the midst of climate disasters, that will be far more difficult for utilities and others to carry out in their current operating paradigm. These future crisis measures, done because too little is being done now, might lead to high levels of government intervention in the energy markets.

Topic #1: Stringency of 310 CMR 7.74 and 7.75

We believe that the process of rapidly increasing the CES should be started immediately. A goal of 60% CES by 2030 is essential to increase investment re-direction by the private sector. Signals have been sent to the free market by scientists since the 2016 Paris accords. These signals have been resisted and occasionally ignored. It is time for the State of Massachusetts to supplement these signals with regulatory requirements that meet the urgency of the moment.

The energy sector requires a great deal of planning and forward investment. It is essential, if we are to meet the goal of total de-carbonization by 2040, to **accelerate investment in new**

technology and facilities now, in 2022. Delay could easily lead to slipped deadlines and non-achievement of desirable goals.

We should abandon the zero-decarbonization game of importing electric energy from fossil fuel producers and other destructive ways of producing energy from regions outside of New England. The "Canadian hydro will save us" game is over. Rules should focus on replacing natural gas and other dirty fossil fuel plants with renewable energy produced in New England.

When possible, EOEEA and DEP should be using the concept of environmental justice outlined in the latest legislation to guide quick closure of fossil fuel facilities in communities already impacted by too many facilities.

Topic #2: Clean Energy Standard Technical Review

350Mass does not support combining the RPS/APS/CES/CES-E programs. In general, one standard for multiple technologies could preclude introduction of new technologies that begin at one price level and then improve over time. We need incentives for any type of technology that can speed up the de-carbonization of the electric grid. Currently, the programs incentivize different technologies of varying usefulness in meeting state climate targets, and we do not want to diminish the effectiveness of critical policies under the rubric of one size fits all.

350Mass is very much in support of ending double counting of behind the meter generation. This loophole frustrates the addition of solar energy on homes; eliminating it would increase high quality renewable energy without increasing the annual RPS percentage.

Topic #3: 310 CMR 7.74 Technical Review

350Mass is strongly against allowance banking. All facilities should be reducing their carbon footprint. Those that cannot, should be closed. They should not be allowed to continue polluting through any form of "selling" their carbon. This includes sale of allowances at auction. This is an important way for regulators to send signals to the energy market that it must adjust rapidly to the need for de-carbonization.

Topic #4: Municipal Light Plants (MLPs) and 310 CMR 7.75

Municipal light plants should not be double counting emission attributes. There is no reason they should be held to lower standards than privately owned facilities.

Thank you for the opportunity to send you these comments. The energy ship for New England is very large and must begin turning as rapidly as possible toward a de-carbonized future if we want to preserve our way of life.

Respectfully Submitted,

Monte Pearson, Chair

Clean the Grid Working Group
350Mass

BEAT
Berkshire Environmental
ACTION TEAM

20 Chapel St., Pittsfield, MA 01201
413-464-9402 • www.thebeatnews.org

no fracked
gas in mass.com
Protect Our
Common Wealth
A Program of
Berkshire Environmental Action Team

December 4, 2021

VIA ELECTRONIC MAIL / climate.strategies@mass.gov

Secretary Kathleen Theoharides
Massachusetts Executive Office of Energy and Environmental Affairs
100 Cambridge St. Suite 900
Boston, MA 02114

Commissioner Martin Suuberg
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108

RE: 310 CMR 7.74 and 310 CMR 7.75 2021 Program Review Stakeholder Discussion Comments

Dear Secretary Theoharides and Commissioner Suudberg:

Please accept the following comments from No Fracked Gas in Mass (NFGiM) & the Berkshire Environmental Action Team (BEAT). BEAT works to protect the environment for wildlife in support of the natural world that sustains us all. No Fracked Gas in Mass works to stop the expansion of fossil fuel infrastructure in the Northeast states and to promote energy efficiency and sustainable, renewable sources of energy and local, permanent jobs in a clean energy economy.

General: Request for comment period deadline extension

Even though BEAT/NFGiM is involved in permitting issues - whether reporting violations or participating in the permit renewal process, the only reason we found out that regulations for emissions reduction were being reviewed was from side-conversation comments from one of the regional office staff members. Even when visiting the DEP website to find out more, finding when the stakeholder meetings were being held was a multi-click process about a half-dozen clicks deep. It was by chance that we found out about the final stakeholder meeting 15 minutes before it started.

As part of the Environmental Justice outreach mandate of the Next Generation Climate Roadmap Act mandate, DEP's regional office has been requesting that we help them find community groups to help with their stakeholder outreach for local permitting issues, but there hasn't seemed to be any parallel efforts from the statewide offices conducting the stakeholder meetings. It was disappointing to find out that this particular emissions reductions regulation review process had been going on since this spring and that only a few organizations were there to participate. Grassroots input from communities living with these electric generation facilities should have been solicited through community group outreach, legal notices in local news, and notices to facility host-community administrations such as city councils, select boards or boards of health.

The comment period should therefore be extended to no earlier than December 31 to allow more grassroots groups to participate in the process.

Topic #1: Stringency of 310 CMR 7.74 and 7.75

- *Increase the stringency of the CES from 40% to 60% or more in 2030. For example, this could be addressed by increasing the standard by 5% or more each year from 2026 to 2030 (instead of the 2% each year increase in the current regulation). Waiting until 2025 before escalating the annual rate of increase would allow time for supply to become available before the changes take effect. In combination with the CES-E, these changes would place the Commonwealth on a path toward a fully decarbonized electricity sector by 2040.*

BEAT/NFGiM supports an increase of the CES to at least 60% by 2030 and strongly urges that the Commonwealth pursue a target higher than 60%. In addition, given the Commonwealth's procurement of new clean energy resources pursuant to Sections 83C and 83D that are anticipated before 2025, BEAT/NFGiM urges that MassDEP not wait until 2025 to accelerate the CES beyond the current 2 percent per year to ensure that clean energy resources are deployed at the necessary rate to rapidly transform the electric sector to meet climate targets.

BEAT/NFGiM supports the pursuit of a fully decarbonized electric sector by 2040 but cautions that procuring hydroelectric imports from new impoundments to meet that target would not result in a truly zero carbon electric supply. New impoundments are highly carbon intensive as they inundate natural landscapes that function as carbon sinks; inundation not only causes a loss of these natural sinks, but also results in emissions from biomass decomposition, resulting in energy that is not zero-carbon.[1] The carbon footprint of new impoundments is further amplified by ongoing net differences between the carbon uptake and respiration of the pre-flooding and

post-flooding biomes and water columns.[2] There are also significant environmental justice concerns associated with Canadian hydroelectric impoundments, as land belonging to First Nations has been flooded for these projects.

BEAT/NFGiM notes that because Massachusetts is part of the larger New England electric grid, the Commonwealth must take care to pursue decarbonization of its electric sector in a way that accelerates the retirement of fossil generators and replaces that generation with renewable energy, rather than in a way that results in increased fossil generation in adjacent states. BEAT/NFGiM also supports a focus on the retirement of the fossil generators with the most negative impacts on pollution and public health in environmental justice communities.

- *Increase the CES-E from 20% of 2018 electricity sales to 25%. An increase from 20% to 25% could "lock in" a modestly larger contribution from pre-2010 clean generators. Making this change by 2026 would help ensure that new clean generators added quickly between 2026 and 2030 replace emitting generators, not existing clean generators.*

BEAT/NFGiM supports development of new clean energy resources in New England and would want to better understand how much CES-E generation already exists in Massachusetts and in other New England states before calling for an increase in the CES-E. An increase to the CES-E would need to support renewables in New England rather than result in procurement of RECs from states outside the region.

- *Maintain the stringency of 310 CMR 7.74 without modification. Emissions from the instate power plants regulated under 310 CMR 7.74 have trended well below regulatory limits, so further reducing those limits may not be necessary to achieve reductions by 2030. However, even if the limits in 310 CMR 7.74 are not changed as a result of the 2021 program review, ongoing monitoring will continue to ensure that power plant emission levels support achieving the 2030 statewide greenhouse gas (GHG) emissions limit established in December 2020.*

While reducing in-state power plant emissions limits may not be necessary, BEAT/NFGiM does not see any downside to making sure that regulations keep pace with emissions trends. The goal of emissions regulations is to apply downward pressure to emissions in the state; the emissions limits in 310 CMR 7.74 should be continually revised to encourage emissions reductions. This is in line with the recent climate legislation that increased Massachusetts' climate ambition to 50% emissions reductions below 1990 levels by 2030 and 75% by 2040.

- *Stakeholders may also comment on the timing of any regulatory amendments that would affect the stringency of 310 CMR 7.74 or 7.75. Initiating rulemaking as soon as possible in 2021 may encourage the rapid action that will be necessary to achieve large emission reductions by 2030. On the other hand, amendments may be necessary to address the 2025 and 2030 CECPs that will be published by July 1, 2022, so delaying the rulemaking until after that date may make sense as a way to avoid the need to complete multiple rulemaking processes in the next two years.*

BEAT/NFGiM believes that the sooner we adopt emissions reductions regulations, the more emissions will be avoided, and the more costs will be saved on decarbonization long-term. Stakeholders can reasonably expect that certain policies will be "no regrets" when it comes to addressing the 2025 and 2030 CECPs to be published by July 1, 2022. For example, increasing the CES to 60% by 2023 and 100% by 2030 is likely to satisfy any proposals put forth by the CECP, and such ambition in the electric sector could help us get a head start on decarbonization from the transportation and building sectors.

Waiting for the 2025 and 2030 CECPs to adopt new regulatory amendments would set Massachusetts back on our path to meeting the 2030 emissions limit.

Topic #2: Clean Energy Standard Technical Review

- *A comprehensive "global" CES has been posited by some stakeholders as a substitute for, or complement to, the suite of RPS/APS/CES/CES-E policies that currently exist in Massachusetts and New England. How, exactly, would such a policy be structured? For example, how would costs be minimized in a single policy given the need to support technologies with widely differing costs (i.e., new rooftop solar vs. pre-2010 hydropower facilities)?*

BEAT/NFGiM does not support combining the RPS/APS/CES/CES-E programs at present as the programs incentivize different technologies of varying usefulness in meeting state climate targets and would not want to diminish the effectiveness of the more critical policies.

- *Are changes needed to the alternative compliance payment (ACP) rates? For example, the rates could be specified in regulation as $35/MWh for the CES and $10/MWh for the CES-E (similar to current levels), instead of as a % of the RPS Class I ACP rate.*

BEAT/NFGiM strongly supports setting a dollar value per MWh for CES ACP rates. If proposed amendments to RPS Class I regulations are adopted, the RPS Class I ACP would drop to $40/MWh in 2023 and thereafter. The current system would then set CES compliance payments to $20 (50% of ACP), a value that we could reasonably expect to be below CEC trading prices a significant portion of the time. This would invalidate the CES as an emissions reduction mechanism.

BEAT/NFGiM opposes lowering the RPS Class I ACP to $40/MWh; however, we would recommend that the ACP for the CES be set as close to the RPS Class I ACP as possible—but no longer as a value tied to the RPS Class I ACP.

Any lowering of ACP rates should be accompanied by substantial increases to the CES. The purpose of the ACP is to balance markets as demand is driven upwards by the CES; thus, lowering the ACP should be tied to increases in the CES.

- *Should the structure of the standard be refined to address customer-sited behind-the meter generation such as rooftop solar power? Under the current program structure, this generation may be credited toward compliance, but the portion of the energy used on site is not included in the basis of the compliance obligation because it is never sold.*

BEAT/NFGiM strongly supports ending double counting of behind the meter generation. Closing this loophole would be a way to increase Massachusetts' highest quality renewable energy without needing to up the annual RPS percentage.

- *Should there be any changes to the requirements that apply to generators that are not located in ISO-NE? For example, should the capacity market participation requirements or energy delivery documentation requirements be revised?*

BEAT/NFGiM agrees with RENEW Northeast that the capacity market requirements should be consistent with the Class I RPS accreditation regulations for imports.

Topic #3: 310 CMR 7.74 Technical Review

- *Should there be limits on allowance banking? Limiting allowance banking could increase liquidity, at least in the near term, because facilities would likely attempt to sell allowances that could not be banked.*

BEAT/NFGiM agrees that there should be strong limits on allowance banking. The purpose of the 310 CMR 7.74 emissions cap is to impose limits on the carbon emissions of power plants. Any part of this program that allows polluting generation

facilities to avoid that purpose, including through allowance banking, should be curtailed.

Similarly, MassDEP should not permit the sale of allowances at auction in advance of each compliance year. Given that the Commonwealth has increased its target for 2050 GHG emissions reductions to net zero, up from 80% at the time 310 CMR 7.74 program was enacted, MassDEP must pursue all options to reduce the emissions impact from electric generation.

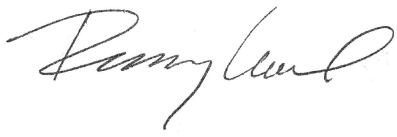
Topic #4: Municipal Light Plants (MLPs) and 310 CMR 7.75

- *Are any clarifications necessary in relation to the GHG reporting requirements under 310 CMR 7.75? For example, is there a need to clarify that the prohibition on reporting non-emitting generation for which others own the emissions attributes will continue to apply regardless of how MLPs structure their GGES programs?*

BEAT/NFGiM believes that clarification is necessary to signal that the prohibition on reporting non-emitting generation for which others own the emissions attributes will continue to apply regardless of how MLPs structure their GGES programs. BEAT/NFGiM supports measures to prohibit double counting of environmental attributes.

Respectfully submitted,

Jane Winn, Executive Director
Berkshire Environmental Action Team



Rosemary Wessel, Program Director
No Fracked Gas in Mass, A Program of Berkshire Environmental Action Team

Cc.
Governor Charles Baker
Attorney General Maura Healey

clf
conservation law foundation

For a thriving New England

CLF Massachusetts
62 Summer Street
Boston MA 02110
P: 617.350.0990
F: 617.350.4030
www.clf.org

December 9, 2021

Via Electronic Mail

Commissioner Martin Suuberg
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108
climate.strategies@mass.gov

Subject: Comments on 310 CMR 7.74: Reducing CO_2 Emissions from Electricity Generating Units and the Market Monitor Comments on Future Allowance Auctions

Dear Commissioner Suuberg:

Conservation Law Foundation ("CLF") appreciates the ongoing opportunity to comment on the Massachusetts Department of Environmental Protection's ("MassDEP") review of 310 CMR 7.74 and 310 CMR 7.75. The comments below respond to the Market Monitor Comments on Future Allowance Auctions published on MassDEP's website in August, 2021.

CLF is a non-profit, member-supported environmental advocacy organization working in Massachusetts and across New England to protect our environment for the benefit of all people, to build healthy communities, and to sustain a vibrant economy. CLF is working throughout New England to advance policies and decision-making that reduce greenhouse gas ("GHG") emissions and incentivize clean energy sources.

I. MassDEP Should Prioritize Meeting Emissions Reduction Goals for 2050 Over Minimizing Costs

In its initial Stakeholder Discussion Document and in the more recent Market Monitor Comments, MassDEP has raised several important options for modifying the Clean Energy Standard ("CES"). However, rather than consider additional changes to improve the CES program and put the electricity generation sector on a path to achieve the decarbonization goals that will be required under the recent "Roadmap Law" (Senate Bill 9 - An Act Creating a Next Generation Roadmap for Massachusetts Climate Policy), MassDEP has focused on changes to the auction process which would result in allowances for future years being sold a year in advance of their use. This proposed reform is not based on legitimate goals for this program.

The new market mechanism proposed in the Market Monitor Comments and explained in MassDEP's recent stakeholder meeting are heavily focused on increasing market liquidity and minimizing costs to generators. However, MassDEP's focus should be on reviewing how the CES and the rest of the suite of standards listed (RPS, APS, and CES-E) will allow the electric generation sector to reduce its share of emissions necessary for Massachusetts to reach its recently increased goal of net-zero GHG emissions by 2050. Only then should it turn to looking for additional ways to cut costs. We have already witnessed how the short-sightedness of weaning industries off of programs and incentives like the CES can stunt industries, as happened with the solar industry in the region. It is essential that these programs are maintained and increased in order to sustain renewable energy industries and meet the state's increasing climate mandates.

II. MassDEP Should Limit Allowance Banking and Auction Sales As Much As Possible

While CLF acknowledges MassDEP's goal of limiting allowance banking to increase liquidity in the near term, the proposed market changes to auction allowances for future compliance years are not in line with the objective of the program. The purpose of the 310 CMR 7.74 emissions cap is to impose limits on the carbon emissions of power plants. Any part of this program that allows polluting generation facilities to avoid that purpose, including through allowance banking or sales of future allowances, should be curtailed.

Given that the Commonwealth has increased its target for 2050 GHG emissions reductions to net zero, up from 80% at the time 310 CMR 7.74 program was enacted, MassDEP must pursue all options to reduce the emissions impact from electric generation.

III. MassDEP should Increase the Stringency of the Clean Energy Standard

MassDEP previously requested stakeholder feedback with respect to whether it should increase the stringency of the CES from 40% to 60% or more in 2030. However, the department's more recent review was focused on strategies to lower costs and increase market liquidity instead of focusing on the valid goal of the program: to assist the Commonwealth in achieving its greenhouse gas emissions reduction goals. The level of the CES should be calibrated when necessary to ensure that the Commonwealth is capturing all of the GHG emissions accounting value that its public policy-based electricity procurements are creating. In anticipation of an increase in eligible sources in the coming years that Massachusetts electric customers have already paid for, MassDEP should recalibrate and raise the CES so that costs and revenues in the CES and Renewable Portfolio Standard ("RPS") energy certificate markets align. If the stringency of the CES is not increased, the Commonwealth risks losing the benefits of the money that it has already put towards these sources in the event another state purchases the credits that these new sources will create.

Additionally, an emissions cap that is regularly being met from the inception of the program should indicate to regulators that the cap needs to be lowered. MassDEP should focus on updating 310 CMR 7.74 to ensure that electric sector emissions ramp down as quickly as possible to enable electrification to drive emissions reductions in other sectors.

IV. MassDEP should expand the scope of its review of the Clean Energy Standard

Rather than focusing on these proposed market changes, MassDEP should consider avenues to reduce or eliminate combustion technologies, including woody biomass, from the CES market. It is far beyond time for Massachusetts to stop attempting to engineer economic development for the woody biomass industry at the cost of the health of the people who live near inefficient and highly polluting woody biomass combustion facilities.[1] Biomass facilities, even when they are ostensibly low emitting, still release some level of harmful pollutants.[2] Such facilities pose risks to the health of nearby communities, and overburdened environmental justice populations are particularly vulnerable to any further decrease in air quality. Moreover, removing these technologies from the CES, along with other attribute markets, will be essential for the Commonwealth to meet its environmental and climate justice goals, as well as the net zero by 2050 requirement set out in Roadmap Law.

MassDEP should also amend the CES to account for the GHG emissions associated with other technologies incentivized or compensated under the CES, including hydropower. The CES regulations should require reporting of the GHG emissions from the electricity production by electricity retailers of hydroelectric or importers or producers, and the reported emissions should be included in the annual GHG inventory.

Finally, electricity attribute programs, including the CES, can help reduce the overall peak installed capacity of our electric generation system. MassDEP should consider amendments to the CES that would encourage utilities to plan for peak demand reduction. Specifically, MassDEP should integrate into the Clean Energy Standard a requirement for each electric distribution company to file with MassDEP a plan to reduce peak demand by 50 percent by 2025 and to file with the Department of Public Utilities ("DPU") a plan to pay for combined strategies such as energy storage systems, time-of-use rates, energy efficiency services. This innovation would help fill a gap between the Mass Save program (which encourages overall demand reduction) and the Clean Peak Standard (which attempts to encourage use of lower-emitting sources to meet peak demand).

Thank you for your consideration of these comments. We look forward to working with MassDEP as it continues the review process for these programs, and we encourage MassDEP to conduct stakeholder meetings, develop further information, and facilitate public hearings as it plans the next steps of this process.

---

[1] For detailed discussion of the unsuitability of woody biomass for clean electricity technology incentives, see CLF, et al., Joint Environmental Comments on Proposed Changes to the Biomass Regulations in the Renewable Energy Portfolio Standard (July 26, 2019).

[2] For instance, the air permit for Palmer Renewable Energy LLC's proposed biomass facility in East Springfield, Massachusetts would have allowed it to emit 34.55 tons of particulate matter and 13.2 tons of hazardous air pollutants annually, which includes heavy metals and carcinogens like formaldehyde and benzene. *See* MassDEP Conditional Air Permit for PRE Proposed Biomass-Fired Power Plant at 1000 Page Boulevard in Springfield, MA 15 (June 30, 2011), http://www.pfpi.net/wp-content/uploads/2019/05/Palmer-Renewable-Energy_Non-Major-Conditional-Plan-Approval_06_30_11-FINAL.pdf.

Sincerely,

Caitlin Peale Sloan
Vice President, CLF Massachusetts
Conservation Law Foundation

Annika Hellweg
Paralegal
Conservation Law Foundation

December 9, 2021

Commissioner Martin Suuberg
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108

Submitted via: climate.strategies@mass.gov

Re: MassDEP Program Review for 310 CMR 7.74 – Vicinity Energy Comments

Commissioner Suuberg:

On November 16, 2021, the Massachusetts Department of Environmental Protection ("MassDEP" or the "Department") hosted a virtual meeting to take comments from stakeholders on the status of the Program Review for 310 CMR 7.74: Electricity Generator Emission Limits (the "Regulation"). At the conclusion of that meeting, the Department indicated it would accept written comments from stakeholders through December 9, 2021. Vicinity Energy Inc. ("Vicinity Energy" or the "Company") appreciates the opportunity to submit the following comments regarding MassDEP's review of the Regulation.[1/]

In these comments, Vicinity Energy asks the Department to:

- Amend 310 CMR 7.74 to create a retirement account that the Department may use to hold GWSA allowances corresponding to the emissions notionally allocated to beneficially used waste steam from Vicinity Energy's generation of electricity, as prescribed in the definition of Annual CO_2 Emissions. This will demonstrate that those allowances have been retired and are not available for sale to third parties – exactly as is already done under 310 CMR 7.70;
- Adopt limits on allowance banking to facilitate allowance trading and moderate artificial price increases;
- Offer auction sales of a modest amount of future year allowances to facilitate hedging and price discovery in allowance trading; and
- Complete these amendments as soon as possible to remove marketplace confusion over assigning responsibility for CO_2 emissions.

Create a Retirement Account for Useful Net Thermal Energy Allowances

The current version of the Regulation recognizes the environmental value of making use of steam that is a waste product from the production of electricity. Vicinity Energy creates such steam when it produces

[1/] Vicinity Energy has submitted comments previously in this proceeding, specifically on May 28, 2021. In July of this year, the Company alerted the Department that it anticipated submitting comments in the future that would supersede those comments. The comments here supersede and replace the May comments.

electricity at the Kendall generating station. Rather than vent to the atmosphere or the Charles River, Vicinity Energy captures the waste steam, which is then reliably distributed for use in the heating, process operations and cooling of buildings owned by its customers in Boston and Cambridge, including hospitals, universities, governmental bodies, biotechnology and life science companies and other critical load facilities.

Because of the amount of electricity Vicinity Energy generates at Kendall Station, the Company is required to limit and report its carbon emissions to the MassDEP according to 310 CMR 7.70 (in addition to federal law and independent system operator regulations). The Regulation adjusts the amount of carbon emissions for which Vicinity needs to purchase allowances in order to incent the beneficial use of waste steam. The current version of the Regulation makes clear that an "adjustment" is to be made in the annual CO_2 emissions Vicinity Energy must report and, therefore, for which Vicinity Energy must purchase carbon emissions allowances.

The portion of the Regulation that recognizes the environmental benefit of creating and distributing useful net thermal energy is found in the definition of Annual CO_2 Emissions, as follows:

> **Annual CO_2 Emissions** means the total amount of CO_2 emissions measurements recorded and reported for a calendar year in accordance with the Massachusetts CO_2 Budget Trading Program at 310 CMR 7.70(8) (e) 4., converted from short tons to metric tons and adjusted, as applicable, for the production of useful net thermal energy pursuant to the Massachusetts CO_2 Budget Trading Program at 310 CMR 7.70(8) (i). (*Emphasis added*)

At present, the Regulation does not make clear how those allowances, once created, are to be accounted for by MassDEP, any other department of the Commonwealth, or any municipality.

By contrast, 310 CMR 7.70 does address this with respect to the operation of the Regional Greenhouse Gas Initiative ("RGGI"). In sub-section (5)(b)(6) RGGI creates a "Retirement Account" into which allowances equal in amount to the CO_2 emissions attributable to the production of useful net thermal energy can be "retired," that is made unavailable for sale to a third party. This provision reads as follows:

> 6. Useful Net Thermal Energy Retirement Account.
>
> a. Pursuant to 310 CMR 7.70(5)(c)4.c., the Department shall create a useful net thermal energy retirement account in the RGGI CO_2 Allowance Tracking System for the purpose of retiring CO_2 allowances equal to the amount of CO_2 emissions attributable to the production of useful net thermal energy from combined heat and power CO_2 budget sources.
>
> b. Each year, the Department shall retire CO_2 allowances equal to the amount of CO_2 emissions attributed to the production of useful net thermal energy during the prior calendar year, as quantified and reported by the CO_2 authorized account representative pursuant to under 310 CMR 7.70(8)(i).

Vicinity Energy believes that the Regulation's definition of Annual CO_2 Emissions means those allowances are fully accounted for and are effectively "retired." However, with the imposition of stricter emissions reporting requirements in the cities of Boston and Cambridge, which requirements are now tied to monetary assessments, it has become evident that the lack of clarity is causing confusion regarding the treatment of Vicinity Energy's waste thermal energy.

The uncertainty caused by the lack of regulatory clarity on this point has caused the relevant municipalities and the Company's customers to be unsure of how to calculate the carbon content associated with the waste steam distributed from Kendall Station through the district energy system. While they know that the emissions related to every molecule of fuel consumed at Kendall Station is reported through the MassDEP and to ISO-NE in connection with the electricity generated at Kendall Station, they are no longer sure of the impact of the notionally exempted emissions within the context of the Regulation. It has recently become evident that merely relying on the definition of Annual CO_2 emissions to address this situation does not make clear the provenance of those adjustments or sufficiently indicate they are retired. Vicinity Energy's current and potential customers are in need of assurance that those adjustments are being retired and that all of the carbon emissions notionally attributed to the capture and beneficial use of the waste steam are fully accounted for.

Vicinity Energy urges MassDEP to eliminate this uncertainty and its unfortunate consequences by amending the Regulation so that the accounting and status of the adjustments for the beneficial use of waste steam are unambiguously clear. Vicinity Energy urges the MassDEP to create a retirement account in 310 CMR 7.74 similar to one in 310 CMR 7.70 that can be used for the formal retirement of CO_2 emission allowances for useful net thermal energy.

Prompt Amendment of the Regulation is Needed

In its request for comments from stakeholders in the spring of this year, the Department requested comments on the timing of when it should make amendments to 7.74. It cites the potential administrative benefits of waiting until after July 2022 to make those amendments. While there may be some administrative benefits to delaying action on the regulations, that delay will cause considerable harm. The uncertainty associated with potential changes to the regulation, combined with the simultaneous implementation of the City of Boston regulations regarding CO_2 emissions caused by the heating and cooling of buildings, have made it very difficult to provide building owners with reliable estimates of the carbon emissions from waste steam.

This uncertainty has led several large new developments in the cities of Boston and Cambridge to consider installing on-site natural gas-fired generation assets, which results in new, unregulated fossil fuel burning stacks in our urban cores for decades to come (in addition to new gas distribution lines or further burdens on existing, leaking distribution lines). It would lock those customers into the permanent use of natural gas to provide heating or process loads of large commercial buildings, hospitals, universities, governmental bodies, biotechnology and life science companies and other critical load facilities, when use of district energy steam that can and will soon be created by renewable power or electricity with much lower carbon emissions than natural gas.

Once the Department has revised the Regulation, this uncertainty would be eliminated and the carbon emissions from waste steam would be clarified. Vicinity Energy strongly urges the MassDEP to amend the 7.74 regulations to clear up this confusion as soon as possible.

There Should Be Additional Limits on Allowance Banking

Vicinity Energy supports reasonable limits on allowance banking. The supply of allowances available for purchase at auction is constrained by the aggregate banking position. As a result, having limits on allowance banking should have a twofold benefit to market liquidity. First, it should increase the supply of allowances available for purchase at auction, thereby moderating prices. Second, it should facilitate bilateral trading of allowances by prompting banks to sell credits rather than horde them for sale at higher values in the future.

Limits on banking might take several different forms. For example, there could be a cap on the volume of credits that can be banked by any single compliance entity; a single entity could be allowed to hold no more than 30% of total banked allowances or 200% of the prior year's annual emissions. Alternatively, a limit could be set on how long allowances can be banked; allowances from a previous auction vintage could be banked for no more than two years.

There Should Be Sales of Future Year Allowances in Each Auction

The Department has also asked whether some allowances should be offered for sale at auction well in advance of each compliance year. Vicinity Energy agrees that making vintage allowances available earlier than their compliance year would facilitate future price discovery and could increase liquidity in allowance trading. Vicinity Energy supports the recommendation for limited sales of future year allowances in auctions made by the Market Monitor. (See Potomac Economics letter to Department dated August 27th, 2021.) There is precedent in other GHG cap-and-trade programs for the beneficial use of advance sales in auctions. For example, the California Air Resources Board conducts auctions that include allowances for both the current compliance year as well as allowances eligible for use up to three years in the future. For the GWSA program, Vicinity Energy agrees with the Market Monitor's position that sale of a limited amount of the next year's vintage would be sufficient to facilitate hedging and price discovery in allowance trading.

Vicinity Energy appreciates the opportunity to submit these comments to the Department. We would be happy to answer any questions about our comments.

Sincerely,

William DiCroce
President and Chief Executive Officer

Attachment 1

Vicinity Energy Company Description

Vicinity Energy tackles global energy problems on a local level, with local resources. For over 90 years, the Boston-Cambridge district system has distributed reliable, resilient and sustainable district energy to some of the area's premier hospitals, biotechnology and pharmaceutical companies, universities, hotel and entertainment venues, commercial space, and government facilities. An innovative and resilient energy solution, district energy involves the production of thermal energy from a central plant, eliminating the need to install or manage onsite boilers and chillers.

Vicinity Energy owns and operates the Boston-Cambridge District Energy System. Vicinity Energy's robust, underground district energy network distributes 99.99% reliable cogenerated thermal energy — or green steam — to over 230 facilities (65+ million square feet) that use it for heat, hot water, chilled water, steam-driven cooling and processes like sterilization and humidification. Green steam refers to our low carbon thermal product, which in large part comes from a 256-megawatt combined heat and power ("CHP") unit at Kendall Station. By capturing waste steam resulting from the production of electricity, CHP results in the most efficient use of fuel to generate electricity and condition buildings, using far less fuel than when heat and power are produced separately. District energy also offers our customers a green energy alternative. With our goal to achieve net zero carbon emissions by 2050, we are continuously implementing a cleaner energy mix and investing in the cities' infrastructure to reduce carbon impacts.

Kendall Station – A History of Innovation

Originally built in 1948 by Cambridge Electric Light Company, Kendall Station is an innovative energy technology center located in the heart Massachusetts's urban core, right on the Charles River. For decades the plant has served the local community. In 1998, when Massachusetts deregulated the electricity sector, the plant converted to become a merchant generator and has been dispatched for the production of electricity by the Independent Service Operator of New England (ISO-NE) ever since. The steam generated from the production of electricity was discharged to the Charles River and most of the thermal energy at that time went to waste.

In 2014, Vicinity's predecessor acquired Kendall Station and committed to invest in the plant. One of the first investments was the construction of a 7,000-foot steam pipe from Kendall Station to Boston. The goal was to capture the waste steam that was being discharged to the Charles and put it to beneficial use. The reconfiguration of Kendall and the river-crossing steam pipe made it possible to heat a large portion of downtown Boston with no additional carbon impact. Vicinity's predecessor was also able to turn down dirtier, natural gas boilers on the Boston-side of the steam system (for all service other than winter peaking) because Boston now had access to the clean, waste steam from Kendall. As a result, Boston was able to claim an approximately 200,000 ton/year carbon reduction when the new Charles River crossing steam pipe was placed into service in addition to benefits to the river itself and the overall improvement to air quality.

The company invested $100 million in the reconfiguration and pipe-crossing and this project was ranked as one of the most important environmental projects by Region 1 Federal Environmental Protection Agency at that time.

Net Zero Carbon

In the Fall of 2020, Vicinity committed to achieving Net Zero carbon from its operations by 2050, in line with the Commonwealth's timeline. The company's goal is to decarbonize the urban city centers we serve through the introduction of new technologies (e.g., renewable electricity steam boilers, industrial scale heat pumps, thermal batteries, biogenic fuels, etc.). District energy is a critical tool towards meeting sustainability objectives because every investment made in our central facilities will immediately impact millions of square feet of space, further greening our community without costly (or time consuming) building-by-building retrofits.

Vicinity's Clean Energy Future roadmap builds upon decades of investment in sustainable energy infrastructure and technology to reduce our overall environmental impact. The roadmap includes the following critical components:

- Integrating renewable energy into our fuel mix;
- Electrifying generation by converting our operations to electric boilers;
- Installing heat pumps and thermal batteries;
- Investing in efficiency projects and upgrades to our existing district infrastructure; and
- Exploring and implementing additional leading-edge technologies to accelerate our transition.

History of Fuel Switching

District energy systems are agnostic to fuel source. The steam generated and delivered to end use customers through the district energy network in Boston and Cambridge is simply a means of moving energy around, similar to electricity. Like the electric grid, over the years, Vicinity has evolved as new, cleaner fuel sources have become commercially available. The company started out burning coal to generate steam and eventually migrated to oil, natural gas and to combined heat and power. Each time the fuel source changed to a greener alternative, every customer immediately benefited.

This fuel flexibility makes district energy a unique and powerful tool in the effort to reduce carbon, especially for existing buildings. Any deployment of new carbon reduction technologies in a district energy system can be done at scale and benefit the entirety of the building stock served; in Vicinity's case, this is over 65 million square feet and growing. This is a fundamental benefit and historically demonstrated capability of district energy.

The next major period of technological innovation for district energy is here. In 2021, Vicinity introduced biogenic fuels into its mix, eliminating its remaining reliance (approximately 2%) on heating oil. Looking ahead through this decade, Vicinity will electrify its steam generation and introduce other technological

advancements into its operations, including industrial scale heat pumps and thermal energy storage. Because district energy systems are agnostic to fuel and have a history of change, they can be quick to implement. Contrary to the misguided perception that district energy is old and antiquated, it is in fact the most cutting-edge option available to decarbonize urban city centers. District energy:

- Eliminates the need for major infrastructure investments; the infrastructure exists today and is ready to serve;
- Eliminates the need for significant building retrofits or upgrades, which would be very costly in older cities like Boston and Cambridge;
- Tackles decarbonization as new buildings are connected to our system, eliminating the need for new emission sources like on site gas boilers (and their unregulated stacks which are often location in Environmental Justice neighborhoods); and
- Offers proven reliability in a climate uncertain future.

Cynthia E. Vodopivec, P.E.
SVP- Environmental, Health & Safety
Vistra Corp
(214) 812-2050
Cynthia.Vodopivec@vistracorp.com

December 9, 2021

Martin Suuberg
Commissioner
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108-4746

Via email to: climate.strategies@mass.gov

Re: Program Review of 310 CMR 7.74

Dear Commissioner Suuberg,

Bellingham Power Generation LLC, Blackstone Power Generation LLC, and Masspower, LLC (the "Companies") submit the following comments in response to the Massachusetts Executive Office of Energy and Environmental Affairs (EEA) and the Massachusetts Department of Environmental Protection (MassDEP) 2021 310 CMR 7.74 Program Review and Stakeholder Meeting.

Vistra Corp. is the ultimate parent of the Companies and operates through its subsidiaries in six of the seven competitive markets in the U.S. Vistra Corp's generation fleet totals approximately 39,000 MW, including over 3,000 MW of Natural Gas Combined Cycle generation resources that participate in the ISO-NE competitive markets. In Massachusetts, the Companies own and operate Bellingham (289 MW nameplate capacity for each unit), Blackstone (289 MW nameplate capacity for each unit), and Masspower (260.9 MW nameplate capacity). Serving nearly five million residential, commercial, and industrial retail customers with electricity and gas, Vistra Corp. is one of the largest competitive residential electricity providers in the country and offers over forty renewable electricity plans.

Vistra Corp. is committed to being an industry leader in the effort to address climate change, while transitioning our fleet to no-to-low carbon sources. Vistra Corp. advocates for economically rational and market-based policies and solutions to address greenhouse gases consistent with the goals of the UNFCCC Paris Agreement, and believes it is important to develop policies that address climate change while balancing the need for reliable and affordable power and considering the impact on the domestic economy. While the Commonwealth's efforts to curb CO_2 emissions through these regulations is a step in the right direction, we believe that changes to 310 CMR 7.74 would continue the Commonwealth's goals while minimizing unnecessary costs within the context of national movement toward a global solution.

Program Review of 310 CMR 7.74

The Companies appreciate the opportunity to suggest reforms to the current program as there are still significant gaps between the intent of the program — to reduce carbon in the aggregate — and the current outcomes of the program, which we see as incentivizing increased importation of less efficient generation into Massachusetts. To that end, while we support some of the changes suggested by the market monitor, we believe that the Commonwealth should not wait another ten years, as required under 310 CMR 7.74 (11), before considering conducting another program review. In light of the rapidly changing generation profile, and technological advances we will most certainly see, it is critical that program reviews must occur more frequently than every ten years. Changes made under this current review cycle may not sufficiently address fundamental issues of illiquidity and carbon leakage, and waiting ten years to resolve those issues will likely create economic challenges for the efficient generation units that this region will need to rely on for years to come. Given the pace at which the market is evolving, an annual review of the elements of the program that affect liquidity is warranted.

The Companies suggest that while the program should be reviewed sooner than the ten years required by the regulation, the *market construct* may benefit from an even more frequent review schedule. In particular, the market remains illiquid in its current state and the proposed revisions to incorporate a forward auction may not fully resolve the issue. Several variables may continue to affect the efficacy of the current market construct including the continued hoarding of allowances and the current 33% constraint. Additionally, a transition to a no- to low-carbon future for power generation will present challenges as the supply stack changes. The Commonwealth must be prepared to adjust the market construct to reflect the current state of the generation availability to ensure safe, reliable, affordable electricity is not disrupted because of stagnation of the program.

As stated in our May 2021 comments on this regulation, the Companies believe that the Commonwealth should consider how to phase out the program or how to provide for a transition to a larger, national program. By participating in the development of a national program, the Commonwealth can ensure that climate goals are more widely adopted rather than focusing on just one state. Carbon reduction goals would be more effectively achieved under a construct that covers a larger geographic area.

Market Monitor Suggestions

The Companies are fully supportive of the Market Monitor's focus on enhancing liquidity in the program. The Companies believe the enhanced liquidity is critical to ensuring that the program is achieving its intended objective. The Market Monitor's recommendation of a forward market design is a positive step towards enhancing liquidity

Generally, the Companies agree with the Market Monitor's observation about market risks and the use of futures contracts as a means to "hedge" against those risks. The Market Monitor notes that the sale of future control period allowances would also improve price discovery which in turn also would enhance liquidity in the market. While we agree with the concept of a forward auction, we disagree with the Market Monitor's proposed volume of allowances that could be procured for future compliance years.

To be effective as a hedge, the quantity of future allowances offered should be consistent with the hedging opportunities provided by the current liquid fuel and power markets. Thus, a cap at 5% of the

annual cap falls far below that which is needed to achieve that end. Otherwise, the carbon allowance market will continue to be a constraint in future planning.

The Companies believe that other elements of the proposed forward market could further enhance liquidity and should be explored.

Timing. The timing of when such allowances are offered is a critical element in designing a forward market. To align with the power and gas market, the Companies suggest that auction bidding should occur two years in advance of the planning year coupled with a final procurement inside each compliance year.

Hoarding concerns. To help reduce hoarding, the auction structure should allow banked allowances to be offered into each auction, proving a new avenue for otherwise stockpiled allowances to be brought to market.

Periodic auctions. We recommend that for each calendar year, there should be four auction dates that occur every quarter. At each quarterly auction, allowances for the current year, the current year + 1 and the current year +2 should be offered. Doing so will limit the number of auctions dates per year to four. By providing the same volume in each auction, this approach allows for increased price discovery. The Companies also believe that participants should be permitted to offer their excess banked allowances in each quarterly auction.

The Companies offer the following auction schedule as a proposed alternative to address the timing and quantity of allowances available.

NEW

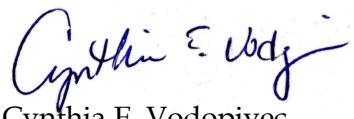
	2022 Allowances			2023 Allowances			2024 Allowances			2025 Allowances			2026 Allowances	
	Auction DATE	volume		Auction DATE	volume		Auction DATE	volume		Auction DATE	volume		Auction DATE	volume
Auction1	Q1 2020 (PAST)	0.00%	Auction1	Q1 2021 (PAST)	0.00%	Auction1	Q1 2022	8.33%	Auction1	Q1 2023	8.33%	Auction1	Q1 2024	8.33%
Auction 2	Q2 2020 (PAST)	0.00%	Auction 2	Q2 2021 (PAST)	0.00%	Auction 2	Q2 2022	8.33%	Auction 2	Q2 2023	8.33%	Auction 2	Q2 2024	8.33%
Auction 3	Q3 2020 (PAST)	0.00%	Auction 3	Q3 2021 (PAST)	0.00%	Auction 3	Q3 2022	8.33%	Auction 3	Q3 2023	8.33%	Auction 3	Q3 2024	8.33%
Auction 4	Q4 2020 (PAST)	0.00%	Auction 4	Q4 2021 (PAST)	0.00%	Auction 4	Q4 2022	8.33%	Auction 4	Q4 2023	8.33%	Auction 4	Q4 2024	8.33%
Auction1	Q1 2021 (PAST)	0.00%	Auction1	Q1 2022	12.50%	Auction1	Q1 2023	8.33%	Auction1	Q1 2024	8.33%	Auction1	Q1 2025	8.33%
Auction 2	Q2 2021 (PAST)	0.00%	Auction 2	Q2 2022	12.50%	Auction 2	Q2 2023	8.33%	Auction 2	Q2 2024	8.33%	Auction 2	Q2 2025	8.33%
Auction 3	Q3 2021 (PAST)	0.00%	Auction 3	Q3 2022	12.50%	Auction 3	Q3 2023	8.33%	Auction 3	Q3 2024	8.33%	Auction 3	Q3 2025	8.33%
Auction 4	Q4 2021 (PAST)	0.00%	Auction 4	Q4 2022	12.50%	Auction 4	Q4 2023	8.33%	Auction 4	Q4 2024	8.33%	Auction 4	Q4 2025	8.33%
Auction1	Q1 2022	25.00%	Auction1	Q1 2023	12.50%	Auction1	Q1 2024	8.33%	Auction1	Q1 2025	8.33%	Auction1	Q1 2026	8.33%
Auction 2	Q2 2022	25.00%	Auction 2	Q2 2023	12.50%	Auction 2	Q2 2024	8.33%	Auction 2	Q2 2025	8.33%	Auction 2	Q2 2026	8.33%
Auction 3	Q3 2022	25.00%	Auction 3	Q3 2023	12.50%	Auction 3	Q3 2024	8.33%	Auction 3	Q3 2025	8.33%	Auction 3	Q3 2026	8.33%
Auction 4	Q4 2022	25.00%	Auction 4	Q4 2023	12.50%	Auction 4	Q4 2024	8.33%	Auction 4	Q4 2025	8.33%	Auction 4	Q4 2026	8.33%
	Number of Auctions	4		Number of Auctions	8		Number of Auc	12		Number of Auct	12		Number of Au	12

Limitations on Bidding.

As noted in our May 2021 comments, the Companies remain concerned with the rule that individual market participants are only allowed to procure up to 33% of total allowances available in each auction. This 33% rule does not take into account a market participant's market share or the volume to be auctioned annually. Thus, the market rule is fundamentally imbalanced as it places large market participants at a significant competitive disadvantage. Under the existing rule, each year large CCGTs are only able to procure enough allowances to cover a fraction of their annual burn, while a single small oil generator has the ability to procure enough allowances to cover multiple years of operation. Another byproduct of this rule is that smaller less efficient generators are able to procure and hold such allowances for years, essentially driving up the value of the held allowances that must be procured by large generators. To rectify this inequity and drive towards a more economic outcome, the Companies continue to request that rules return to a 50% cap.

We appreciate your attention to these concerns. Should you have any questions regarding these comments, please contact Ms. Susana Hildebrand at (512) 230-5704 or Susana.Hildebrand@vistracorp.com.

Best regards,



Cynthia E. Vodopivec
Senior Vice President
Environmental Health & Safety

BEAT
Berkshire Environmental
ACTION TEAM

20 Chapel St., Pittsfield, MA 01201
413-464-9402 • www.thebeatnews.org

no fracked
gas in mass.com
Protect Our
Common Wealth
A Program of
Berkshire Environmental Action Team

December 28, 2021

VIA ELECTRONIC MAIL / climate.strategies@mass.gov

Secretary Kathleen Theoharides
Massachusetts Executive Office of Energy and Environmental Affairs
100 Cambridge St. Suite 900
Boston, MA 02114

Commissioner Martin Suuberg
Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108

RE: 310 CMR 7.74 and 310 CMR 7.75 2021 Program Review Supplemental Comments

Dear Secretary Theoharides and Commissioner Suudberg:

Please accept these following supplemental comments from No Fracked Gas in Mass (NFGiM) & the Berkshire Environmental Action Team (BEAT). BEAT works to protect the environment for wildlife in support of the natural world that sustains us all. No Fracked Gas in Mass works to stop the expansion of fossil fuel infrastructure in the Northeast states and to promote energy efficiency and sustainable, renewable sources of energy and local, permanent jobs in a clean energy economy.

These comments are in addition to those we filed on December 4, 2021. Thank you for extending your acceptance of comments until December 31.

SUGGESTED CHANGES
While the 310 CMR 7.74 regulation as currently structured does actively decrease emissions from electric generation facilities over time, it doesn't do so to a degree that ensures the state's electric generation sector will meet the emissions reductions targets mandated by the Next Generation Climate Roadmap Act.

It also doesn't allow for DEP to close down facilities that could be feasibly replaced by zero emissions options like renewables and storage. This is especially notable in the case of the

state's 22 peaking power plants, which could be taken offline and replaced with grid scale storage and renewables. Such closures could permanently cut emissions, accelerating our progress toward our mandated emissions reductions.

MassDEP should have the right to deny Air Quality Operating Permit renewal for existing electric generating facilities when zero emissions alternatives are technically and financially feasible.

The regulation also allows for banking of unused emissions allowances and trading them by auction, which could allow facilities to exceed emissions caps.

We echo the call from Conservation Law Foundation that allowances and auction sales should be limited, if not disallowed[1].

Allowance banking and auction sales in future compliance years should be limited as much as possible.

310 CMR 7.74 also stipulates that regulations be reviewed every 10 years. With this review ending on December 31 of this year, that means there won't be another revisiting of emission reductions from electric generation facilities until 2031.

Given the acceleration of climate change and the rapid evolution of new renewable and storage technologies, allowing these regulations, already put in place years ago, to not be reviewed for another 10 years is unacceptable. This is especially true if little to no changes are added this year, as was stated as a possibility by DEP staff during the November 16, 2021 Stakeholder Meeting.

DEP should be reviewing 310 CMR 7.74, considering updates to electric sector emissions reductions every 3 to 5 years, especially in light of the goal to cut emissions by half by 2030 and reach net zero by 2050, mandated in the Next Generation Climate Roadmap Act[2].

---

[1] ***"II. MassDEP Should Limit Allowance Banking and Auction Sales As Much As Possible.*** *While CLF acknowledges MassDEP's goal of limiting allowance banking to increase liquidity in the near term, the proposed market changes to auction allowances for future compliance years are not in line with the objective of the program. The purpose of the 310 CMR 7.74 emissions cap is to impose limits on the carbon emissions of power plants. Any part of this program that allows polluting generation facilities to avoid that purpose, including through allowance banking or sales of future allowances, should be curtailed. Given that the Commonwealth has increased its target for 2050 GHG emissions reductions to net zero, up from 80% at the time 310 CMR 7.74 program was enacted, MassDEP must pursue all options to reduce the emissions impact from electric generation.:" Comments filed on 310 CMR 7.74 by Conservation Law Foundation, December 9, 2021.*

[2] "An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy", Massachusetts Session Law, Acts of 2021, Chapter 8.
https://malegislature.gov/Laws/SessionLaws/Acts/2021/Chapter8

The Next Generation Climate Roadmap Act requires outreach to Environmental Justice communities and grassroots-level organizations. We've seen efforts undertaken by staff in our Western Regional DEP office to search out and establish those contacts. But there didn't seem to be any such effort from state DEP staff regarding this regulatory review.

Merely listing information of regulatory proceedings and reviews on the website does not alert affected stakeholders to their existence.

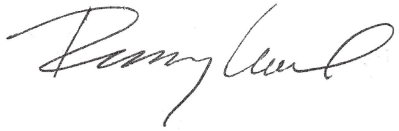
Communities hosting the electric generation facilities, those communities most directly affected by these regulations, should be notified and involved in the entire regulation review process from the beginning. Notifying local leaders such as mayor's offices, select boards and boards of health as well as environmental / climate advocacy organizations in communities that host electric generation facilities of regulation reviews needs to become standard practice agency-wide.

This should also include electric generation facilities that currently are considered "non-major", as these smaller facilities still impact the host communities in which they operate.

Thank you for consideration of these further comments after having additional time to review 310 CMR 7.74 in more detail.

Respectfully submitted,

Jane Winn, Executive Director
Berkshire Environmental Action Team



Rosemary Wessel, Program Director
No Fracked Gas in Mass, A Program of Berkshire Environmental Action Team

Cc.
Governor Charles Baker
Attorney General Maura Healey