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Sent via email to sepregs@nyserdera.org.

July 11, 2011

Mr. Francis J. Murray, Jr.
President & CEO
State Energy Plan Draft Regulations Comments
NYSERDA
17 Columbia Circle
Albany, NY 12203-6399

Dear President Murray:

On behalf of Covanta Energy (Covanta), I submit the following comments regarding the 2013 State Energy Plan Draft Regulations (“Draft Regulations”) that provide the guidance for the state energy planning process. Covanta is the country’s leading energy-from-waste provider with over 40 forty facilities in the U.S (seven in New York State) that convert municipal solid waste into electricity and/or process steam.

While we applaud the vigorousness and urgency the state energy board has shown in its Draft Regulations, we are concerned by the reporting requirements; some of which are duplicative and burdensome, and others that should be considered further.

The Draft Regulations would require reporting that does not appear to be germane to the enactment of energy policy. Earnings, revenues and operating and maintenance (O&M) expenses are not information that is mandated to be collected under Energy Law and, the gathering of information of such detail is violative of proprietary protections, intrusive and not consistent with policy development. The New York Independent System Operator (NYISO) is prepared to provide information in the aggregate on market related information, and both the New York Energy Research and Development Authority (NYSERDA) and the Public Service Commission (PSC) may provide aggregated information on capital and operational costs. The agencies may provide the summative information you seek and which should be appropriate for the planning of a comprehensive energy plan. At the very least, there should be a strong mechanism in place to ensure that the reporting of confidential business information (CBI) remains so.

The Draft Regulations would require extensive emissions reporting that could also be obtained by Department of Environmental Conservation (DEC) filings and again provided in the aggregate. We ask that this reporting be provided by and through the relevant agency.

We would recommend, though, that such agency-furnished reporting of carbon dioxide (CO₂) should be detailed separately as biogenic and fossil, consistent with the requirements of the Regional Greenhouse Gas Initiative (RGGI), the U.S. Environmental Protection Agency (EPA) Mandatory Reporting Rule, and international and U.S. based greenhouse gas (GHG) reporting protocols. Collecting separate biogenic and fossil CO₂ information will not only ensure consistency, it will help to provide a more complete picture of a facility's impact.

This is especially pertinent in light of the current discussion on biogenic emissions. For example, the EPA has recently committed itself to a comprehensive study of the climate impacts of biogenic CO₂ emissions. In the meantime, they have determined that biogenic emissions are not to be included in threshold determinations for Title V air permitting and Prevention of Significant Deterioration (PSD) requirements. Consequently, the distinction between fossil and biogenic CO₂ should be reflected in any reporting in the energy plan.

In addition, data on methane (CH₄) and nitrous oxide (N₂O) emissions should also be included, so that a complete picture of the three major greenhouse gases is obtained. Both methane and nitrous oxide are potent GHGs, with methane 25 times the level and nitrous oxide nearly 300 times as strong as CO₂ on a 100-year basis. Methane is the second most prevalent GHG in the atmosphere and the second most widely emitted GHG in all venues - globally, in the U.S., and in New York State. Two emissions sources associated with electricity generation in the state, municipal waste management and natural gas systems, account for over 70% of all methane emissions in the state.¹ An accounting of methane emissions, including fugitive emissions of methane associated with landfill gas to energy operations, would provide useful information to the development of the state's energy plan.

To address biogenic CO₂, CH₄, and N₂O reporting, we recommend that §7857.2(22), be revised as follows:

“total tons of oxides of sulfur, oxides of nitrogen, biogenic carbon dioxide, fossil carbon dioxide, methane (including fugitive emissions), nitrous oxide and particulate matter released, if any;”

The impacts of electrical generation extend far beyond emissions from individual facilities. All fossil fuels require extraction, processing, and transportation that result in upstream emissions of greenhouse gases and pollutants. Landfill gas to energy operations are only possible in conjunction with a landfill, where significant quantities of landfill gas are inevitably emitted untreated from the landfill surface. Some sources of energy can actually avoid other sources of emissions. For example, energy-from-waste facilities avoid significant emissions from landfills, including air toxics, criteria pollutants and greenhouse gases. The greenhouse gas emission reductions are so significant that the Nobel Prize winning Intergovernmental Panel on Climate Change (IPCC) calls energy from waste a key GHG mitigation technology.

¹ NYSERDA, 2009, New York State Greenhouse Gas Emissions Inventory and Forecasts for the 2009 State Energy Plan

To capture a more complete emissions picture, we recommend that the following text be added to §7857.2(29) to encourage accounting for both up-stream (lifecycle) and avoided emissions:

“If applicable, any emissions avoidance, reduction and/or offsets, greenhouse gas or otherwise, achieved and/or generated by the project and estimates of the upstream lifecycle emissions, including emissions from the extraction, processing, and transportation of fossil fuels.”

Covanta supports the work of the New York State Energy Planning Board. Our concerns and suggestions should allow for a further review and modifications to the Draft. We look forward to our continued work with the Board.

Regards,

Jennifer Maldonado

