Testimony
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Energy and Carbon Savings Trust
Public Hearing
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Good morning Chairman Diamond and fellow Trustees. I am Steve Hinchman, a staff attorney for the Conservation Law Foundation in our Brunswick, Maine office. CLF is a nonprofit, member-supported organization with offices in five New England states, working to protect the region's people, natural resources and communities. CLF has been involved in development of the RGGI from the start, including development of the model rule as a stakeholder in RGGI Inc., and adoption and implementation of the program here in Maine.

First, let me say that I believe you are asking the right questions. LD 1851, which established both the RGGI Trust and the Energy Conservation Board, was signed into law 14 months ago with the promise of rapid and significant increases in funding for energy conservation. That, in turn, was anticipated to lead to significant savings in energy costs and climate pollution. Unfortunately, while there has been a major run-up in energy prices, increases in funding under LD 1851 has lagged.

We must move faster. Over the last several years there have been multiple studies concluding that the potential energy savings latent in the Maine economy are massive. The PUC, for example, concluded in 2002 that the state's achievable cost effective electrical savings was between 1.2 and 1.6 MWh/year, or 11-14% of total consumption. The 2005 New England-wide Optimal Energy study found that saving energy costs 67% less than supplying it from existing sources. Given Maine's severe dependence on fossil fuels – over $1 billion/year as of early last winter according to the recent Muskie/Smith study; and will likely to be much higher this winter – every month that goes by without ramping up investments in energy savings is a month that we are leaving money on the table. In the climate context, it's another month of additional and unnecessary carbon pollution. We can afford neither.

The debate today is whether the Trust should ramp up quickly, particularly in the home heating oil arena, or whether it must instead develop the necessary rules and administrative structure for a well managed and effective long term efficiency program. The simple answer is that you must do both. In September, Maine will auction up to 872,000 allowances under RGGI, which could bring in anything between $1.62 million (reserve price) to $4.36 million ($5 cap) for Trust activities. The sooner we put those funds to work saving energy, the greater the benefits to our economy and our environment.

To answer the first question posed by the public notice letter, our recommendation is that the Trust develop an emergency rule pursuant to 5 M.R.S.A. § 8054 authorizing an initial and one time RFP to be issued and, if the criteria are met, awarded within the 90-day emergency rule period. While I appreciate the concern with the potential for mistakes under a fast tracked program, the Trust is not designed to operate like Efficiency Maine and other government or utility-managed conservation programs. In crafting LD 1851, the decision was made, over long ranging and difficult negotiations, to rely "predominantly" on the market to determine the most cost-effective allocation of RGGI money.

Thus, the Trust does not need to develop a full-scale, soup-to-nuts plan to deliver efficiency like Efficiency Maine. That is the market's job. Instead, your focus should be upon development of a robust, competitive and viable long-term marketplace. In this context, an early RFP – and by this I mean a modest RFP calibrated at a scale that will allow sustained efficiency investments over the long term – will actually work in your favor by signaling entrepreneurs to ramp up capacity to deliver the necessary services. At the same time, early action will provide the Trust with needed information on market capabilities, strengths and weaknesses and will give potential market participants market data they need to compete. In terms of risk, we know there is enormous potential and that, to be competitive, applications will need to come in with very high benefit-to-cost ratios. Nonetheless, the Trust can and should maximize program benefits by including criteria in the RFP such as percent investor match and collateral efficiency opportunities. We believe this can happen before this winter.

To answer the second question, it is entirely appropriate to seek interim administrative capacity from an existing governmental organization such as the PUC, or to request a temporary loan of personnel from similar efficiency programs in one of our sister states. In particular, I would recommend that look to Efficiency Vermont, which, in addition to having just about the best track record in the Northeast, also operates as a quasi-independent agency and relies to a larger extent than some on market-based mechanisms. The long term optimal administrative structure question is more difficult, however. Given the overlap in responsibilities between this Trust and other state efficiency programs, it is highly likely that there will be legislative consolidation. Therefore, I recommend that you seek to minimize the time and expense that goes into development of your administrative superstructure.

Regarding the third question – what is the true-up period for the 85-15 split – the answer is 3 years. In development of LD 1851, as codified at 35-A M.R.S.A. § 10008(6)(B), the fossil-fuel-electricity allocation was designed to match the first three-year control period under RGGI, that is the years 2009, 2010, 2011. While you have the necessary flexibility, a panic response to the residential heating oil crisis is neither appropriate nor legal. The primary legislative criterion for allocation of RGGI Trust funds for fossil fuel conservation is to fund measures with the highest benefit-to-cost ratio, taking into consideration collateral efficiency opportunities. Thus, the legislative vision is that residential weatherization programs must compete with commercial and industrial applications. Frankly, we need it all. The reality is that we are losing jobs to energy costs, our taxes are going up because of energy costs in our schools, municipal and state buildings and sewerage plants. The function of the early RFPs should be to let the market sift out the early and most cost effective efficiency opportunities. Only where we identify and seek to resolve market barriers should we intervene under the 6(D) provision to target competition in specific arenas.

Finally, as this is the first Trust meeting I have been able to attend, I also wanted to express my appreciation for your time and leadership on these issues. Energy conservation and solving the climate crisis are two of the most pressing issues facing our state. Thank you.

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