



State of New Jersey
DEPARTMENT OF THE PUBLIC ADVOCATE
DIVISION OF RATE COUNSEL
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JOHN S. COZZINE
Governor

RONALD K. CHEN
Public Advocate
STEPHANIE A. BRAND, ESQ.
Director

July 31, 2008

Via Hand Delivery

Honorable Kristi Lano
Board of Public Utilities
Two Gateway Center
Newark, NJ 07101

Re: FWC's Greenhouse Gas Emissions Portfolio Standard and
Other Regulatory Mechanisms to Mitigate Leakage
BPU Dkt. No. E008030150

Dear Secretary Lano:

Enclosed for filing please find an original and ten copies of the Department of the Public Advocate, Division of Rate Counsel's final comments in the above-referenced matter. A copy of these comments will also be circulated electronically through the electric list server (publicadv@publicadv.nj.gov) used by the Board of Public Utilities for these types of communications.

We are enclosing one additional copy of the materials transmitted. Please stamp and date the copy as "filed" and return it to our courier. Thank you for your consideration and assistance.

Respectfully submitted,

RONALD K. CHEN
PUBLIC ADVOCATE OF NEW JERSEY

STEPHANIE A. BRAND
Director, Division of Rate Counsel

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New Jersey Department of the Public Advocate
Division of Rate Counsel's Comments
LMO Greenhouse Gas Emissions Portfolio Standard and
Other Regulatory Mechanisms to Mitigate Leakage
BPU Docket No. E068000150

July 31, 2008

The New Jersey Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel") submits the following comments in the referenced matter regarding greenhouse gas emissions ("GHG") and leakage. Rate Counsel appreciates the New Jersey Board of Public Utilities' ("Board") efforts at addressing the statutory requirements of the RGGI Legislation P.L. 2007, c. 340 § 12 (January 13, 2008) (the "Act"), *N.J.S.A. 48:3-49 et seq.* by adopting its March 18, 2008 Order in this matter ("Leakage Mitigation Order"). Previously, Rate Counsel has participated by filing comments and appearing at the recent hearing, held on July 29, 2008.

Since our last written comments filed on June 30th, the New Jersey Department of Environmental Protection (NJDEP) published its version of the Regional Greenhouse Gas Initiative (RGGI) Model Rules on July 7, 2008 to establish the New Jersey CO₂ cap and trade program, as authorized by the Act. The NJDEP, in the proposed rule, addresses leakage and expense issues that generally support our previous comments. Therefore, Rate Counsel believes that it would be appropriate for the Board to consider NJDEP's conclusions with respect to leakage under the Leakage Mitigation Order.

Significantly, the NJDEP concludes that, while there is a potential for leakage to occur, it is unclear whether carbon compliance will play a role in relation to other market

variables that cut against imports into New Jersey. The NJDEP suggests that current modeling data indicates emissions leakage will be modest. NJDEP concludes, consistent with Rate Counsel's earlier recommendations in this proceeding, that leakage should be monitored through PJM's Generator Attribute Tracking System (GATS), in order to fully understand its impact.

Rate Counsel maintains that increased focus on energy efficiency is the most cost-effective manner to achieve the goals of reducing GHG and benefit the rate payers. Therefore, the Board should encourage the enhancement of the GATS system by PJM so that we can determine, with some degree of certainty, the level of leakage that implementing RGGI will produce. Until that information is available the Board should refrain from adopting any mitigation measures that may only result in higher costs to the ratepayer without resulting benefit.