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ENVIRONMENTAL RESOURCES AND
ENERGY COMMITTEE
CHAIRMAN

May 4, 2021

Andrew McKeon, Executive Director
Regional Greenhouse Gas Initiatives, Inc.
90 Church Street, 4th Floor
New York, NY 10007

Dear Board Members,

We write you today as the House Environmental Resources and Energy Committee in the Pennsylvania House of Representatives regarding our Governor's scheme to join the Regional Greenhouse Gas Initiative (RGGI) without the approval of the General Assembly.

The Chairman of our Committee wrote to you when the Governor was beginning this process to warn about accepting Pennsylvania's entry based solely on the Governor's actions, which he has no authority to unilaterally take. Since that time, our Committee has held numerous hearings on the subject of RGGI where we have received testimony indicating that the Governor has no statutory authority to join RGGI, and in fact, that attempting to do so will violate the Constitution of Pennsylvania.

Both the General Assembly and industry groups within our state have made it clear during this process that the General Assembly's authority will not be relinquished and must be protected, even if it is necessary to involve the courts to do so. Any communications you have had with agents from the Governor's office or our state Department of Environmental Protection asserting that Pennsylvania will shortly be joining RGGI based upon the authority of a regulation are illegitimate and should not be relied upon.

Every other state within RGGI received specific authorization to join the initiative from their legislature except for New York. Unlike Pennsylvania, however, New York's legislature has specifically and explicitly authorized the regulation of carbon dioxide. Pennsylvania would be alone among the RGGI states if it proceeds without specific legislative authority for this rulemaking.

We wanted you to be aware of the numerous missteps that have already occurred with DEP's process in attempting to join RGGI. Three DEP advisory committees, which typically overwhelmingly support DEP's actions and regulations, have voted to reject the draft regulation in unprecedented fashion. The Air Quality Technical Advisory Committee, Citizens Advisory Council, and Small Business Compliance Advisory Committee all voted against approving the regulation.

In addition, the company which DEP contracted with to do neutral modeling analyzing Pennsylvania's proposed entry into RGGI has been caught red-handed lobbying in favor of the Commonwealth joining RGGI and sharing how it believes RGGI proceeds should be allocated, demonstrating a clear conflict of

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interest. DEP has also violated the very state law which it dubiously cites as its authority for joining RGGI, our Air Pollution Control Act, by refusing to hold in-person public hearings in regions impacted by the regulation, a clear requirement of the law.

The Pennsylvania General Assembly will continue fighting hard to protect our citizens and our business by stopping our rogue Governor's illegitimate actions. You may have seen, for example, the Pennsylvania Senate's recent letter to the Governor informing him that they will be rejecting all appointments that he may make to the Pennsylvania Public Utility Commission until he withdraws his executive order attempting to join RGGI. Unfortunately, if this process does continue, a lengthy court battle will almost certainly be coming, which will be expensive and draining for all involved.

At this point, you have likely already spent a great deal of time and resources planning for Pennsylvania's entry into RGGI. It is unfortunate that our Governor has put you in this position by proceeding so far down this path without obtaining legislative approval for his actions. We would urge you to make it clear to the DEP and the Governor's office that you will not be wasting any more energy on this project until it is made clear that Pennsylvania will actually be joining by an act of our legislature.

We, the undersigned members of the Pennsylvania House Environmental Resources and Energy Committee respectfully request that you do not move forward with completing Pennsylvania's proposed entry into RGGI, unless and until Governor Wolf obtains proper authority, by legislative action of the General Assembly.

Sincerely,

Daryl Metcalfe
Mike Armanini
Stephanie Borowicz
Bud Cook
Joe Hamm
R. Lee James
Joshua Kail
Ryan Mackenzie
Tim O'Neal
Jason Ortitay
Kathy Rapp
Tommy Sankey
Paul Schemel
Perry Stambaugh
Ryan Warner
Pam Snyder

CC: RGGI, Inc. 2021 Executive Committee