TENASKA® VIRGINIA PARTNERS, L.P.

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March 5, 2019

Ms. Karen G. Sabasteanski
Policy Analyst, Office of Regulatory Affairs
Virginia Department of Environmental Quality
1111 East Main Street, Suite 1400
Richmond, VA 23218

Via e-mail to ghg@deq.virginia.gov

Re: Public Comments on the Following Proposed Regulation:
Regulation for Emissions Trading [9 VAC 5 - 140] Part VII – CO_2 Budget Trading Program (Re-proposed)

Dear Ms. Sabasteanski:

Tenaska Virginia Partners, L.P. ("Tenaska") appreciates the opportunity to provide the following comments on the referenced proposed regulation ("Regulation").

1. Base Budget – The re-proposed Regulation presents a base budget (beginning in 2020) of 28 million tons, upon which the proposed 3% annual reduction would apply. Actual CO_2 emissions from anticipated covered facilities were approximately 32.6 million tons in 2018[1]. This would require a 14.1% reduction in two years to comply with the 2020 base budget, an average of 7.1% per year, or more than double the proposed 3% annual cap decline in subsequent years. Therefore, Tenaska strongly suggests VDEQ consider a higher base budget, such as 30 million tons, in the event 2019 emissions are similar (perhaps via a provision included in the final Regulation).

2. Allowance Allocation Approach – Tenaska continues to strongly favor the "Generation Updating" approach, whereby covered facilities are allocated allowances according to their respective historical annual net generation (MWh_{net}) as compared to the total aggregate generation from covered facilities, averaged over the immediate three calendar years, updated annually (i.e., on a rolling three-year average). Tenaska believes this approach best meets the intent of the Regulation, in that it incentivizes, or rewards, more efficient units that emit less CO_2 per unit of power produced. Note RAP participants favored this option.[2]

3. Long-term Contract Reserve Account – as presented several times during the Regulatory Advisory Panel meetings[3], Tenaska's Virginia Generating Station in Fluvanna County currently operates under a long-term contract or "tolling agreement" ("Agreement") with a third party, whereby the third party procures the fuel and purchases the generated electricity. Under the terms of the Agreement, Tenaska believes it has the ability to pass through to its customer costs for things such as emissions allowances, whether they be for the Acid Rain Program, Cross State Air Pollution Rule, or any future carbon trading scheme. However, Tenaska's customer has taken the position that Tenaska does not have such a pass through right. These costs are projected to be $1.45/MWh in 2020 and rising to

[1] USEPA Clean Air Markets Program Data
[2] RAP Mtg Notes, September 6, 2017, Attachment C (2nd table, item G)
[3] RAP Mtg Notes, August 31 and September 6, 2017, Attachment C (last table, item E)

$1.81/MWh in 2030[4], representing an average increase of 5% over the projected wholesale power price. To the extent Tenaska's allowance allocation is not sufficient to cover actual emissions and is required to purchase allowances and is unable to pass through those costs to its customer, it will be disadvantaged as compared with other generators that can either recoup those costs or that have no costs due to their location in another PJM state without a carbon pricing scheme (e.g., Pennsylvania and West Virginia).

Several current RGGI states[5] and every major proposed federal CO_2 cap and trade legislation[6] have recognized this predicament and provided various forms of relief, such as creating an allowance set-aside/reserve account for free allocations or offering allowances at a reduced price. Tenaska requests VDEQ also recognize this and either create a reserve account (as is currently being proposed in the Regulation for DMME to fund energy efficiency projects) sufficient to cover net allowance obligations for LTC holders in the event it is needed or simply exempt long-term contract holders for the life of the applicable contract(s). Tenaska believes the reserve account would be less disruptive to the program as it would alleviate LTC units entering and exiting the program.

4. Scope – VDEQ has stated the purpose of the Regulation, in part, is as follows[7]:
   There is no denying the science and the real-world evidence that climate change threatens the Commonwealth of Virginia, from our homes and businesses to our critical military installations and ports. Rising storm surges and flooding could impact as many as 420,000 properties along Virginia's coast that would require $92 billion of reconstruction costs.

   VDEQ stated CO_2 emissions from the units that would be covered by the Regulation comprise only ~30% of the state-wide total[8]. Further, the Regulation would require these emissions be reduced by 30% by 2030. This represents a total reduction in statewide CO_2 emissions of only ~9%. We encourage the VDEQ to expand the scope of the Regulation to include additional sources and/or seek meaningful reductions in other sectors of the economy (via alternative pathways), including mobile sources, if the dire consequences stated above are to be avoided. One such way to easily expand the scope is to remove the exemption in 9VAC5-140-6040(B). CO_2 emissions from such facilities are no less potentially harmful than those from units that generate electricity for off-site use. Neither the RGGI Model Rule (by not requiring such an exemption) nor the environment make such a distinction and neither should the VDEQ.

Please contact me at 402.938.1661 or lcarlson@tenaska.com should you have any questions or require additional information.

TENASKA VIRGINIA PARTNERS, L.P.
By: Tenaska Virginia, Inc., Its Managing General Partner

Todd S. Jonas
Senior Vice President, Operations and Asset Management

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[4] Using projected RGGI allowance prices of $3.45/ton & $4.31/ton and energy prices of $33.00/MWh and $34.60/MWh (all in 2017$), ICF Modeling "VA GCC 2018 Policy VA+RGGI" policy case
[5] New York [6 CRR-NY 242-5.3(d)] and Maryland [Title 26, Subtitle 9, Chapter 2, Regulation 7]
[6] Waxman-Markey (H.R. 2454), Dingell-Boucher, and Kerry-Boxer
[7] Town Hall Agency Background Document
[8] RAP Mtg, August 3, 2017