necsema
New England Convenience Store & Energy Marketers Association

September 30, 2020

TO: TCI Leadership Team: Chair Kathleen Theoharides, Secretary, Massachusetts Executive Office of Energy and Environmental Affairs; Vice Chair R. Earl Lewis, Jr., Deputy Secretary, Maryland Department of Transportation

TCI Executive Policy Committee: Co-Chair Marty Suuberg, Commissioner, Massachusetts Department of Environmental Protection; Co-Chair Roger Cohen, Senior Advisor to the Secretary, Pennsylvania Department of Transportation

TCI Technical Analysis Workgroup: Co-Chair Christine Kirby, Assistant Commissioner, Massachusetts Department of Environmental Protection; Co-Chair Chris Hoagland, Economist, Climate Change Division, Maryland Department of the Environment

TCI Investment and Equity Workgroup: Kate Fichter, Assistant Secretary, Massachusetts Department of Transportation

TCI Outreach and Communications Workgroup: Chris Bast, Chief Deputy, Virginia Department of Environmental Quality; Elle O'Casey, Director of Communications and Outreach, Vermont Agency of Natural Resources

RE: Updated Remarks – Transportation Climate Initiative (TCI) Memorandum of Understanding (MOU)

The New England Convenience Store & Energy Marketers Association (NECSEMA) represents single site convenience store and gasoline retailers, chain convenience store and gasoline retailers, independent transportation fuel distributors, and the businesses which supply them. NECSEMA members wholesale most of the transportation fuel sold in New England.

NECSEMA is not opposed to strategies which seek to reduce Greenhouse Gas (GHG) emissions. As the *regulated community* for any transportation related GHG reduction program, including TCI, we have unique concerns often not visible to the public or contemplated by regulators. We have stated many of these concerns in public comment and in private meetings with TCI architects including the Massachusetts Department of Environmental Protection. Please accept these latest remarks as a reiteration of many of those concerns.

It is clear a great deal of work has gone into developing TCI in advance of the anticipated MOU. We maintain that any program should seek to impose the least cost and burden on the public and regulated community, be transparent to impacted consumers and businesses, include all adjacent jurisdictions, maintain a competitive fuels marketplace and allow a broad mix of lower emission fuels.

Cost & Burden

According to Georgetown Climate Center (GCC) modeling, the *reference case* for GHG emissions in the transportation sector shows an expected decline of 19% by 2032 if nothing is done. The modeling projects an additional 6% reduction with an estimated cost of $7 billion. And while the September 19th slide presentation was long on estimated benefits, it was short on details of those estimates and the consumer and business impact to achieve them. In other words, what is the net benefit?

We were pleased to see some modeling of the impact COVID-19 has had on changes in behavior and how those may translate into ongoing GHG reductions. While *Work from Home* and less travel has certainly had a detrimental economic cost which we assume most people hope to see reverse, there is a strong reason to believe transportation and mobility has changed permanently. These changes will undoubtedly have a significant, albeit unknown, impact on GHG emissions. A May 17, 2020 NBC News story reported a 17% drop in global carbon emissions since the start of the pandemic. Corinne Le Quéré, a professor of climate change science at the University of East Anglia in the U.K. said, "Globally, we haven't seen a drop this big ever, and at the yearly level, you would have to go back to World War II to see such a big drop in emissions." Prudence from a cost mitigation standpoint, particularly at a time when individuals and businesses alike attempt recovery from a COVID-related economic hole, seems to dictate caution before imposing a $7 billion program on the population.

Lacking in Detail and Meaningful Two-Way Dialogue

TCI has not provided adequate details on many fundamental policy components that allow for thoughtful analysis of the how this program will impact the supply flows, wholesale purchases, and the distribution and sale of motor fuels to retail outlets across the TCI region. Only conceptual details are provided in the policy framework, the draft MOU, and the most recent September presentation.

Despite the 24/7 opportunity for comment through the TCI portal, there does not appear to be any meaningful dialogue occurring, and any conversation appears to be only one way. This belief is grounded in our, and other stakeholder experiences during both the pre-COVID and COVID era. Continuation an officious, overly programmed approach misses the point of getting stakeholders to understand the program, what remains to be developed and the challenges that remain. No one really knows how this is supposed to work beyond the concept. The current outreach and public involvement approach is clearly not working, as further evidenced by the recent Environmental Justice and Equity webinar, where commentors expressed both measured criticism of this process, as well as outrage at the lack of respect, and lack of meaningful dialogue on their involvement and workings of this program.

These comments on whole are shocking coming from stakeholders who are underserved and overburdened and who form an important foundation for this program. The imposition of self-imposed deadlines rushed comment periods, and an enormous lack of new or transparent information is one of the causes. Over reliance on program officials speaking about prepared program components is not what people's expectations are for this program. We would encourage TCI officials to consider alternate approaches for public involvement.

More information is needed on modeling assumptions, variables, and parameters used to generate the emission reduction scenarios; the yet to be developed Model Rule; regulated entity definitions; auction procedures; auction price setting parameters; 3rd party auction administration costs; consumer and regulated entity compliance costs; and impacts on state fuel supplies and marketplace transactions. As the saying goes "the devil is in the details".

A proposed program with this remarkable magnitude and significant consequence needs to transparently demonstrate its efficacy in its totality as a matter of sound public policy, but most importantly it will be needed to compel and persuade the individual, business, and government commitments that will be needed for its successful implementation. Considering the scale of the program, more hard work is needed by TCI officials and staff to determine whether this approach is congruous from a marketplace, emission reduction, and cost perspective.

Transparency

As the businesses charged with procuring credits, managing, and remitting the fee for said credits and passing the cost along to the consumer, we implore TCI architects to be transparent about the costs which everyone will pay for TCI. To date, we have not seen any public outreach related to the costs of TCI and the public's willingness to accept them.

Jurisdictional Acceptance

Currently, only Massachusetts and Maryland appear ready and able to sign the TCI MOU without legislative or public acceptance hurdles. Our member businesses market across all New England states, so NECSEMA is unable to support an approach to reduce GHG emissions that creates regional imbalance by not including all contiguous states. We recognize the MOU is the first step in expanding the TCI footprint, but we are extremely concerned about individual states, particularly non-contiguous states, going it alone. Without full support of the region, GGH reduction goals cannot be met and heavy *first mover* burdens will be placed on early adoption states – including our member businesses, residents, and the states themselves in the form of tax exodus. These concerns are only exacerbated as potential gas tax increases are contemplated to help offset COVID related revenue shortfalls.

Reinventing the Wheel

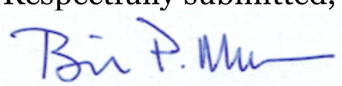
Despite numerous efforts to educate TCI officials on the complexity of the petroleum fuel supply marketplace, TCI officials appear intent on discounting our recommendation to use state licensed distributors instead of "position holders" and "enterers" as regulated entities. This is unfortunate in that the entities chosen by TCI officials will not be able to easily and accurately track where every gallon eventually gets sold, transported, or combusted. There remains considerable uncertainty over who will be obligated to purchase and hold allowances. Currently state licensed fuel suppliers for decades have been required to pay excise tax on every gallon of motor fuel sold in their respective state. The reporting and collection of these excise taxes have been seamlessly implemented for decades and all reporting and payments are performed electronically on a monthly basis. TCI's position appears to be driven by a desire to minimize the number of regulated entities and achieve administrative efficiencies for the future 3rd party entity responsible for overseeing auction allowances, auction accounts, and receiving payments from regulated entities. NECSEMA believes this approach is short-sighted and it will place a significant burden on position holders and enterers to recreate a reporting and gallonage tracking system that will accurately reflect the gallons combusted in a state. Why needlessly duplicate what already exists, especially when the existing system is superior. Implementing a duplicative reporting system will also have a negative effect of increasing the compliance costs for this program which will also be passed onto the consumer.

How to Spend the Funds

TCI modeling leaves the matter of how best to utilize collected funds to the participating individual jurisdictions. Among Clean Transportation Investments listed in the September presentation: electric transit buses and improvements, electric school buses, electric trucks, and bike lanes and sidewalks. If history is any predictor, we also expect to see investment in EV and EVSE grant and rebate programs like Massachusetts' MOR-EV program. As stated at the outset, NECSEMA is not opposed to GHG reduction strategies. We do, however, wish not to be marginalized from marketing future fuels – electric or otherwise. At a minimum, we expect markets to remain open, unadulterated by government or quasi-government intervention so the public may decide how to be mobile. Whatever the choice, our members will be there to serve them with those products and services. There is no shortage of worthwhile GHG mitigation projects outside of funding EV and EVSE. For example, a recent MIT study shows road quality drives excess fuel consumption and additional GHG emissions. Myriad options should be on the table, but outside of the aforementioned investments, details have been scarce. Should funds flow exceedingly toward alternative fuels, from TCI or any other source, we hope gas stations and convenience stores are key components as while fuel choice may change, what won't change is these stores remaining on the most highly trafficked roadways and most visited corners.

Thank you for your thoughtful consideration of our comments on this important matter.

Respectfully submitted,



Brian P. Moran
Director of Government Affairs
Brian@necsema.net | (781) 297-9600 ext. 5