

A.G. Schneiderman Victorious In Defense Of State Effort To Combat Climate Change

A.G. Wins Dismissal Of Lawsuit Seeking To Block New York State's Continued Implementation Of The Regional Greenhouse Gas Initiative (RGGI)

A.G. Schneiderman: I Will Vigorously Defend Our State's Efforts To Confront The Unprecedented Threat Climate Change Poses To New Yorkers

ALBANY -- Attorney General Eric T. Schneiderman today won a decision in Albany County State Supreme Court dismissing a lawsuit that aimed to block New York State's participation in a multi-state effort to reduce emissions of pollution that contribute to climate change. Attorney General Schneiderman had vigorously defended the climate change mitigation effort, known as the "Regional Greenhouse Gas Initiative" (RGGI), against a lawsuit backed by the out-of-state organization Americans for Prosperity that sought to force New York to withdraw from the Initiative.

"This is a significant victory for those of us who take the threat of climate change seriously, and want to mitigate its harmful effects," said **Attorney General Schneiderman**. "RGGI offers a cost-effective, efficient way to reduce the pollution that contributes to climate change. I applaud the court for soundly rejecting this attempt - backed by out-of-state political interests - to stop New York from protecting its own citizens against the potentially devastating impacts of climate change. I will continue to use the full force of my office to vigorously defend sensible efforts that reduce climate change pollution and, thereby, protect the health and welfare of New Yorkers."

In 2005, New York and a group of Northeastern and Mid-Atlantic states signed a memorandum of understanding in which each agreed to propose a program to regulate carbon dioxide (CO₂) emissions from fossil fuel-fired power plants. After a three-year process, in 2008, the State of New York adopted regulations implementing a program in New York. These regulations establish a market-based system to reduce the overall emission of carbon dioxide (CO₂), the principal cause of climate change, by 10 percent by 2018. Power plants that burn coal and other fossil fuels are major contributors of climate change pollution; in New York, they emit roughly one-fifth of all the CO₂ generated in the state.

Under New York's RGGI regulations, emissions of CO₂ by electric-generating power plants of 25 megawatts and larger operating in the state are capped. Power companies must obtain sufficient CO₂ allowances to cover their plant emissions, with most obtaining their allowances through public auctions held by the State. Companies that reduce their emissions do not need to purchase as many allowances, or they may sell excess

allowances to other power companies. Proceeds from the auctions support renewable energy, energy efficiency, and other greenhouse gas reduction and climate protection efforts.

A recent study conducted by the independent economic consulting firm Analysis Group concluded that RGGI added \$1.6 billion to the economies, and 16,000 new jobs, in the participating states. The study also projected that RGGI will provide consumers in these states with \$1.3 billion in savings on their electric bills over the next decade through energy efficiency measures using funds generated by the Initiative.

In his motion to dismiss, Attorney General Schneiderman argued that plaintiffs lacked a legally-protected interest sufficient to challenge the RGGI regulations, and that their lawsuit was barred by their unreasonable delay pursuing the challenge. The plaintiffs filed their lawsuit in June 2011, three years after New York began implementing the Initiative. The Court, in dismissing the lawsuit, agreed with the Attorney General on these arguments.

New Yorkers' health, environment and economy face serious threats from climate change. These threats include an increase in heat-related illnesses and deaths, and disruptions to the state's agricultural economy, including milk and apple production. Climate change also threatens infrastructure and habitat loss due to increased flooding and beach erosion because of more frequent and intense storms and sea level rise. Conversely, climate change is predicted to lower the water levels in the Great Lakes, harming the shipping industry and other users of these bodies of water.

This matter is being handled by Assistant Attorneys General Morgan Costello and Michael J. Myers of the Attorney General's Environmental Protection Bureau, under the supervision of Deputy Bureau Chief Lisa M. Burianek and Bureau Chief Lemuel M. Srolovic. Agency counsel Jonathan Binder of the New York State Department of Environmental Conservation and David Munro of the New York State Energy Research and Development Authority also assisted.