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Submitted electronically via www.regulations.gov

October 16, 2014

EPA Docket Center
U.S. EPA, Mail Code 28221T
1200 Pennsylvania Ave. NW
Washington, DC 20460
Attn: Docket ID No. EPA-HQ-OAR-2013-0603

RE: *SRP Comments in Response to EPA's Proposed Rule Related Carbon Pollution Standards for Modified and Reconstructed Stationary Sources: Electric Utility Generating Units – Docket ID No. EPA-HQ-OAR-2013-0603*

Dear Sir or Madam:

The Salt River Project Agricultural Improvement and Power District (SRP) appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA) proposed rule related to carbon pollution standards for modified and reconstructed electric generating units (EGUs). In addition to the comments provided in this letter, SRP also supports the comments filed by organizations of which SRP is a member including the Utility Air Regulatory Group (UARG), American Public Power Association (APPA), and the Arizona Utilities Group (AUG).

SRP is a political subdivision of the State of Arizona that provides retail electric services to nearly one million residential, commercial, industrial, agricultural and mining customers in Arizona. SRP owns and/or operates six coal-fired power plants located in Arizona, New Mexico and Colorado, as well as five natural gas-fired power plants located in Arizona. As a major electricity provider, SRP has a significant interest in this rulemaking.

Similar to the concerns SRP raised with respect to the proposed greenhouse gas standards for new EGUs, SRP believes this proposal for modified and reconstructed EGUs is legally flawed and technically unsupported. SRP's detailed comments are provided in the following sections of this letter.

EPA May Not Regulate EGUs Simultaneously Under Sections 111(b) and 111(d) of the Clean Air Act (CAA)

For the first time, EPA proposes to regulate existing sources that modify or reconstruct under both the existing source (section 111(d)) and the new source (section 111(b)) provisions of the CAA.

“...existing sources that are subject to requirements under an approved CAA section 111(d) plan would remain subject to those requirements after undertaking a modification or reconstruction.”¹

This proposal ignores the clear language of the CAA, which states that a source regulated under section 111(b) because it is a “new source”, or because it underwent a major modification or reconstruction and became subject to section 111(b), may not simultaneously be regulated under section 111(d) as an “existing source,” or vice versa.

Under section 111 of the CAA, the definitions of “existing” sources and “new” sources are mutually exclusive. Section 111(a)(6) defines an “existing source” as “any stationary source *other than a new source*.”² Thus, an “existing source” is one that has commenced construction before the publication of regulations or proposed rules applicable to new sources of the same type. Such “existing sources” are subject to regulation under section 111(d).

On the other hand, section 111(a)(2) defines a “new source” as “any stationary source, the construction *or modification* of which is commenced after the publication of regulations (or, if earlier, proposed regulations) prescribing a standard of performance under this section which will be applicable to such source.”³ Thus, a “new” source may come into existence either through new construction, or through modification or reconstruction of what otherwise would be an existing source, provided the construction, modification, or reconstruction commences after publication of regulations or proposed rules applicable to such sources. Such “new sources” are subject to regulation under section 111(b).

The critical fact then is that once an existing source is modified or reconstructed, it ceases to be an existing source subject to section 111(d) and becomes a new source subject to 111(b). Under the CAA, a source is either “existing” or it is “new”; it cannot be both at the same time. Moreover, under its explicit terms, section 111(d) may not apply to sources subject to section 111(b). Because EPA’s proposal ignores this clear statutory language, the proposed standards

¹ See 79 Fed. Reg. at 34,974.

² See CAA §111(a)(6) (emphasis added).

³ See CAA §111(a)(2) (emphasis added).

must be withdrawn and re-proposed to conform to the clear statutory language of CAA section 111.

EPA Should Provide an Explicit Exemption for Simple Cycle Turbines

Simple cycle turbines are a necessary aspect of renewable energy integration and regulations for these units should remain as simple and straightforward as possible. As such, EPA should provide simple cycle turbines with an explicit exemption from carbon pollution standards. If EPA is determined to move forward with regulating simple cycle combustion turbines, EPA should offer these units maximum operational flexibility, as described in SRP's comments on the new source rule proposal (attached).

EPA Must Implement Achievable Emission Standards for Stationary Combustion Turbines

EPA stated in the preamble to the proposed rule that:

*"The EPA is proposing that the form of the standards for modified and reconstructed natural gas-fired stationary combustion turbines be consistent with the standards for newly constructed natural gas-fired stationary combustion turbines proposed on January 8, 2014 (79 FR 1430)."*⁴

A modified and reconstructed EGU is different than a brand new EGU because there are inherent limitations on the modifications that can be performed on an existing unit. Therefore, new units and modified or reconstructed units should not be subject to the same standards. The larger issue, however, is that the limits established in the proposed standards for new sources are not appropriate.

SRP previously commented on the new source rule proposal (attached) that the emission standards tied to EPA's best system of emission reduction (BSER) determination must be achievable. In that rule proposal, EPA clearly acknowledged that nearly 10% of units today could not achieve the standards they proposed (see 79 Fed. Reg. at 1,487).

As noted by UARG in comments filed separately for the new source rule proposal, EPA has traditionally set New Source Performance Standards such that at least 99 percent of new units would be expected to be able to comply. EPA must take the same approach here to ensure that units can achieve continuous compliance with the emission standard that is established.

⁴ See 79 Fed. Reg. at 34,963.

Of particular concern is the fact that new stationary combustion turbines, as well as modified and reconstructed units, may not be able to meet the current proposed standards under certain operating conditions. There are instances where stationary combustion turbines are needed to support large amounts of intermittent renewable energy generation, which requires the units to cycle on and off with much more frequency than a plant used to support baseload energy needs. A stationary combustion turbine that has frequent startup and shutdown periods will have higher carbon dioxide emissions than a unit that operates at steady state over the same time frame.

This issue can be addressed by modifying the proposed standard to account for the operational characteristics of the entire gas generation fleet, not just 90% of units. Furthermore, EPA must address the inherent engineering limitations in modifying or reconstructing an existing unit as compared to building a new unit.

EPA Must Reassess BSER for Modified Fossil Fuel-Fired Boilers

EPA is proposing that BSER for modified fossil fuel-fired boilers is “each unit’s own best potential performance based on a combination of best operating practices and equipment upgrades”⁵. EPA goes on to state that they are specifically “proposing unit-specific emission standards consistent with this BSER determination”⁶. As discussed in detail in UARG’s comments, Section 111(b) of the CAA authorizes EPA to establish uniform standards for source categories, not source-specific assessments. As such, if EPA chooses to continue down the path of establishing a rule for modified units, EPA must revise their proposal to include uniform standards for specific source categories.

EPA Must Reassess BSER for Reconstructed Fossil Fuel-Fired Boilers

There are several issues with the BSER determination and accompanying emission standards proposed for fossil fuel-fired boilers. First, EPA is proposing that BSER for reconstructed units is “the most efficient generating technology”⁷. While SRP agrees in general that efficient generating technology does represent BSER, the technology could vary depending on the type of unit that is in place at the facility. A source should not be expected to alter their original unit design to accommodate an entirely different technology that EPA deems is more efficient.

Second, EPA requested comment on whether the standards should be subcategorized by primary fuel type. SRP believes that the standards should not only be subcategorized by

⁵ See *Id.* at 34,964.

⁶ See *Id.* at 34,964 (emphasis added).

⁷ See *Id.* at 34,965.

primary fuel type, but also by the type of unit that is in place and the type of emission control technologies in use on the unit, since these factors can all directly impact operating efficiency and emissions.

Finally, as outlined in detail in UARG's comments, the proposed emission rates for fossil fuel-fired boilers are unachievable and must be reconsidered. Furthermore, EPA should base these emission rates solely on what can be accomplished at the unit.

EPA Must Establish Standards that are Continuously Achievable

As outlined in detail in the AUG's comments, EPA must account for malfunctions in establishing emission standards. If the standard is to be achieved at all times, the standard must contemplate periods of malfunction, as well as periods of startup and shutdown.

Incorporation by Reference

In the preamble to the proposed rule, EPA acknowledges that:

"However, each of these three rulemakings is independent of the other two, and each has its own rulemaking docket. Accordingly, anyone who wishes to comment on any aspect of this rulemaking, including anything described by a cross-reference to one of the other two related rulemakings, should make those comments on this rulemaking."⁸

SRP submitted comments on EPA's proposed standards for greenhouse gas emissions from new EGUs (Docket ID Number EPA-HQ-OAR-2013-0495) on May 9, 2014, which are attached to this letter. Furthermore, SRP will be submitting comments on EPA's proposed standards for greenhouse gas emissions from existing EGUs (Docket ID Number EPA-HQ-OAR-2013-0602) by the comment deadline of December 1, 2014.

Both sets of comments are incorporated by reference, as EPA has included many ideas and principles that are cross-referenced between each of the rules.

Conclusion

In conclusion, SRP believes that this rule is flawed and must be withdrawn and reconsidered by EPA. It is premature for the EPA to promulgate this proposed NSPS as it is currently structured. SRP encourages EPA to withdraw these proposed standards until the many outstanding issues

⁸ See *Id.* at 34,966.

outlined in these comments, as well as in the comments of other organizations, can be properly addressed.

We appreciate the opportunity to provide comments regarding this proposed rule. If you have any questions or need additional information, please contact me by e-mail at Kara.Montalvo@srpnet.com or by telephone at (602) 236-5256.

Sincerely,

A handwritten signature in black ink, appearing to read "Kara M. Montalvo". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Kara M. Montalvo, QEP

Director, Environmental Compliance & Permitting

cc: Dr. Nick Hutson, EPA Energy Strategies Group
Christian Fellner, EPA Energy Strategies Group