August 2, 2011

By electronic mail

Environmental Protection Agency
EPA Docket Center (EPA/DC)
Attention Docket ID No. EPA-HQ-OAR-2009-0234
Mailcode: 2822T
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460
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RE: National Emission Standards for Hazardous Air Pollutants From Coal and Oil-Fired Electric Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units

Dear Administrator Jackson:

Ceres is a non-profit organization that leads a national coalition of investors, environmental organizations and other public interest groups working with companies to address sustainability challenges such as global climate change, electric utility issues and water scarcity. We submit these comments to support the proposed rule (Rule) governing the National Emissions Standards for Hazardous Air Pollutants from Coal and Oil-Fired Electric Utility Steam Generating Units. Ceres urges EPA to issue this Rule in current form and by the court-mandated deadline of November 16, 2011.

This rule – which has essentially been in development since December 2000, when EPA concluded that regulation of hazardous air pollutants (HAP) from Electric Generating Units (EGUs) was appropriate and necessary – is needed to improve the health of American citizens; to reduce the impact of HAPs on the environment; and to provide electric utilities with much-needed certainty as they plan for a cleaner electricity future.

We urge the final promulgation of this rule as presented in the May 3, 2011 Federal Register based on the following reasons:

1. **Emissions of Mercury and other HAPs emitted to the environment pose a hazard to public health and the environment.**

In its December 2000 determination, EPA concluded that mercury and other HAPs pose a threat to public health and the environment. Mercury causes neurotoxic effects in humans exposed to the metal. Children and especially developing fetuses are particularly susceptible to the effects of mercury. Deployment of this Rule will have the co-benefits[1] of reducing particulate matter and ozone exposures, which are estimated to prevent:

- 17,000 premature deaths
- 11,000 heart attacks
- 120,000 cases of childhood asthma symptoms
- 12,000 emergency room visits and hospital admissions
- 850,000 days of work missed due to illness

2. **Promulgating the Rule will provide much needed regulatory certainty for the electric utility industry.**

Since EPA determined in December 2000 that it was appropriate and necessary to regulate emissions of mercury and other HAPs from coal and oil-fired EGUs under the Clean Air Act (CAA), the electric utility industry has not been provided with any certainty regarding the timing and extent of regulation and control of mercury and HAP emissions from EGUs. Without this certainty, the electric utility industry has been hampered in its ability to plan coal plant retirements, upgrades or repowering in a meaningful and efficient manner. Despite this uncertainty, some electric utilities have forged ahead in planning and implementing improvements necessary to meet the anticipated Rule[2]. Other electric utilities[3] have elected to wait for the Rule to be proposed prior to beginning any planning or EGU improvements. Promulgation of this Rule will provide much-needed certainty as well as a consistent framework under which all U.S. utilities can plan and implement necessary actions to curb mercury and other HAP emissions.

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[1] Testimony of Lisa P. Jackson before the Committee on Environment and Public Works, U.S. Senate, June 15, 2011.

[2] Some electric utilities – such as Xcel, NRG Energy, First Energy and Dominion – have made public statements confirming that they are well-positioned to comply with the proposed EPA air rules. Statements made by company CEO's during 2011 Q1 earnings calls.

[3] Other electric utilities, such as AEP and Southern Company, have made public statements that they will be unable to meet the compliance deadlines of the Rule without adversely affecting electric system reliability and unreasonably increasing costs to electric system customers. Statements made by company CEO's during 2011 Q1 earnings calls.

3. **Promulgating the Rule will result in a substantial net increase of jobs in the electric utility sector.**

As demonstrated in a recent report prepared for Ceres by the University of Massachusetts' Political Economy Research Institute (PERI)[4], the Rule is expected to provide long-term economic benefits across much of the U.S. in the form of highly skilled and well-paying jobs related to infrastructure investment in the nation's electric generating fleet. The report bases its jobs analysis and estimated jobs creation on both the Rule and the proposed Clean Air Transport Rule (the "Transport Rule")[5]. Most of these jobs will be created over the next 5 years and will be temporary in nature. PERI estimates that between 2010 and 2015, about 1.46 million jobs will be created – an average of about 291,000 year-round jobs for each of those five years. In addition, PERI estimates a net gain of over 4200 long-term operation and maintenance (O&M) jobs.

4. **The electric industry is well-positioned to comply with EPA's proposed air rules without threatening electric system reliability.**

The prospective impacts of the Rule and other recent EPA rules have raised some electric system reliability concerns due to the number of power plants that may be retired for compliance.

Two recent reports – one from M.J. Bradley & Associates and Susan Tierney of the Analysis Group,[6] and the other from the Bipartisan Policy Center[7] – independently conclude that the electric industry is well-positioned to comply with EPA's proposed air regulations without threatening electric system reliability. If electric system reliability were to be threatened in local areas as a result of the Rule, EPA has the statutory authority to grant, on a case-by-case basis, extensions of time to complete the installation of pollution control systems.

In addition, recent electricity forward capacity market auctions in the PJM and ISO-New England markets for the period of 2014 and 2015 indicate that the capacity markets cleared with electricity reserve margins of 20% in PJM and greater than 14.4 % in ISO-New England. These reserve

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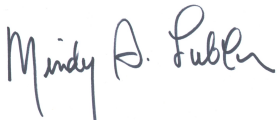
[4] "New Jobs-Cleaner Air: Employment Effects Under Planned Changes to the EPA's Air Pollution Rules," University of Massachusetts Political Economy Research Institute, February 2011.
[5] On July 6, 2011, EPA issued its final Cross-State Air Pollution Rule.
[6] "Ensuring a Clean, Modern Electric Generating Fleet while Maintaining Electric System Reliability ", M.J. Bradley & Associates, LLC/ Analysis Group, June 2011
[7] "Environmental Regulation and Electric System Reliability", Bipartisan Policy Center, June, 2011

margins are well in excess of the federal reliability standards set by the North American Electric Reliability Corporation (NERC) for the year 2015. These results cover periods after the Rule is expected to have been in place for at least 6 months, demonstrating that the electric industry can meet the requirements of the Rule without threatening the reliability of the electric system.

Ceres urges EPA to not delay the promulgation of the Rule. Electric utilities have begun to prepare for the compliance deadlines of the Rule and the electric utility industry and electric markets are already factoring in the financial requirements of the Rule. Delay or significant change to the proposed Rule would significantly undermine the ability of the electric utility industry to raise the capital needed and the complete the planning and construction necessary to meet the requirements of the Rule.

Ceres urges EPA to finalize the implementation of the Rule in its current form without delay.

Respectfully submitted,



Mindy Lubber
President

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