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U.S. Environmental Protection Agency
EPA Docket Center (EPA/DC)
Office of Water Docket
Mail Code 28221T
1200 Pennsylvania Avenue NW
Washington, DC 20460

Attn: Docket ID No EPA-HQ-OAR-2022-0723

Re: Comments of American Municipal Power, Inc. ("AMP") on EPA's Federalism Consultation on Clean Air Act Section 111(d), 111(b) and MATS RTR Rulemakings

Dear EPA Administrator Reagan and Agency Staff:

On behalf of American Municipal Power, Inc., and the Ohio Municipal Electric Association, we appreciate this opportunity to provide the following comments in response to the above-referenced federalism consultation.

BACKGROUND ON AMP/OMEA

American Municipal Power, Inc. ("AMP") is a nonprofit wholesale power supplier and services provider for 133-member municipal electric systems in the states of Ohio, Pennsylvania, Michigan, Virginia, Kentucky, West Virginia, Indiana, and Maryland and the Delaware Municipal Electric Corporation, a joint action agency with nine members headquartered in Smyrna, Delaware. AMP's mission is to serve members through public power joint action, innovative solutions, robust advocacy and cost-effective management of power supply and energy services. AMP offers a wide variety of services to help member communities improve the quality of municipal utility services to their customers. AMP provides these services on a cooperative, nonprofit basis for the mutual benefit of member communities.

AMP members receive their power supply from a diversified resource mix that includes wholesale power purchases and energy produced at AMP and member-owned generating facilities utilizing fossil fuels, hydroelectric, wind, solar and other renewable resources. Assets include the AMP Fremont Energy Center, a natural gas combined cycle in Fremont, Ohio, a majority ownership

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MONTPELIER • NAPOLEON • NEW BREMEN • NEW KNOXVILLE • NEWTON FALLS • NILES • OAK HARBOR • OBERLIN • OHIO CITY • ORRVILLE • PAINESVILLE • PEMBERVILLE • PIONEER
PIQUA • PLYMOUTH • PROSPECT • REPUBLIC • SEVILLE • SHELBY • SHILOH • SOUTH VIENNA • ST. CLAIRSVILLE • ST. MARYS • SYCAMORE • TIPP CITY • TOLEDO • TONTOGANY
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BLAKELY • CATAWISSA • DUNCANNON • EAST CONEMAUGH • ELLWOOD CITY • EPHRATA • GIRARD • GOLDSBORO • GROVE CITY • HATFIELD • HOOVERVILLE • KUTZTOWN • LANSDALE
LEIGHTON • LEWISBERRY • MIFFLINBURG • NEW WILMINGTON • PERKASIE • QUAKERTOWN • ROYALTON • SAINT CLAIR • SCHUYLKILL HAVEN • SMETHPORT • SUMMERHILL
WAMPUM • WATSONTOWN • WEATHERLY • ZELIENOPLE **VIRGINIA** BEDFORD • DANVILLE • FRONT ROYAL • MARTINSVILLE • RICHLANDS **WEST VIRGINIA** NEW MARTINSVILLE • PHILIPPI

stake in the coal-fired Prairie State Energy Campus, diesel, and natural gas peaking units, and hydroelectric, solar and wind projects throughout the region. AMP has actively worked over the past two decades to diversify our power supply portfolio to include renewable resources and continues to explore additional opportunities for new renewable energy resources.

The Ohio Municipal Electric Association (“OMEA”) represents the Ohio and federal legislative interests of AMP and member Ohio municipal electric systems. Although closely aligned with AMP, the OMEA is a separate, nonprofit entity guided by a 16-member Board of Directors. However, subsequent “AMP” references herein also represent the interests and comments of OMEA.

In recognition of our unique position as both a wholesale power supplier and services provider, as well as the owner and operator of electric generating assets, AMP offers the following comments for consideration.

BACKGROUND

On September 22, 2022, the Environmental Protection Agency (“EPA”, or “Agency”) convened a power sector Federalism and Unfunded Mandates Reform Act consultation under Executive Order 13132, entitled “Federalism,” which directs federal agencies to consult with elected state and local government officials or their representative national organizations, when developing regulations and policies that impose substantial compliance costs on state and local governments. AMP appreciates the opportunity to submit the following comments in response to the EPA’s federalism consultation on the forthcoming proposed regulatory revisions and emission guidelines for the following rules:

- Greenhouse Gas (“GHG”) New Source Performance Standards (“NSPS”) under Clean Air Act (“CAA”) §111(b) for New, Modified, and Reconstructed Electric Generating Units (“EGUs”),
- GHG Emission Guidelines (“EG”) under CAA §111(d) for existing EGUs (GHG EG for existing EGUs), and
- Review of Mercury and Air Toxics Standard (“MATS”) Residual Risk and Technology Review (“RTR”) for coal- and oil-fired EGUs.

AMP COMMENTS

According to the Energy Information Administration (“EIA”), CO₂ emissions in the U.S. electricity sector in 2021 were 36% below 2005 levels.¹ In recent years, AMP and its members have made significant investments in low- or non-emitting generating assets, primarily hydropower and solar.

I. Specific Comments on Questions for Consideration of Greenhouse Gas New Source Performance Standards (GHG NSPS)

- a. *What are your thoughts regarding how EPA should consider those technologies (efficient combustion, carbon capture, utilization, and storage, and hydrogen) as we consider developing the proposed NSPS under CAA section 111(b)?*

¹ Total Energy Monthly Energy Review, October 2022, Energy Information Administration (EIA), <https://www.eia.gov/totalenergy/data/monthly/>; last accessed November 2, 2022.

AMP does not believe that carbon capture and sequestration (“CCS”) can be considered the best system of emission reduction (“BSER”) for new, modified, or reconstructed EGUs due to technological limitations, including cost prohibitive technology and limited infrastructure for geological sequestration. To purchase and fully install CCUS equipment on combustion turbines, it is estimated that hundreds of millions of dollars would need to be invested initially. The FEED studies for Panda Sherman’s plant and Elk Hills plant estimated capital investments of \$477 million² and \$748 million³ would be needed; respectively. Although the amount of investment necessary varies with the size of the combustion turbine in question, the range of such figures combined with the challenges of geological sequestration present a challenge for most public power utilities.

We recognize, and agree with EPA (and the courts), that Congress intended CAA Section 111 to be technology-forcing, and to create incentives for new technology. However, we do not believe this extends to the promulgation of emission standards that condition facility construction or operation of costly control technologies that have not been adequately demonstrated at scale in the industry. This is especially so with respect to public power entities, where all costs and risks are borne by the owners and customers. We support related comments of the American Public Power Association (“APPA”) in this regard.

AMP believes that EPA acted appropriately in selecting BSER as the “most efficient generating technology in combination with best operating practices” for new and reconstructed EGUs and “best demonstrated performance” for modified EGUs. AMP agrees with APPA that establishing a performance standard based on the combustion of natural gas continues to represent the best control strategy under CAA Section 111(b).

AMP continues to believe separate emissions standards for partial load operation are necessary, and encourages EPA to implement reasonable standards that account for partial load operation. Third-party system operators control dispatch and generation in many cases, and any standard for EGUs will therefore need to consider partial load operation. This circumstance is not limited to those affected sources in this proposed rule, and will become more important as intermittent resources like solar and wind generation are built out and are increasingly relied upon to provide power.

II. Specific Comments and Discussion: Questions for Consideration on Greenhouse Gas Emission Guidelines

a. What options should EPA be considering in expressing proposed limits on carbon dioxide (CO₂) from existing power plants?

EPA should provide guidelines on emission standard averaging time while reserving to the states the flexibility to establish site- or category-specific emission standards in their plans. We are concerned that inconsistency in establishing emission standard averaging times will lead to a patchwork of state regulatory standards with varying degrees of stringency. Specifically, AMP is in favor of establishing emission standards that include sufficient averaging time to dampen short-term variability. EPA clearly understands that this variability exists, having accounted for it in prior Section 111(b) rules.

² Bechtel Inc, “[Front-End Engineering Design \(FEED\) Study for a Carbon Capture Plant Retrofit to a Natural Gas-Fired Gas Turbine Combined Cycle Power Plant \(2x2x1 Duct-Fired 758-MWe Facility with F Class Turbines\)](#),” Report number DE-FE0031848 (March 2022).

³ Fluor Enterprises Inc, “[Front-End Engineering Design Study for Retrofit Post-Combustion Carbon Capture on a Natural Gas Combined Cycle Power Plant](#),” Report number DE-FE0031842 (January 2022).

While AMP does not support additional regulatory requirements to address this concern, we encourage the agency to provide some guidelines on what it would consider reasonable averaging times when evaluating state plans for approval.

b. What flexibilities should EPA offer to states and utilities regarding designing such plans?

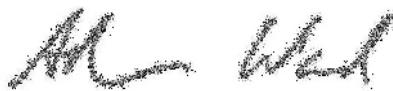
EPA should support flexible approaches for states and utilities to reduce GHG emissions, including investments in hydropower, wind and solar generation. AMP has made multi-billion dollar investments in such renewable assets, and we firmly believe they have an important role to play in deferring GHG emissions. Many of these zero-emission projects involve significant cost and development time with lifespans of up to 80 years. States should be afforded discretion to include such benefits in their 111(d) plans without restrictions from EPA preventing full recognition and/or credit of these long-term zero-carbon projects.

III. Support for Comments Submitted by the American Public Power Association.

AMP is a member of the APPA and supports the comments provided by this organization. Of particular note, AMP agrees with APPA that these future rulemakings, in conjunction with other EPA rules impacting the electric generation sector, could result in a significant loss of generating capacity, and that AMP encourages EPA to develop a clear framework for predicting and taking prospective measures to mitigate risk that negatively impact grid reliability.

AMP and its members appreciate the opportunity to submit comments on this important proposed rulemaking. If the Agencies have any questions, please do not hesitate to contact the undersigned.

Respectfully Submitted,



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