April 7, 2025

Lee M. Zeldin
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

ATTN: Docket ID No. EPA-HQ-OAR-2024-0419

Re: Comments of American Municipal Power, Inc. on Proposed Rule: Review of New Source Performance Standards for Stationary Combustion Turbines and Stationary Gas Turbines. 89 Fed. Reg. 101306 (December 13, 2024)

Dear Administrator Zeldin and Agency Staff:

Pursuant to section 111(b)(1)(B) of the Clean Air Act (CAA), the Environmental Protection Agency (EPA or Agency) is proposing amendments to the Standards of Performance for New, Modified, and Reconstructed Stationary Combustion Turbines (CT) (hereinafter referred to as the NSPS or Proposed Rule).[1] Under the Proposed Rule, CTs constructed, modified, or reconstructed after December 13, 2024, must meet more stringent emission standards contained within the new 40 CFR part 60, subpart KKKKa. In response to the Proposed Rule, American Municipal Power, Inc. (AMP) submits the following comments for the record.

BACKGROUND

AMP is the nonprofit wholesale power supplier and services provider for more than 130 Members in the states of Indiana, Kentucky, Maryland, Michigan, Ohio, Pennsylvania, Virginia, West Virginia; as well as the Delaware Municipal Electric Corporation, a joint action agency with nine Delaware municipal members. AMP's Members collectively serve approximately 661,000 residential, commercial, and industrial customers and have a system peak energy demand of about 3,500 megawatts. AMP's core 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 its Members' municipal

[1] *Review of New Source Performance Standards for Stationary Combustion Turbines and Stationary Gas Turbines*, Proposed Rule, 89 Fed. Reg. 101306 (December 13, 2024).

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electric systems the benefits of scale, expertise, and leadership in providing and managing energy services. AMP serves as a joint action organization, representing Members with a broad spectrum of views, and some of our Members may be filing separate comments.

In recognition of our unique position representing the interests of both customers and owners/operators of electric generating assets in multiple states, AMP is providing these comments, which reflect AMP's core objectives of promoting reliability, flexibility, affordability, and feasibility. As noted in AMP's guiding principles below, it is imperative that the Proposed Rule regulate natural gas CTs in a manner that:

- *Ensures electric grid reliability* by avoiding premature mandatory shutdown of existing natural gas generation. The rules must avoid the potential retirement of existing, dispatchable generation before the replacement of generating capacity can be built and brought online with at least the same accredited capacity and other reliability attributes as the capacity being retired;

- *Establishes a workable regulatory framework that maximizes compliance flexibility* for implementation of emissions control requirements over reasonable time horizons;

- *Maintains electricity affordability to the retail customers and businesses* that AMP and its Members serve by adopting reasonably achievable emissions control requirements that do not impose excessive control costs with minimal environmental benefit; and

- *Develops reasonably achievable performance standards* for reducing air emissions that are based on technically and economically feasible emissions control technologies, not standards that are based on a small sample size that is not representative of existing technology or cost impacts.

TECHNICAL COMMENTS

AMP provides the following technical comments intended to inform and guide the EPA in this proposed action.

I. Emission control requirements for natural gas-fired CTs must be reasonable and flexible to ensure continued reliability and resiliency of the electric grid.

Several industry trends raise concerns regarding the power sector's continued ability to assure resource adequacy and reliability of the bulk power grid. While electricity demand remained almost flat over the past decade, the U.S. is currently experiencing a rapid increase in electricity demand due to a number of factors, including siting of data centers to support the internet and artificial intelligence, onshoring and expansion of domestic manufacturing, and the electrification of the transportation sector.[2]

[2] 2024 Long-Term Reliability Assessment. NERC. (December 2024). https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_Long%20Term%20Reliability%20Assessment_2024.pdf

An additional trend impacting the power sector is the retirement of baseload generation, including existing coal-fired electric generating units (EGUs), without bringing online an adequate supply of replacement generation with the same accredited capacity and other reliability attributes. Due to this rapid decline in coal-fired electric generation, the North American Electric Reliability Corporation, the Federal Energy Regulatory Commission commissioners, and grid operators have issued numerous warnings of an impending electric reliability crisis.[3]

While the electric generation fleet transitions to low- and non-emitting renewable generating sources (such as solar and wind generation), it is important to recognize that these renewable sources tend to provide intermittent, variable and limited duration generation.[4] Natural gas-fired CTs play a critical role in ensuring continued reliability and resilience of the electric grid by providing supplemental support in the form of dispatchable, low-emitting, fast-ramping, on-demand electric generation. As such, natural gas CTs support essential reliable and affordable electric service in a manner that renewable generating sources cannot.[5]

Due to the increasingly critical role natural gas-fired CTs play in maintaining electric grid reliability, it is imperative that the Proposed Rule provide existing and new CTs reasonably achievable emission control requirements along with the maximum implementation flexibility permissible under the CAA. Overly stringent and inflexible emission control requirements have the potential to result in the premature retirement of existing CT generating units as well as disincentivizing the installation of new, modified, or reconstructed units.[6] It is critically important for the EPA to adopt NSPS requirements that do not directly or indirectly prevent development of new natural gas generating capacity.

II. The Proposed Rule fails to establish a workable and effective framework for subcategorization of CTs.

Subpart KKKKa establishes specific regulatory requirements utilizing a subcategorization approach. The Proposed Rule establishes three size-based subcategories. Within each size-based subcategory there are individual nitrogen oxide (NOx) standards for both natural gas and non-natural gas fuels, as well as separate categories for modified and reconstructed stationary CTs, heat recovery units operating independent from the CT, and CTs operating at partial operating loads, among others.

The Proposed Rule subcategorizes CTs based on the 12-month capacity factor of the unit, requiring most CTs above a certain capacity factor (either 20% or 40%, dependent on the unit's base load rating) to operate with a selective catalytic reduction (SCR) system to control NOx emissions. However, SCR systems are operationally incompatible and

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[3] *Id*. at 6 ("The trends [of the North American BPS] point to critical reliability challenges facing the industry: satisfying escalating energy growth, managing generator retirements, and accelerating resource and transmission development.").

[4] *Id*. at 7 ("As older fossil-fired generators retire and are replaced by more solar PV and wind resources; the resource mix is becoming increasingly variable and weather-dependent.").

[5] *Id*.

[6] *Id*. at 10 ("Regulatory and policy-setting organizations must use their full suite of tools to manage the peace of retirements and ensure that replacement infrastructure can be developed and placed in service.").

ineffective when controlling NOx emissions from CTs that experience frequent startups and shutdowns. As a result, EPA should exempt all simple cycle CTs used for peak shaving from the NSPS requirements.

As discussed above, natural gas-fired CTs (including combined-cycle plants) are critical to supplement growing electricity demand and manage the increasing complexity of the modern grid as additional intermittent, variable, and limited duration resources (such as wind, solar and storage) come online. For this reason, EPA should not develop a regulatory framework for all types of existing and new natural gas-fired CTs based on load levels (*e.g.*, peaking, intermediate load, and base load) and annual capacity factors. Instead, the design framework for the regulation of existing natural gas-fired generation should reflect, and be compatible with, the operational duties and functions that natural gas-fired CTs must perform to ensure electric grid reliability. Those duties and functions require the operation of natural gas-fired CTs (including combined cycle plants) as load-following units with the capability of rapidly starting and ramping output on demand.

Further, many natural gas-fired CTs are already operated as Low Mass Emissions (LME) units under 40 CFR § 75.19 and thus generally operate less than 200 hours per year. Therefore, imposing additional regulatory requirements in the form of additional controls or tiered emission limitations on these units would provide little emissions reduction benefit. Thus, AMP strongly encourages the agency to establish exemptions for units operated as LME and limited use.

AMP also requests that EPA use its broad authority under CAA section 111(d) to adopt measures within the NSPS that are designed to increase compliance flexibilities and help maintain resource adequacy and electric grid reliability. These measures should include:

a. Extension of compliance deadlines for existing affected combustion turbines in cases where the owners or operators of the units encounter unanticipated technical or administrative delays beyond their control (e.g., unavoidable permitting delays or supply chain constraints, or lengthy environmental assessments).

b. Short-term reliability assurance mechanisms to address acute energy shortages and other electric grid emergencies such as those caused by increased demand from extreme weather events or unexpected transmission or generation outages. EGUs and CTs can be subject to permit or rule constraints to the extent that operation pursuant to an emergency order to maintain grid reliability could result in short periods of non-compliance. Such situations could include, but are not limited to, circumstances where Energy Emergency Alert (EEA) or EEA-2 status or higher has been declared or the Department of Energy has issued an order pursuant to Federal Power Act section 202(c). In these situations, CTs located in diverse locations can be critical to maintaining grid reliability. With the increase in frequency and intensity of storms and extreme weather conditions, it is critical that allowance be made for CTs to operate unconstrained at the capacity and in the manner necessary to address these emergency situations.

Under section 111(b)(2) of the CAA, EPA has the broad authority to "distinguish among classes, types, and sizes" of sources to establish appropriate subcategories subject to the NSPS. While the existing fleet of natural gas turbines is diverse from a size, technology, efficiency, emissions, and operations perspective, the Agency must use its authority to establish a workable and effective framework for regulating emissions under each CAA regulatory program. Importantly, EPA must ensure that the regulatory scheme it establishes does not contain onerous and overly stringent performance standards that create incentives to retire existing CTs earlier than planned, operate those units at substantially reduced load levels, or avoid installation of new units or the modification or reconstruction of existing units.

We ask that the Agency consider that the natural gas-fired CTs operated by AMP and AMP's Members are owned by AMP and municipal electric systems across AMP's geographic footprint. All costs associated with the installation, operation, and maintenance of these CTs are borne by the customers of those municipal electric systems, including residential, commercial, and industrial customers. This means that the cost of installing emissions controls (if even feasible for existing units) is passed along directly to customers in the form of higher charges on their electric bills.

Given these important considerations, it is critical that EPA carefully reconsider the requirement to install SCR systems on those units where such controls are ineffective (such as peaking CTs) or unnecessary to control NOx emissions (such as dry ultra-low NOx burners, LME units, or limited use units). Additionally, subpart KKKKa subcategories should be specifically tailored to the needs of existing and new natural gas-fired CTs, including the development of subcategories based on unit size, expected operation, reliability considerations, economic dispatch and other important operating and design characteristics. In the case of existing CTs, EPA's new rules should preserve the ability of electric utilities to make decisions on the continued operation of their existing turbine units based on the age, useful life, and changing usage patterns of these units, including older simple cycle units.

III. AMP supports the exemptions and exclusions for CTs in the Proposed Rule.

EPA has requested comments on several specific exemptions and exclusions incorporated within the Proposed Rule. AMP supports these proposed exemptions and exclusions and provides comments as follows:

a. *Creation of a subcategory for temporary combustion turbines, defined as turbines in one location for less than 1 year. Consistent with the best system of emission reductions (BSER) of combustion controls, this subcategory would be subject to a requirement for the owners or operators of such units to maintain records of manufacturer certification that the combustion turbine meets an emissions standard based on the use of combustion controls consistent with the otherwise applicable subcategory—25 or 15 ppm NOx*.[7]

   AMP supports such a provision, which would be identical to that included in the NSPS regulations for both Stationary Compression Ignition Internal Combustion

[7] 89 Fed. Reg. 101313 (December 13, 2024).

Engines and Stationary Spark Ignition Internal Combustion Engines addressing temporary replacement units located at a stationary source for less than one year.

b. *The exemption of certain low-emitting CTs that are subject to subparts GG, KKKK, or new subpart KKKKa from Title V permitting requirements under CAA section 502(a).*[8]

AMP supports this proposed exemption. Pursuant to CAA section 502(a), the EPA may exempt certain sources subject to CAA section 111 (NSPS) standards from the requirements of Title V if the EPA finds that compliance with such requirements is "impracticable, infeasible, or unnecessarily burdensome on such sources." Given the obligations associated with the respective NSPS standards, AMP does not believe there are any substantive regulatory gains to be achieved by subjecting these low-emitting CTs to Title V permitting.

IV. EPA should not amend the definition of an "Affected Facility" under the Proposed Rule.

Pursuant to 40 CFR § 60.15, "reconstruction" is defined as the replacement of components of an existing facility to such an extent that the fixed capital cost of the new components required to meet the applicable NSPS standards exceeds 50% of the fixed capital costs that would be required to construct a comparable entirely new facility, barring technological and economical infeasibility.[9] Under the existing subpart KKKK, an "affected facility" that would be subject to the reconstruction analysis includes not only the CT itself, but also any ancillary components and sub-components, such as the turbine, exhaust gas systems, control systems, and heat recovery systems.[10]

In the Proposed Rule, EPA is maintaining the subpart KKKK definition of "affected facility" (both the CT and its ancillary components) for the purpose of NSPS regulatory applicability. However, the Proposed Rule preamble language states as a "clarification" that if a source intends to replace only the components of the CT engine, then the total fixed capital cost of such components should be compared to the fixed capital cost of *only* an entirely new CT engine — not the combined fixed capital cost of an entirely new CT engine *and the ancillary equipment* listed in the broader "facility" definition in existing Subpart KKKK.[11]

While nothing in section 111 of the CAA indicates that EPA would promulgate a rule with two *different and competing* definitions of an "affected source," (one being used for rule applicability and another to be used just in the reconstruction analysis context), this proposed change in definition of an "affected facility" improperly redefines an affected facility for limited purposes and will only cause confusion within the regulated community.

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[8] *Id*.

[9] The term "reconstruction" is not used or defined in CAA sec. 111, but a rule regulating these activities was promulgated in 1975 (*see* 40 Federal Register No. 242. Dec. 16, 1975. pg. 58417 – 58417).

[10] *See* letter from USEPA to Drinker, Biddle &Reath, *Reconstruction of a Stationary Combustion Turbine*, dated February 28, 2008. https://cfpub.epa.gov/adi/index.cfm?fuseaction=home.dsp_show_file_contents&CFID=74532495&CFTOKEN=95f38b50ec40795f-A1A5FB69-B9C5-080E-944DDBA133DFF974&id=0800031

[11] 89 Fed. Reg. 101314 (December 13, 2024).

CONCLUSION

AMP appreciates the opportunity to submit these comments regarding the Proposed Rule. These comments identify the issues of greatest concern to AMP and its Members. In addition, AMP supports many of the comments submitted by the American Public Power Association (APPA)[12]. In particular, AMP supports APPA's positions that discuss potential reliability impacts resulting from promulgation of this rule as proposed. AMP stands ready and available to provide further assistance and support in the Agency's efforts to develop meaningful, effective, and balanced CAA regulations.

Respectfully submitted,

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[12] AMP's comments may differ on some issues from the APPA comments. To the extent the positions and recommendations in AMP's comments differ from those expressed by APPA, the positions expressed herein should be viewed as controlling.