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EPA Docket Center

U.S. Environmental Protection Agency, Mail Code: 28221T

1200 Pennsylvania Ave., NW

Washington, DC 20460

Attn: Docket ID No. EPA-HQ-OAR-2013-0603

Email: a-and-r-docket@epa.gov

Re: “Carbon Pollution Standards for Modified and Reconstructed Stationary Sources: Electric Utility Generating Units”; Proposed Rule – 79 Fed. Reg. 34,960 (June 18, 2014)
Docket ID No. EPA-HQ-OAR-2013-0603

Dear Administrator McCarthy:

On June 18, 2014, the Environmental Protection Agency (EPA) published in the Federal Register proposed new standards of performance for emissions of carbon dioxide for modified and reconstructed fossil fuel-fired electric utility generating units (EGUs), entitled “Carbon Pollution Standards for Modified and Reconstructed Stationary Sources: Electric Utility Generating Units.” The EPA invited comments on the proposed carbon rule by October 16, 2014. The Alabama Public Service Commission (APSC) appreciates the opportunity to file comments in this proceeding.

The APSC regulates essential utility services throughout many parts of Alabama, including the electric utility service provided by Alabama Power Company. As a regulatory body, we are responsible for balancing the interests of our regulated utilities with those of the consuming public, with the ultimate goal being the provision of reliable service at rates that are fair and reasonable. As part of this balance, we also consider the fact that our regulated electric utility is under a legal duty to serve its retail electric customers. To that end, the APSC must consider the impacts of the standards being proposed, including how those standards may influence future pollution control investments, plant retirements, investments in new generation, system reliability, customer rates and other actions undertaken by the utility subject to our jurisdiction.

On March 10, 2014, the APSC submitted comments on a connected effort by the EPA, a proposed carbon rule for new fossil fuel-fired EGUs.¹ The proposed standards for new facilities admittedly are different than those proposed for existing EGUs that are modified or reconstructed. However, many of the concerns that the APSC expressed (and continues to hold) regarding the proposed carbon rule for new units arise with respect to the proposed carbon rule for modified or reconstructed units. Among other issues, the rule being proposed (like its new source and existing source counterparts) effectively removes coal-fired generating technology from the suite of supply options, despite the fact that it historically has provided reliable, cost-effective electricity to consumers in Alabama, and nationally, for many decades. Reducing fuel diversity in this manner will increase costs to consumers, and will exacerbate the price risk that consumers are exposed to by forcing the electricity industry to depend more and more on natural gas-fired generation.

As stated in the March 10 comments, the APSC continues to be concerned by the cumulative costs of the EPA's actions or proposals over the last several years. Compounded together, the multiple regulations issued (e.g., the Mercury and Air Toxics Standards) or proposed (e.g., the rules concerning carbon restrictions on existing plants and the management of coal combustion residuals) are sure to place an enormous burden on Alabama residents. Yet, the APSC is not aware of any meaningful analysis undertaken by the EPA as to the cumulative cost impacts resulting from implementation of, and compliance with, the suite of pending and issued rules affecting electric utility generating units. Thus, just as regulated utilities consider all the cost impacts as they forecast and implement long-term resource planning decisions, the APSC believes it is of significant importance for the EPA to perform a comprehensive cost analysis as well. This analysis cannot merely examine each proposed rule in isolation, but instead should consider the cumulative cost impacts of all such proposals.

A further concern is that the EPA's cost-benefit analysis provides an incomplete financial assessment of the modified and reconstructed standards. Specifically, the required regulatory impact analysis relies upon a hypothetical 500 MW coal-fired unit to be representative of all units that may be subject to the EPA's proposed standard. This approach may indicate costs and benefits that are significantly different than what may result from an actual operating EGU. Furthermore, the EPA is assuming that a modified affected unit attempting to comply with the proposed carbon rule can realize certain efficiencies through best practices and equipment upgrades in order to comply.² This may not be the case. Indeed, the rule acknowledges that such efficiencies may not be available if the unit is operating under a 111(d) plan; however, the analysis does not address the fact that such a unit likely will be unable to dispatch with the frequency necessary to attain the efficiency, as part of the state's effort to comply with the applicable 111(d) carbon limit. Similarly, the proposal does not appear to analyze the cost impacts caused when the unit cannot economically comply with the standard and is forced off-line. Nor does the proposal appear to consider the likelihood of increased gas prices, which can be expected due to the reduction in fuel diversity that the proposed rule (and its new and existing source counterparts) will cause.

¹ See generally "Proposed Standards of Performance for Greenhouse Gas Emissions from New Stationary Sources: Electric Utility Generating Units", 79 Fed. Reg. 1429 (January 8, 2014).

² See "Regulatory Impact Analysis for the Proposed Carbon Pollution Guidelines for Existing Power Plants and Emission Standards for Modified and Reconstructed Power Plants", at p. 9-7—9-9.

In addition, the APSC questions the need for the proposal altogether. As noted above, the regulatory impact analysis relies on a hypothetical unit. The reason for this, according to the proposal, is that the EPA does not anticipate utilities to take actions that would trigger compliance obligations under the proposal, because only a limited number of utilities have notified EPA of comparable modifications in the past. While that assumption itself seems questionable, if the assumption holds true and utilities do not modify or reconstruct their coal-fired generation units, it is the EPA's expectation that no benefits will be realized through implementation of the proposed rule.³ Hence the APSC questions the need to issue the rule at all.

The APSC continues to encourage the EPA to avoid energy policies that will have more severe economic impacts than the assumed negative impacts associated with carbon. Furthermore, we urge the EPA to use any and all available flexibilities to temper its proposed modified and reconstructed standard to avoid such adverse impacts, and assure the consuming public the good and quantifiable benefits of the proposed standard.

If you have any questions or need additional information, please contact the undersigned at 334-242-5200 or John Free at: john.free@psc.alabama.gov.

Sincerely,

/s/John A. Garner

John A. Garner
Executive Director
Alabama Public Service Commission

³ See *id.*, at p. 9-1 (“As a result, we do not anticipate any significant costs or benefits associated with this proposal.”).