



Farzie Shelton, ChE; REM

Associate GM Technical Support

August 24, 2011

AUG 31 2011

**Via First-Class Mail &
Electronic Submission at regulations.gov**
EPA Docket Center
Attention Docket ID No. EPA-HQ-OAR-2009-0491
Environmental Protection Agency
1200 Pennsylvania Ave., N.W.
Mailcode 2822T
Washington, D.C. 20460

Re: Request for Reconsideration and Stay of EPA's Final Rule titled "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone in 27 States" signed July 6, 2011 (Docket No. EPA-HQ-OAR2009-0491)

Dear Sir or Madam:

Lakeland Electric (Lakeland) is Florida's third-largest public power utility. Lakeland provides electricity to more than 120,000 residential and commercial customers. Power is generated at Lakeland's two main power plants, the C.D. McIntosh, Jr. Power Plant permitted at 941-megawatts and the Larsen Memorial Power Plant permitted at 143-megawatts. The utility also operates a group of energy-efficient generating units capable of providing up to 55-megawatts of additional electricity when other units are out of service or during periods when demand for electricity is highest. Lakeland appreciates this chance to submit the following comments on the finalized Cross-State Air Pollution Rule (CSAPR):

A. SPECIFIC LAKELAND ELECTRIC CONCERNS

1. Proper Notice

Lakeland believes that EPA, by not proposing CSAPR, violated federal administrative notification and comment requirements. EPA is required to notify regulated entities via a proposed rulemaking with a notice and comment period, under certain conditions, before finalizing a rule that will substantially affect those entities. EPA under CASPR has allowed for such a notice and comment period for six states: Iowa, Kansas, Michigan, Oklahoma, and

AUG 24 2011

City of Lakeland • Department of Electric Utilities

Lakeland Electric's Petition for Reconsideration and Stay:
 Docket ID No. EPA-HQ-OAR-2009-0491
 August 12, 2011
 Page 2 of 6

Wisconsin, which are required to reduce ozone-season NOx now under the new rule. Unfortunately, according to EPA revisions that were made to allowance schemes for other states including Florida did not differ enough from previous proposals to warrant an additional proposal.

Lakeland's allowances as per the Transport Rules multiple proposals are detailed below in "TABLE - 1". As you can see, Lakeland's allowances were proposed between 2,210 and 1,151 allowances on multiple occasions. However in CSAPR, EPA granted Lakeland only 602 allowances. This is a 48% reduction from the smallest amount of allowances previously proposed and a 73% reduction from the previous highest amount of proposed allowances for Lakeland. EPA states in 76 FR 48213 that CSAPR results "differ somewhat" from previously proposed; however, Lakeland believes that EPA's CSAPR more than "differs somewhat," and seeks EPA to reconsider the final rulemaking and allow utilities additional time to analyze EPA's modeling data in order to understand how EPA's previous modeling was so far off from what EPA now cites to be correct. Lakeland also does not agree with EPA's reasoning that an approximate 50% reduction in allowances (from the previous smallest amount of allowances proposed) is a minor change which does not call for an examination of EPA's modeling inputs. EPA is not under a stringent court set deadline, and therefore EPA should grant a stay of CSAPR and reconsider Lakeland's request with the intent of re-proposing CSAPR.

TABLE - 1

	Comparison: NOx-O						
	CAIR	CATR	Option 1	Option 2	CSAPR	2008	2010
Unit 1	72	26	37	43	12	27	0
Unit 2	61	12	44	51	26	12.2	27.5
Unit 3	886	2011	751	875	447	2073.9	432.9
Unit 5	167	36	289	227	76	37.8	75.8
Unit 7	23	106	0	0	0	0	0
Unit 8	48	19	60	70	41	15.5	25.4
Total	1257	2210	1181	1266	602	2166.4	561.6

Notes:

1. 2008: Each unit's specific 2008 NOx ozone season emissions
2. 2010: Each unit's specific 2008 NOx ozone season emissions

Lakeland Electric's Petition for Reconsideration and Stay:
Docket ID No. EPA-HQ-OAR-2009-0491
August 12, 2011
Page 3 of 6

In addition to those arguments stated above, EPA should consider EPA's unjustified treatment of the State of Texas. Texas is now regulated under the annual SO₂ and NO_x programs, where it was not regulated in any previous EPA proposal. Lakeland feels that EPA should also reconsider and re-propose CSAPR in order to allow Texas due process in EPA's rulemaking.

EPA is aware that Florida is regulated only due to its potential effect on Texas for ozone season emissions but Florida is disproportionately shouldering the burden of assisting Houston's air quality; despite EPA's conclusion that seven states are harming Houston's air, EPA requires Florida to provide 94% of the benefit achieved by the rule for Houston. In addition, if Texas is given reconsideration or if Texas' allowances are modified as a result of reconsideration or in the future in any way, Florida should be given an additional notice and comment period. This should be required as Texas' own emissions affect Texas' monitors, and therefore, if EPA reduces or increases Texas' emissions requirements under CSAPR for any reason, Florida's utilities' emission scheme will change accordingly. Therefore, if EPA modifies Texas' requirements under CSAPR for any reason, Florida should be given an additional notice and comment period.

2. Lakeland's Selective Catalytic Reduction System – Non-Dispatchable SCR

EPA has modeled Lakeland's C.D. McIntosh, Jr. Power Plant's Unit 3 coal unit with a "dispatchable SCR" for the purposes of CSAPR. EPA must be unaware of this facility's Title V permit (1050004-029-AV) that requires operation of the Unit 3 SCR. Specifically, Lakeland's coal unit is required to reduce its NO_x emissions to a calendar year average of 0.22 NO_x lb/MMBtu. This NO_x limit was set by the Florida Department of Environmental Protection (FDEP) after FDEP recognized that Unit 3 has temperature restrictions on its boiler system that must first be met in order for the SCR system to begin injecting ammonia. These temperature restrictions are set by the SCR manufacturer, and Lakeland has been warned that if ammonia injection commences before the proper temperatures are reached and sustained, that ammonia salts can form and clog up the reactive pores of the catalyst.

These temperature setpoints are reached at approximately two-thirds of the nominal capacity of Unit 3. Therefore, when Unit 3 is turned down during low load demand, such as at night, the SCR must be turned off. Due to this constraint, Lakeland has operated the SCR at maximum NO_x reduction, while staying within ammonia slip limits, whenever operation setpoints/restrictions were satisfied.

Lakeland Electric's Petition for Reconsideration and Stay:
Docket ID No. EPA-HQ-OAR-2009-0491
August 12, 2011
Page 4 of 6

CSAPR places this unit in a major predicament. Lakeland added the Unit 3 SCR in 2009-2010, and due to operational constraints on the system along with market demand and natural gas and coal prices, Unit 3 will not be able to reduce its emissions enough to comply with CSAPR as its emissions rate is approximately 0.21-0.22 NO_x lb/MMBtu at this time. Therefore, Lakeland may be required to take operational constraints on this unit that may reduce its production and be a substantial burden on Lakeland. Lakeland believes EPA has made a mistake by not considering Lakeland's most recent permit covering Unit 3's SCR as a required operational system for Unit 3. As stated above, if Unit 3 does not operate the SCR the unit will be out of compliance with its Title V air permit. Therefore, Lakeland does not believe that such a system should be labeled as "dispatchable" under EPA's modeling analysis, and that EPA has made a fatal flaw with regards to Lakeland's Unit 3.

3. Baseline Heat Input

Lakeland believes that EPA's utilization of the past five years of operational data for setting baseline heat input and emissions levels is not a representative assumption for predicting future heat input and emissions values. Many of the units regulated under CSAPR are also regulated under the Clean Air Interstate Rule (CAIR), and therefore, have spent considerable time in outage for installation and construction of pollution control devices such as ultra low NO_x burners, selective catalytic reduction systems (SCRs), etc., in order to meet CAIR requirements. In addition to those units that were not operating due to CAIR pollution control device installation, certain boiler units may have been down due to significant malfunctions and necessary extensive repairs.

If EPA does not revise its model, EPA is in effect penalizing those companies that shut down their units over the last five years to install pollution control equipment to assist in meeting CAIR reductions. For example, Lakeland's coal unit has a 2008 ozone-season heat input of 13,683,490 MMBtu. The 2008 season represents the only season over the past five years where Lakeland was not installing pollution control devices on Unit 3 or incurred considerable downtime due to a malfunction. In 2006, Unit 3 incurred significant downtime due to a forced outage due to a malfunction with the unit. Then in 2007, Lakeland installed low NO_x burners (LNBs) on Unit 3. In addition to the installation downtime, Unit 3 experienced substantial downtime due to malfunctions that occurred during the startup procedures from Unit 3's burner installation. These events considerably reduced the seasonal heat input values for Unit 3 over 2006 and 2007. Furthermore, in 2009 and 2010, this Unit operated at reduced capacity throughout both seasons due to downtime associated with the installation of an SCR system

Lakeland Electric's Petition for Reconsideration and Stay:
Docket ID No. EPA-HQ-OAR-2009-0491
August 12, 2011
Page 5 of 6

along with multiple bearing malfunctions in 2010 on the Unit. Therefore, the Unit's heat input in the 2009 and 2010 ozone seasons was 7,780,732 and 6,992,401 MMBtu respectively; this equates to approximately a 50% reduction in heat input for the past two seasons.

Four of the past five ozone-seasons are not representative of normal operation for Lakeland's Unit 3, and therefore, EPA's emissions allowances for this Unit are not appropriate as it restricts the operation of this Unit even with full operation of LNBS and SCR. In addition to Unit 3, Lakeland's Unit 1 at the same facility was down in 2009 and 2010 due to repairs that were required due to long term potential safety concerns. Unit 1's outage time during these past two years has also skewed its heat input values from what would be normally expected.

Lakeland is requesting EPA to reconsider this rule and allow for a more representative averaging scheme which will not penalize those units which were shut down for installation of pollution control equipment in order to comply with CAIR.

4. Early Reductions

Lakeland Electric installed low NO_x burners in 2007 on its sole coal unit for the purpose of having flexibility with CAIR requirements and any successor rule. Lakeland then installed an SCR in 2009-2010 on the very same unit for the very same purpose. The installation and construction costs of the low NO_x burners and SCR were initially \$6 and \$75 million dollars, respectively, to Lakeland's customers. This initial cost does not include the SCR's continuing operation and maintenance, i.e., ammonia feed, costs of repairs etc.

EPA in 76 FR 48223, explains why reductions that were made for the purposes of complying with CAIR cannot be taken into consideration for modeling base year emissions. In addition, EPA goes on further to explain why the installation costs associated with CAIR compliance are not factored into EPA's associated costs with complying with CSAPR, because these costs are "sunk" costs and EPA believes that each utility that installed such controls would operate their control equipment even if CSAPR were not in effect. Unfortunately, Lakeland does not agree with this logic and feels EPA's rationale is not a fair representation of the facts. CSAPR is EPA's CAIR replacement. Therefore, costs associated with CAIR should be transferred to CSAPR.

In addition, EPA employs an analogy in 76 FR 48224 to explain why EPA must consider recent actual emissions, i.e., CAIR compliant emissions, in setting its baseline. Although Lakeland understands EPA's reasoning, EPA is punishing Lakeland for making early reductions under

Lakeland Electric's Petition for Reconsideration and Stay:
Docket ID No. EPA-HQ-OAR-2009-0491
August 12, 2011
Page 6 of 6

CAIR, and therefore, Lakeland believes EPA should develop a modeling formula/scheme to take into greater consideration utility emission reductions performed due to CAIR compliance.

In effect Lakeland, which installed an SCR and accumulated a large amount of unit downtime and has since emitted NO_x at a much lower rate than pre-CAIR, is now being punished for its good deeds due to EPA's unwillingness to correctly model pre-CAIR/CSAPR emissions and heat input. Lakeland is being forced to make an additional 50% NO_x reduction on its coal unit during the ozone season from what was proposed in the earlier plans lowest allowances (See TABLE - 1).

If Lakeland is forced to curtail its load, in particular its coal unit, Lakeland's customers will most likely be required to pay a higher rate for their electricity as Lakeland will be required to purchase power on the market. Purchasing enough allowances on the open market to comply with CSAPR without needing to curtail load to be very difficult to achieve, as Florida has been given a shortfall of approximately 9,500 allowances. Florida's neighboring utilities suffer the same plight Lakeland is experiencing, and in addition to the limitation on availability of allowances, there are valid concerns regarding the availability and reliability of the transmission system in the Southeast. Consequently, Lakeland will not be able to meet its reliability obligations in providing power and with fewer units running for extended periods of time, Lakeland will not be able to justify retaining all of its employees and may be required to reduce its workforce at the time that unemployment is a staggering 11.7% in our area of service.

Therefore, Lakeland is Filing a Petition for Reconsideration and Stay and requests that EPA reconsider their rulemaking and provide additional time for regulated entities and EPA staff to analyze the modeling inputs and provide due notice to the regulated community.

Lakeland appreciates the opportunity to comment on this extremely important regulatory proposal. Please contact me at (863) 834-6603 if you have any questions.

Sincerely,



Farzie Shelton

cc: Florida Congressional Delegates