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October 7, 2011

Ms. Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue NW (1101A)
Washington, DC 20460

SUBJECT: Request for Reconsideration and Petition for Administrative Stay of the U.S. EPA Final Rule titled "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone in 27 States" promulgated August 8, 2011 -- Docket No. EPA-HQ-OAR-2009-0491

Dear Ms. Jackson:

Pursuant to Section 307(d)(7)(B) of the Clean Air Act (CAA), 42 U.S.C. §7607(d)(7)(B), the Michigan Department of Environmental Quality (MDEQ) and the Michigan Public Service Commission (MPSC) respectfully request that the U.S. Environmental Protection Agency (U.S. EPA) convene a proceeding for reconsideration of the Cross-State Air Pollution Rule (CSAPR), 76 *Federal Register* 48208 (August 8, 2011), and stay the compliance deadline of the rule.

The MDEQ and MPSC are concerned that the CSAPR creates a serious risk for electric system reliability in Michigan's Upper Peninsula because insufficient nitrogen oxide (NO_x) and sulfur dioxide (SO₂) allocations have been assigned to key electric generating units in the region. MISO and the American Transmission Company (ATC) require the Upper Peninsula's We Energies Presque Isle Power Plant to operate four of its five units for local voltage support and system reliability. Under certain conditions, transmission constraints reduce power flow into and out of the Upper Peninsula. Although recent transmission system upgrades have been completed by the ATC Northern Umbrella Project, operation of the four Presque Isle units is still required to provide adequate voltage stability and to avoid pre-emptive curtailment of customer load. Additional transmission upgrades into the Upper Peninsula are not possible prior to 2017. The Presque Isle Power Plant did not receive enough allowances to support the operation of the four units at the required minimum load levels.

In addition, installation of major emission controls on the four Presque Isle units such as selective catalytic reduction (SCR) technology cannot be completed until 2017 as planned outage schedules are restricted by MISO/ATC requirements. Controls such as advanced low NO_x burners or selective non-catalytic reduction cannot be installed at this plant prior to 2014 and would be insufficient to achieve required emissions reductions. Finally, given the short compliance time line and aggressive emission reductions, there is great uncertainty of both the availability and cost of emission allowances.

System reliability is also a concern for the Lower Peninsula of Michigan. There were multiple days in the summer of 2011 in which MISO initiated emergency operations procedures during critical load conditions. The market progressed to a Max Gen alert multiple times, declaring that the estimated maximum available economic generation was within one percent of requirements.

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On future critical load days, a lower amount of available generation due to the retirements and shutdowns anticipated by the CSAPR will result in a serious risk to system reliability.

The reduced limits/allocations and trading options in the final CSAPR will drive modifications in the utilization of the electric generating fleet in Michigan. Strategies for meeting the limits suggested in the rule would drive units to "off status" instead of cycling down during low demand periods. Units that are cycled down can start up relatively quickly unlike units that are shut down. Further, generators must be granted prior approval to shut down or restrict unit operation by both the MPSC and MISO. Dispatch priority based on emissions may shift the merit dispatch of natural gas fired units. Those natural gas units were designed to handle peak load and not function in a base load capacity during shoulder periods. This will affect pricing for both electricity and natural gas and potentially affect the longevity of these natural gas units.

Although the U.S. EPA's analysis indicates that compliance is achievable with existing operating emission control equipment, analysis by utilities in Michigan indicates a significant shortfall of allocations to reduced forecasted emissions, especially for the Phase 1 compliance deadline of January 2012. This analysis shows that many of the U.S. EPA's assumptions for optimization are not achievable and certainly not sustainable. For example, Detroit Edison (DTE), in spite of completing significant NO_x and SO₂ emissions reductions on most units with investments totaling \$1.5 billion, will still see an allocation shortfall of 15 to 18 percent for SO₂ and 30 to 40 percent for NO_x from forecasted emissions in 2012, 2013, and 2014.

Additionally, there are significant errors in the U.S. EPA's analysis of DTE's system. The assumed Flue Gas Desulfurization controls on Monroe Units One and Two and SCR technology on Unit Two are not scheduled to be operational before 2014. The very high capacity assumed at the Belle River Power Plant is not sustainable, and the low emission rates assumed for the Trenton Channel Power Plant are not achievable without major capital investment. DTE's analysis of the proposed CSAPR concluded that compliance in 2012 would be difficult but achievable with the more flexible emission allowance trading options, options that were excluded from the final rule.

The MDEQ and MPSC are also concerned that the time allotted to the power generation and transmission sectors for strategic planning, procurement, and installation under the CSAPR is likely to add extreme pressures to a Michigan economy that has only recently started to recover from a severe and prolonged downturn. From 2000 to 2010, Michigan lost 832,800 jobs. Of the private sector job losses nationwide, fully 24 percent occurred in Michigan.¹ The August 2011 seasonally unadjusted unemployment rate for the Upper Peninsula is 11 percent. The ratepayers—all residents and businesses—will ultimately bear the increased costs that will flow from cancelling and renegotiating existing contracts for fuel purchases, equipment, and services, as well as the inflated costs to procure skilled labor and materials in a multi-state region where every utility is undertaking the same work in a compressed time frame.

We understand that the annual health and environmental benefits derived from the CSAPR have been estimated to far exceed the compliance costs, but the extremely short time frame adds unnecessarily to the implementation cost. In addition, the affordability and availability of emission allowances in this constrained market is highly uncertain.

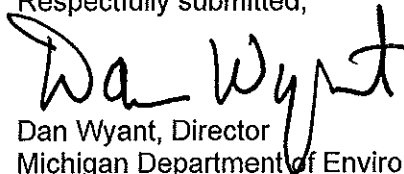
¹ U.S. Bureau of Labor Statistics

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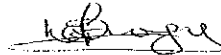
The MDEQ and MPSC ask that the Federal Energy Regulatory Commission and MISO study these ramifications and potential risk to system reliability in both Michigan's Upper Peninsula and Lower Peninsula due to the accelerated compliance deadline of the CSAPR. The MDEQ asks the U.S. EPA to reconsider the 2012 and 2014 compliance deadlines and to establish a more manageable time line to ease the immediate monetary penalty for electricity users.

We are also very concerned that the U.S. EPA has disregarded the process set out in the CAA for Michigan to revise its State Implementation Plan (SIP) before the U.S. EPA can step in to impose a Federal Implementation Plan (FIP). Pursuant to Section 110(k)(5) of the CAA, any finding by the U.S. EPA of SIP inadequacy regarding interstate transport must be accompanied by notice to Michigan of the emissions that contribute significantly to nonattainment/maintenance problems in downwind states. The U.S. EPA has not provided such notice. Without that notice and an opportunity for Michigan to correct any inadequacies, the U.S. EPA cannot make a finding that Michigan has failed to make a required SIP submission and cannot promulgate a FIP under Section 110(c). The U.S. EPA has opted to ignore the requirements of the CAA and to supplant the role of the states by imposing a FIP with potentially damaging deadlines.

Respectfully submitted,



Dan Wyant, Director
Michigan Department of Environmental Quality



Orjiakor N. Isiogu, Chairman
Michigan Public Service Commission



Greg R. White, Commissioner
Michigan Public Service Commission

cc: Ms. Susan Hedman, U.S. EPA, Region 5
Mr. Jim Sygo, Deputy Director, MDEQ
Mr. G. Vinson Hellwig, MDEQ