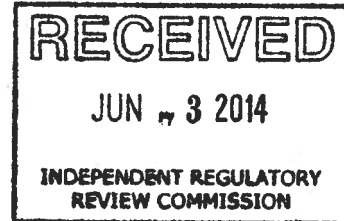


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**TESTIMONY OF THE
ELECTRIC POWER GENERATION ASSOCIATION
BEFORE THE
ENVIRONMENTAL QUALITY BOARD
MAY 29, 2014**

**ADDITIONAL RACT REQUIREMENTS FOR
MAJOR SOURCES OF NOX AND VOCS**

Jacob Smeltz

Good afternoon and thank you for the opportunity to provide comments today.

I am Jake Smeltz, President of the Electric Power Generation Association (“EPGA”), a statewide trade association of electric power generators who work hard every day to produce electricity in a safe, responsible and reliable manner.

Please know that the testimony I am providing today represents the views of the association as a whole, and not necessarily the position of any one individual member of the association.

EPGA has been a strong advocate for the appropriate and responsible regulation of emissions. With each environmental rule that is promulgated – whether at the state or federal levels – we have consistently requested the following:

- That the rule reflects limits that are achievable.
- That the rule provides flexibility to allow for generators to have the maximum opportunity to comply.
- That the rule gives consideration to cost, which ultimately will be borne by electric customers.

The Environmental Quality Board (“EQB”) has before it a proposed rulemaking by the Department of Environmental Protection (“DEP”), which provides for the adoption of a presumptive reasonably available control technology (“RACT”) requirement and for RACT emission limitations for certain major stationary sources of oxides of nitrogen (“NO_x”) and volatile organic compound (“VOC”) emissions.

This rulemaking has been in development for some time, and EPGA has participated in the public process and will also be filing comments by the June 30 deadline.

To begin, the proposed rulemaking would affect the owners and operators of approximately 810 individual sources at 192 major facilities in Pennsylvania. The electric power generation industry is among those industries that will be directly affected by the proposed rule. As such, we take great interest in ensuring that the proposed rule is an appropriate approach to the additional control of NO_x and VOC emissions.

In reviewing the proposed rule, we believe that DEP has found an appropriate balance between reducing emissions and providing an economic path forward for Pennsylvania's electric generators while simultaneously preserving grid reliability.

EPGA encourages the EQB to focus on what RACT is.

RACT is defined as "the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility." The term "reasonably available" is intended to indicate greater flexibility for states to take into account the remaining economic life of a unit as well as factors that could increase the cost of installing a technology on an existing unit.

RACT is not "Best available technology" ("BAT"), "Best available control technology" ("BACT") or "Lowest Achievable Emissions Rate" ("LAER"), and the EQB should be made aware that RACT is usually less demanding than BAT, BACT or LAER. In fact, specific emission reductions are not required when a RACT re-evaluation is done – however under the proposed rule, actual emission reductions will occur.

In developing the proposed rule, the DEP performed an exhaustive analysis to determine the appropriate emission limits as well as compliance options. The department conducted generic RACT analyses for the determination of presumptive RACT emission limitations, identified source categories most amendable to analysis by category, identified available feasible NOx and/or VOC control options for each type of existing source, established baseline emission rates for each category from a review of allowable and actual emission rates, estimated reduction potential for each control technology, identified costs for technologies, evaluated cost-effectiveness per the Environmental Protection Agency ("EPA") guidance (for both controlled and uncontrolled sources), and using a benchmark cost/ton, chose emission limits that were achievable by reasonably available technologies.

The result of the DEP's work is what is encapsulated into the proposed rulemaking, which is anticipated to reduce total NOx emissions from all sources by 29%, or 158,426 tons per year.

The DEP further provided additional, important opportunities for compliance. While an affected source can choose to meet the presumptive RACT emission limitations and requirements, if an owner/operator cannot meet the NOx RACT requirements or emissions limitations, the proposed rule includes provisions to allow for facility-wide/system-wide NOx emissions averaging. Any owner/operator of a facility that elects to comply on this basis is required to submit an operating permit modification and the averaging must:

- Be among sources under common control of the same owner or operator.
- Use 30-day rolling averages.

- Demonstrate that the aggregate facility-wide or system-wide NOx emissions emitted (actual) are no greater than 90% of the sum of the NOx emissions that would be emitted (allowable) if each source complied with the source-specific standard.

In addition to providing another compliance option, one of the direct benefits of the averaging provisions is that all sources in the averaging group will be further limited to 90% of the allowable emissions had the sources been able to comply on an individual basis, further controlling emissions.

Finally, DEP's proposed rule continues to allow for a case-by-case RACT determination, if the presumptive RACT requirements and the facility-wide/system-wide averaging options are unachievable.

Recently, several environmental groups and regulators from other states have suggested that the proposed rule does not go far enough.

EPGA respectfully notes that these commentators have failed to acknowledge that the actual proposal would, in fact, result in fewer emissions. Nor do they acknowledge that the proposed emission rates are lower than the current RACT allowable emission rates. As I previously stated, RACT is intentionally not meant to be BACT, BAT or LAER. In fact, their argument is not premised on whether emissions will go down, because they will under this proposal. Rather, they would simply prefer to see more stringent limits imposed, resulting in even further reductions.

Unfortunately, those who request changes to the proposed rule fail to appreciate the costs associated with compliance and the necessity and value of having a diverse generation fleet to

meet electric demand. Unlike many other states in the mid-Atlantic, Pennsylvania is a net exporter of electricity and our regulators must strike a careful balance in the development of rules that could greatly impact upon our economy.

EPGA member companies operate in a competitive wholesale electric marketplace, where costs that are imposed upon the production of electricity are directly reflected in our ability to successfully compete. To the extent that additional regulatory costs are imposed upon power producers and those costs make those facilities uncompetitive with other sources, those units become prime candidates for premature retirement.

As the EQB is well aware, the Commonwealth is a preeminent thermal generation producing state. Pennsylvania is home to an abundant, diverse fleet of electric generation resources that make it the second largest electricity producing state in the nation. Over the past several years, however, large amounts of actual capacity (iron in the ground) have been subjected to increased costs due to environmental rules and other market forces and have subsequently exited the market. This was most recently evidenced in the deactivation of 2 GW of capacity in the western part of the state, which raised concern from Governor Corbett. As the Governor noted in a letter to PJM Interconnection:

The closure of these two plants will impact the employment of nearly 400 Pennsylvanians who go to work at them each day, as well as hundreds of additional jobs supported by the plants' operations. Further, the impacts from these retirements to the local tax base will be significant. At a time when our

economy is starting to improve, we can ill afford the loss of these valuable jobs and local revenue.¹

In closing, on behalf of one of Pennsylvania's largest industries, I would like to thank the EQB for its diligence in considering the proposed rule. Taken as a whole, the proposal represents an opportunity to achieve lower emissions while preserving and maintaining one of the Commonwealth's core industries – electric power production.

¹ See Letter to Mr. W. Terry Boston, President & CEO, PJM Interconnection from Governor Tom Corbett, dated August 8, 2013.