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INDEPENDENT REGULATORY REVIEW COMMISSION

June 30, 2014

Environmental Quality Board
P.O. Box 8477
Harrisburg, Pennsylvania 17105-8477

Re: Comments on EQB's Proposed Additional RACT Requirements for Major Sources of NOx and VOCs (44 Pa. B. 2392)

To Whom It May Concern:

Homer City Generation, L.P. ("Homer City") respectfully submits the attached comments in the above captioned rulemaking regarding the Environmental Quality Board's proposed RACT requirements for major sources of NOx and VOCs. In accordance with 44 Pa.B. 2392 (Apr. 19, 2014) of the proposed rulemaking, Homer City also includes a one-page summary of our comments in this rulemaking.

Thank you for your consideration of our views.

Sincerely,

/s/ Chet M. Thompson
Chet M. Thompson

Counsel for Homer City Generation, L.P.

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Re: Comments on EQB's Proposed Additional RACT Requirements for Major Sources of NOx and VOCs (44 Pa. B. 2392)

To Whom It May Concern:

On behalf of Homer City Generation, L.P. ("Homer City"), we appreciate the opportunity to comment on Pennsylvania Environmental Quality Board's ("EQB's" or "Board's") proposed rulemaking to amend 25 Pennsylvania Code Chapters 121 and 129 to adopt presumptive reasonably available control technology ("RACT") requirements and emission limitations for major stationary sources of nitrogen oxide ("NOx") and volatile organic chemicals ("VOCs"). *See Proposed Additional RACT Requirements for Major Sources of NOx and VOCs*, 44 Pa. B. 2392 (Apr. 19, 2014). The Homer City Power Generation Station ("the Station") is a major NOx emitting facility with three coal-fired combustion units with rated heat inputs greater than 250 million Btu/hour ("MMBtu/hour"). As such, it will be directly affected by this rulemaking.

Homer City applauds EQB's and the Pennsylvania Department of Environmental Protection ("DEP's") efforts to develop RACT requirements for the Commonwealth's fossil-fuel fired electric generators that balance emission reductions, compliance costs, and compliance flexibility. However, we believe that there is a better policy approach than the one proposed. Specifically, instead of adopting presumptive RACT standards for electric generating combustion units, we believe that it would be more prudent for EQB to rely on the combination of the federal Clean Air Interstate Rule ("CAIR") and Cross-State Air Pollution Rule ("CSAPR") to satisfy the State's RACT obligations for this sector. These programs obtain significant NOx reductions from electric generating units within the Commonwealth, and the Environmental Protection Agency ("EPA") has made clear that it is amenable to states using these programs to satisfy RACT. Adopting separate NOx RACT limits for the industry on top of CAIR/CSAPR would result in little environmental benefit, but may undermine the compliance flexibilities afforded by

those programs and strain the financial well-being of plants that are already burdened by several recent Clean Air Act regulatory requirements.

If EQB elects not to rely on CAIR/CSAPR to satisfy RACT for the electricity sector, then it should adopt its proposed presumptive limit of 0.40 lb NOx/million Btu heat input ("lb. NOx/MMBtu") for coal-fired combustion units with rated heat inputs equal to or greater than 250 million Btu/hr that fall into the "another combustion unit" category. The proposed limit meets the definition of RACT, as it reflects a NOx emission rate reasonably achievable by existing coal-fired units. Homer City also supports EQB's proposal to allow facility-wide averaging and to establish a process for individual facilities to seek alternative, site-specific NOx limits. Facility-wide averaging should not, however, be limited only to those facilities "that cannot meet the applicable NOx RACT requirement or NOx RACT emission limitation." Rather, this flexible compliance option should be open to all. Provided that total NOx emissions to the atmosphere are the same, it should not matter whether a facility complies on a unit level or through facility-wide averaging. Similarly, EQB should eliminate the proposed 10 percent compliance "penalty" for facilities that demonstrate compliance through averaging. An averaging penalty would only disincentivize an otherwise viable and cost-effective compliance strategy. Finally, EQB should clarify that compliance with the 30-day rolling average emission rate is based upon the average of each daily average for the 30 operating day period.

We elaborate further on these issues below.

I. SPECIFIC COMMENTS

A. Pennsylvania Should Rely on CAIR and CSAPR To Satisfy Its NOx RACT Requirement for the Power Sector

Clean Air Act Sections 182 and 184(f) require Pennsylvania to adopt RACT requirements for all major stationary sources of NOx. EPA defines RACT 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,"[1] but it does not dictate the form of the standard or how states must implement it. In other words, states have the legal authority and discretion to adopt stand-alone RACT requirements or to rely on emission reductions from other programs to satisfy RACT. Indeed, EPA has acknowledged that RACT for

[1] *See* 57 Fed. Reg. 55,620, 55,624 (Nov. 25, 1992).

electric generating units ("EGUs") may be satisfied through implementation of either CAIR[2] or CSAPR.[3]

Now that the Supreme Court has upheld EPA's core basis for CSAPR— ensuring that Pennsylvania will have to implement it in some form in the future— and given the substantial NOx reductions that will result from the implementation of CAIR/CSAPR (an 11 percent reduction in state-wide NOx emissions from the EGU sector alone), we believe it makes more sense for EQB to rely on these programs to satisfy RACT than to establish separate, presumptive RACT limits for the sector.[4] Given the extensive analysis underlying these rules and their focus on attainment of the National Ambient Air Quality Standards ("NAAQS") for ozone, the reductions from these programs are of such a type and extent as to easily satisfy the requirement in CAA section 182(f) to impose NOx RACT controls on EGUs and other major utility boilers within the Commonwealth.

In CSAPR, EPA used cost, emissions, and air quality information to perform a "multifactored analysis" to determine emission budgets for 27 different states, including Pennsylvania. To construct these budgets, EPA first identified the amount of emissions in each state that were considered to contribute to nonattainment and interference with maintenance of the PM 2.5 and ozone NAAQS in other states. EPA then identified different cost thresholds based on air quality considerations and cost criteria, including the cost of NOx control technologies that are widely deployed.[5]

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[2] *Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to NOx SIP Call*, 70 Fed. Reg. 25,162 (May 12, 2005). CAIR is currently in effect pursuant to *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008) and *EME Homer City Generation L.P. v. EPA*, 696 F.3d 7 (D.C. Cir. 2012).

[3] *Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals*, 78 Fed. Reg. 48,208 (Aug. 8, 2011).

[4] The Supreme Court recently reversed the D.C. Circuit decision to vacate CSAPR, remanding the rule back to the D.C. Circuit to address several issues unresolved by its opinion. *EPA v. EME Homer City Generation, L.P.*, Slip op. 12-1182 (Apr. 29, 2014). The Supreme Court affirmed EPA's ability to rely on modeling of cost-effective reductions in SO_2 and NOx to address the Clean Air Act requirements. While it is currently not clear when CSAPR will be implemented, EPA recently filed a motion to lift a stay granted by the D.C. Circuit in late 2011. The motion asks the Court to allow EPA to implement the first phase of the program beginning on January 1, 2015 and the second phase of the program beginning on January 1, 2017. Respondents' Motion to Lift Stay in *EME Homer City Generation, L.P., v. U.S. EPA,* No. 11-1302, Doc. No. 1499505 (D.C. Cir. Jun. 26, 2014).

[5] 78 Fed. Reg. at 48,256. EPA described the intensive analysis underlying its consideration of cost in determining the appropriate level of NOx reductions. EPA stated that "[c]ost considerations include, for example, how the cost per ton of emission reduction compares with the cost per ton of existing federal and state rules for the same pollutant; whether the cost per ton is consistent with the cost per ton of technologies already widely deployed (similar to the highly-

(Continued…)

EPA determined that CSAPR's NOx emission reductions would "accelerate critical air quality improvement, and more effectively address . . . significant contribution to nonattainment and interference with maintenance as expeditiously as practicable."[6] EPA also determined that "moving beyond the [Rule's] $500 cost threshold up to $2,500 cost threshold would result in only minimal additional ozone season NOx emission reductions" from covered EGUs.[7]

Assuredly, CSAPR is focused on interstate transport of ozone precursors rather than the Clean Air Act's RACT requirement. However, the analysis of cost-effective NOx reductions from EGUs that EPA did to support CSAPR is broadly applicable to EGUs within Pennsylvania and the determination of what controls may be considered to be "reasonably available" for RACT purposes. Particularly pertinent is the fact that EPA concluded that more costly NOx reductions from EGUs would provide little additional benefit and were not needed to address ozone NAAQS attainment and maintenance issues.[8]

EPA has addressed the connection between its interstate transport rules and RACT requirements for state implementation plans ("SIPs"), and has made clear that the former can satisfy the latter. In CSAPR, EPA specifically preserved the ability of states to determine that CSAPR NOx reductions would satisfy RACT: "Based on analyses that states conduct on a case-by-case basis, states may be able to conclude that compliance with the Transport Rule for certain EGUs fulfills nonattainment area RACT requirements."[9]

EPA maintained this position even when CSAPR was challenged and stayed by the D.C. Circuit. In a November 19, 2012 memorandum, then Assistant Administrator for Air and Radiation, Gina McCarthy, stated that SIP submittals, including attainment SIPs, could "rely on CAIR emission reductions as permanent and enforceable for certain actions in certain circumstances."[10] The Administrator indicated that since the D.C. Circuit had allowed EPA to continue administering CAIR pending the promulgation of a valid replacement rule, states could rely on CAIR until further court proceedings on CSAPR are resolved or until EPA developed a valid replacement rule.[11] Implicit in this policy is that states can continue to rely on CAIR to satisfy RACT—if the record so supports—until the conclusion of the CSAPR litigation.

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cost-effective criteria used in both the NOx SIP Call and CAIR); and what cost increase is required to achieve meaningful air quality improvement." *Id.*

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] *Id.* at 48,326.

[10] *Next Steps for Pending Redesignation Requests and State Implementation Plan Actions Affected by the Recent Court Decision Vacating the 2011 Cross-State Air Pollution Rule*, Memorandum to EPA Air Division Directors, Assistant Administrator Gina McCarthy (Nov. 19, 2012).

[11] *Id.* at 2.

Although EPA recently proposed to withdraw its previous determination in its "Phase 2" Ozone Implementation Rule that CAIR automatically satisfies RACT in all areas, the agency nonetheless made clear that individual states "retain the option of conducting a technical analysis ... [to] demonstrate that compliance by EGUs participating in the cap-and-trade program results in actual emission reductions in the particular nonattainment area that are equal to or greater than the emission reductions that would result if RACT or [reasonably available control measures] were applied to the individual EGU[s]...." [12] This statement reaffirms EPA's position that cap-and-trade programs, such as CAIR/CSAPR, can satisfy RACT requirements, provided there is adequate case-by-case analysis of the resulting emission reductions. Therefore, we believe that Pennsylvania should review CAIR and CSAPR technical support documents, conduct any additional necessary technical review, and make a specific determination that the emission reductions under those programs as applied in Pennsylvania will result in the actual emission reductions needed for NOx RACT.[13]

For these reasons, we see no barrier to EQB relying on CAIR/CSAPR to satisfy the RACT requirements for EGUs, and believe that such an approach would be a better policy choice since it achieves NOx reductions more efficiently than the Department's proposed, presumptive standards for EGUs. These programs already require NOx reductions deemed by EPA to be reasonably achievable using existing control technologies; Pennsylvania's CSPAR budget reflects an additional 11 percent reduction off of the 2014 "base case"—the level of emissions that EPA determined would be achieved in that year through implementation of all emission limitations already in place.[14]

EQB could effectuate this result by revising 25 P.S. Chapter 129 as follows:

129.97(g)(1)(vi)

"(vi) For a coal-fired combustion unit with a rated heat input equal to or greater than 250 million Btu/hour, the requirements related to the control of NOx as contained within the Clean Air Interstate Rule (70 Fed. Reg. 25,162 (May 12, 2005)) and the Cross-State Air Pollution Rule (78 Fed. Reg. 48,208 (August 8, 2011)) promulgated by the U.S. Environmental Protection Agency to control the interstate transport of ozone from Pennsylvania pursuant to Clean Air Act section 110(a)(2)(D)(2)."

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[12] *Withdrawal of the Prior Determination or Presumption that Compliance with the CAIR or NOx SIP Call Constitutes RACT or RACM for the 1997 8-Hour Ozone and 1997 Fine Particulate Matter NAAQS*, prepublication proposed rule signed by EPA Administrator McCarthy (May 29, 2014).

[13] Importantly, CSAPR contained "assurance provisions" not contained in the NOx SIP Call or CAIR that act to constrain interstate trading of emission allowances and require that certain levels of NOx reductions occur within each affected state. Under CSAPR, Pennsylvania was subject to these assurance levels for both the annual and summertime NOx program. *See* 76 Fed. Reg. 48,269, 48,270.

[14] 76 Fed. Reg. at 48,223.

B. Alternatively, Pennsylvania Should Finalize Its Proposed Presumptive NOx Limit of 0.40 lb NOx/MMBtu Heat Input For Large Coal-Fired Power Plants

The Board has proposed a NOx emission limit for large coal-fired EGUs of 0.40 lb NOx/MMBtu heat input. This standard would satisfy the State's obligation to submit nonattainment NOx RACT SIP provisions for attainment of the 2008 ozone NAAQS.[15] While Homer City favors a determination that CAIR/CSAPR requirements fully address Pennsylvania's obligation to address NOx RACT for the power sector, the proposed standard would ensure that substantial, measurable progress is obtained in Pennsylvania toward achieving the ozone NAAQS. While less efficient and less cost-effective than CAIR/CSAPR, the proposed standard would more than meet the requirements set forth in the CAA and EPA guidance for RACT.

Clean Air Act Section 172(c)(1) requires that nonattainment SIPs "provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology [RACT])." Clean Air Act Section 182(f) similarly requires states to adopt RACT for NOx emissions statewide for major stationary sources as part of a federally-approved SIP for attaining and maintaining the 1997 and 2008 8-hour ozone NAAQS.

EPA defines RACT 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."[16] RACT is intended to be less stringent than other control standards imposed by the Clean Air Act , such as best available control technology ("BACT") and lowest achievable emission rate ("LAER").[17] In mandating RACT, Congress did not intend to impose maximal emission reductions, leaving it to individual states to best determine the appropriateness of emission limits.[18]

EPA recognizes that states are best positioned to set reasonable emission limits that will both protect the environment and impose reasonable costs. This flexibility can take many forms and may account for economic and industrial variations across different states. For example, Pennsylvania relies on coal-fired power plants for electricity production substantially more than other states; whether RACT is reasonably available and cost effective in Pennsylvania is not determined by the actions of other states, even those that border the Commonwealth. Indeed, EPA eschews uniform national standards. While RACT proposals must demonstrate that the state has (i) considered available information as well as information in EPA guidance documents,

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[15] *See* 42 U.S.C. §§ 7506a, 7511c; 70 Fed. Reg. 71,612 (Nov. 29, 2005). Because Pennsylvania is located in the Ozone Transport Region, by statute it is deemed to be a moderate ozone nonattainment area subject to NOx RACT requirements.

[16] *See* 57 Fed. Reg. at 55,624.

[17] 79 Fed. Reg. 30,737-01, 30,739 (May 29, 2014).

[18] *See NRDC v. EPA*, 941 F.2d 1207, *3 (4th Cir. Aug. 19, 1991).

and (ii) provided supporting information justifying the standard, "states can opt to require alternative controls rather than following the guidance."[19] This discretionary standard was upheld recently on judicial review.[20]

The EQB's proposed NOx RACT for large (*i.e.*, plants of at least 250 MMBtu/hour) coal-fired EGUs of 0.40 lb NOx/MMBtu satisfies EPA's review criteria, as it is well-supported, results in substantial NOx emission reductions, and comes at a reasonable cost.[21] First, DEP analyzed different source categories by size and fuel type, estimated emission reduction potential by control technology, identified costs for different control options, and evaluated cost-effectiveness according to EPA guidance.[22]

Second, EQB's proposed standards would achieve the requisite "reasonable further progress" toward NAAQS attainment for the 8-hour ozone standard, currently at 0.075 ppm.[23] The proposed RACT would reduce NOx emissions from all sources by 29 percent, or approximately 160,000 tons per year.[24] With respect to Homer City, the proposal reflects more than a 50 percent reduction of the uncontrolled emissions from two of the Station's three units. These reductions are roughly within the range of reductions recommended by EPA.[25]

Third, the proposed limit of 0.40 lb. NOx/MMBtu for large coal-fired combustion units is economically feasible, in that the costs are generally in line with the Board's $2,500 per ton cost threshold (costs exceed $2,500 for one of the Station's three units). This is not to suggest that the incremental costs of the standard are not substantial. To the contrary, Homer City estimates that the annual compliance costs of the proposed presumptive RACT across all three units is between approximately $13.8 million and $15.2 million, and the dollar per ton of NOx reduced is as high as $3,600. This does not include the original capital costs of the selective catalytic reduction systems or upgrades that may be needed to ensure that the proposed limit is achievable at all times, including during periods of startup and shutdown. In developing a State-wide rule, EQB should consider worst-case costs, including the cost of installing SCRs since not all units in the state currently have SCRs.[26]

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[19] *NRDC v. EPA*, 571 F.3d 1245, 1254 (D.C. Cir. 2009) (citing 71 Fed. Reg. 58,745, 58,747 (Oct. 5, 2006)).

[20] *See id.* at 1255.

[21] Pa. Proposed Rulemaking, Vol. 44, No. 16 at 2399 (Apr. 19, 2014) ("Proposed Rulemaking").

[22] Proposed Rulemaking at 2393.

[23] *See* 73 Fed. Reg. 16,436 (Mar. 27, 2008).

[24] Proposed Rulemaking at 2393.

[25] *See* EPA, *Cost-Effective Nitrogen Oxides (NOx) Reasonably Available Control Technology (RACT)* at 5 (Mar. 16, 1994) ("EPA 1994 RACT Guidance").

[26] EPA has long taken the position that the "capital costs, annualized costs, and cost effectiveness of an emission reduction technology should be considered in determining its economic feasibility." *State Implementation Plans; General Preamble for the Implementation of Title I of*

(Continued...)

Contrary to the comments of some, EQB need not adopt standards more stringent than what it proposed. For starters, what other states, particularly those with limited coal assets, have adopted as RACT is not controlling on Pennsylvania. Second, establishing more stringent standards is neither necessary as legal matter nor prudent as an economic matter. Establishing "beyond RACT" standards would unnecessarily threaten the competitive standing of in-state electric power producers like Homer City.

A more stringent NOx RACT standard of course would also mean substantially higher compliance costs for Homer City. Although Homer City's three EGUs are already equipped with low-NOx burners and selective catalytic reduction ("SCR") systems to control NOx emissions, substantial redesign of these systems would be required for the units to comply with a more stringent limit. Homer City was one of the first facilities to retrofit units of their size with SCRs, doing so on Units 1, 2, and 3 in 2001, 1999, and 2003, respectively. As a result of being some of the first units, they are not capable of the same reductions as newer designs, at least not without some redesign work. Preliminary cost estimates to make the requisite physical changes to the systems to achieve an emission rate more stringent than what the Department has proposed range between $24 and $36 million. In addition to these capital costs, annual operating costs could increase by as much as $18 million. Added to this would be increased costs associated with such things as increased system maintenance, lost production associated with catalyst changeout time requirements, and added fuel costs as a result of increased "LOI" (loss on ignition). Specifically, having to increase the operation of SOFA (Separated Over-Fired Air) systems to move combustion air away from the burners to reduce NOx formation will result in an increase in unburned carbon. Based on past performance data, the LOI for two Homer City units could increase the amount of unburned carbon in the ash from current levels of 7 percent to as much as 17 percent. These added costs do not justify the marginal, additional emission reductions that would result from a more stringent presumptive RACT limit, e.g., between 0.2-0.3 lb/mmBtu, particularly against the backdrop of reductions resulting from implementation of CAIR/CSAPR.

A more stringent standard also could have the perverse outcome of increasing the emission of other "non-NOx" air pollutants. For example, SCRs will be utilized to oxidize elemental mercury to ionic mercury to facilitate mercury removal across wet FGD controls for the upcoming MATS Rule. If the SCR is operated at high removal rates (*i.e.*, high ammonia injection rates), the beneficial effects of mercury oxidation will be reduced by the high ammonia injection rates. For these reasons, and provided that EQB elects not to pursue the CAIR/CSAPR approached discussed above, Homer City supports the adoption of the proposed presumptive RACT limit for large, coal-fired boilers.

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the Clean Air Act Amendments of 1990; Supplemental, 57 Fed. Reg. 18,070, 18,073-4 (Apr. 28, 1992).

C. The EQB Should Allow Emissions Averaging Without Limitation or Penalty

The proposed rulemaking would allow the owner or operator of a major NOx emitting facility that cannot meet presumptive NOx RACT requirements to average emissions on a facility-wide basis using a 30-day rolling average.[27] Those who average, however, would be subject to stricter emission limitations than those who comply on a unit-by-unit basis. Anyone seeking to use averaging would need to ensure that NOx emissions from the group of sources included would not be "greater than 90% of the sum of the NOx emissions that would be emitted by the group of included sources if each source complied with the applicable NOx RACT requirement of NOx RACT emission limitation in 129.97 on a source-specific basis."[28]

Homer City supports the EQB's efforts to allow for flexible compliance with NOx RACT, but the proposed averaging protocol, at least with respect to facility-wide averaging, is arbitrary and restrictive in two ways. First, the proposal would limit use of averaging to circumstances where an operator cannot meet the unit-specific NOx requirement. Whether a facility can achieve RACT at the unit level should be irrelevant to whether it should be allowed to average. The purpose of RACT is to reduce emissions to the atmosphere. This is not undermined by allowing facilities to demonstrate compliance through averaging across its co-located units. It simply affords a facility the choice of obtaining the standard in the most effective way possible. And there can be no argument that facility-wide averaging could lead to localized "hot spots," since all of the units are located in the same air shed.

The 10 percent penalty is similarly unnecessary and arbitrary. The proposed rule offers no justification why a penalty should be attached to facility-wide averaging. Again, averaging is a common and efficient approach under the Clean Air Act to obtain emission reductions. This aspect of the proposal would do little more than make the rule less efficient. Averaging, in and of itself, means that if one unit or facility might emit at a rate higher than 0.40 lb. NOx/MMBtu, then another unit or facility will necessarily need to attain an emission rate that is correspondingly lower than 0.04 lb. NOx/MMBtu.

For these reasons, we recommend that EQB revise the final rule to eliminate the proposed restrictions on facility-wide averaging. The final rule should afford all facilities the option of demonstrating compliance by averaging across co-located units and not include an averaging penalty.

D. The EQB Should Allow Sources to Petition for Site-Specific RACT Limits

Homer City supports EQB's inclusion of a mechanism for sources that cannot meet the presumptive RACT to petition for an alternative emission limit and compliance schedule.

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[27] It should be noted that sources seeking the ability to average emissions on a system-wide basis would be required to be under the common control of the same owner and operator in the Commonwealth of Pennsylvania.
[28] Proposed text of 25 P.A. § 129.98(a).

Allowing alternative RACT determinations is both consistent with past practice in implementing case-by-case RACT determinations under 25 P.A. §§ 129.91-129.95 and in recognizing that RACT may consider such source-specific issues as the specific location and layout of a facility in determining whether controls are technically feasible. The conditions that a source must satisfy to qualify for an alternative standard ensure that such limit is consistent with the Clean Air Act and EPA's definition of RACT.

E. Homer City Supports Basing the Presumptive RACT Limits on a 30-day Rolling Average, But EQB Should Clarify the Methodology for Demonstrating Compliance with the Standard

Under the proposed rule, sources with a Continuous Emission Monitoring System ("CEMS") would demonstrate compliance with the presumptive RACT limits "using a 30-day rolling average." Homer City supports this proposal, particularly since emissions during startup and shutdowns must be included in the compliance demonstration. The rule, however, does not elaborate on the precise methodology that sources are supposed to use to calculate their 30-day rolling averages. To eliminate potential confusion on this issue, the final rule should clarify that compliance is demonstrated by averaging the daily average emissions of the most recent 30 operating days. The final rule also should explain how periods of startup, shutdown, and days with partial operation are to be handled and clarify that emissions during malfunctions and unforeseen outages are not included within the 30-day rolling limit.

II. Conclusion

The EQB should develop NOx RACT limits for the power section based on the NOx reductions resulting from the Commonwealth's implementation of CAIR, CSAPR, and any successor transport rule. This approach would produce the most economic and efficient outcome while ensuring that the State attains the ozone NAAQS. Should EQB not pursue this course of action, the Board should instead adopt the proposed 30-day rolling average limit of 0.40 lb. NOx/MMBtu for large coal-fired boilers. It should also allow sources to demonstrate compliance through facility-wide averaging, without an averaging penalty. Finally, we urge the Board to clarify the methodology sources must use to demonstrate compliance with the standard.

We would be happy to provide additional information or answer any questions you have on the above comments.

Sincerely,

/s/ Chet M. Thompson
Chet M. Thompson

Counsel for Homer City Generation, L.P.

SUMMARY OF HOMER CITY GENERATION, L.P.'s COMMENTS ON EQB'S PROPOSED PRESUMPTIVE RACT LIMITS FOR ELECTRIC GENERATING UNITS

Homer City Power Generation Station (the "Station") has three electric generating units that would be directly affected by Environmental Quality Board's ("EQB") proposed Reasonably Available Control Technology ("RACT") rule.

Homer City believes that instead of adopting presumptive unit-level RACT limits for the power sector, EQB should rely on the Clean Air Interstate Rule ("CAIR") and the Cross-State Air Pollution Rule ("CSAPR") to satisfy the Commonwealth's RACT obligations for EGUs. These two programs substantially reduce state-wide NOx emissions from the power sector, and the U.S. Environmental Protection Agency ("EPA") has made clear that with appropriate technical support CAIR and CSAPR may be used to satisfy RACT. The analysis that EPA used in developing these rules is applicable to the "reasonably available" emission control standard for RACT purposes. EPA determined that NOx emission reductions from these programs would "accelerate critical air quality improvement, and more effectively address . . . significant contribution to nonattainment and interference with maintenance as expeditiously as practicable." EPA also determined that "moving beyond the [Rule's] $500 cost threshold up to $2,500 cost threshold would result in only minimal additional ozone season NOx emission reductions" from covered electric generating units ("EGUs"). Now that the Supreme Court has cleared the way for implementation of these rules, reliance on these programs would be more efficient and cost effective than adopting stand-alone RACT limits.

Alternatively, Homer City recommends that EQB finalize its proposed limit of 0.40 lb NOx/mmBtu for large units ($\geq$ 250 mmBtu/hr). While such a standard would entail additional administrative and cost burdens than reliance on CAIR/CSAPR, it nevertheless satisfies RACT and would achieve substantial reductions from the sector. Contrary to the suggestion made by some groups, EQB is authorized to adopt the proposed standard and there is no requirement for it to adopt a more stringent one. Indeed, the proposed limit of 0.40 lb NOx/mmBtu is appropriate given the diversity of the Commonwealth's EGUs. With respect to Homer City, a more stringent standard would require substantial physical modifications to the Station's three existing selective catalytic reduction systems, which is estimated to cost between $24-$36 million. These more stringent standards are also estimated to increase annual operating costs of the facility by at least $18 million.

Homer City also supports the inclusion of a mechanism for sources to obtain site-specific RACT limits and allowing sources to demonstrate compliance through facility-wide averaging. Homer City recommends, however, that EQB (1) allow all facilities to average, not just those that cannot otherwise meet the presumptive limit, and (2) eliminate the averaging penalty.

Finally, Homer City supports basing the standard on a 30-day rolling average. The final rule should clarify that compliance with such a standard is based on averaging the average daily emission rate for each day in the 30 operating day period.