

June 15, 2011

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson,

While we recognize that some are calling for EPA to delay the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Electric Utility Steam Generating Units (the "Utility Toxics Rule"), I am writing today, on behalf of the members of the Clean Energy Group's Clean Air Policy Initiative,¹ to urge you to proceed with finalizing the rule. Companies have begun to prepare for a 2015 compliance deadline, and the electric power markets are factoring in the capital expenditures that will be required to comply with the rule. Any delay would threaten to undermine those decisions.

On May 13, 2011, PJM² announced the results of its Reliability Pricing Model ("RPM") forward capacity auction for the period from May 31, 2014 through June 1, 2015 – after the Transport Rule and the Utility Toxics Rule will be effective. The results of the auction show that the region will have more than enough capacity to meet federal reliability standards set by the North American Electric Reliability Corporation (NERC) for in 2015. In fact, the market secured resources sufficient to maintain a 20 percent reserve margin for the region. The energy resources selected to serve the region included new generating resources, capacity upgrades to existing power plants, new demand response resources, and new commitments to energy efficiency. Further, the price of capacity for the recent PJM auction increased in some subregions and decreased in others, leaving pool-wide prices consistent with levels the region has seen in the past.

Similarly, ISO-New England³ held its forward capacity market auction for 2014 and 2015 on June 6 and June 7, 2011. Like the PJM auction, in bidding into the forward capacity auction, companies reflect the costs of complying with the Utility Toxics Rule and Transport Rule. The capacity markets cleared with over 3,000 MW of excess capacity (over ISO-NE's net installed capacity requirement that already includes a 14.4 percent reserve margin). The clearing price was less than 10 percent higher from the 2013/2014 commitment period (when the Utility Toxics Rule would not be in effect), which translates to less than a one percent impact on consumers. This again demonstrates that the industry can comply with the regulations without threatening the reliability of the electricity system.

¹ The members of the Clean Energy Group's Clean Air Policy Initiative members include Austin Energy, Avista Corporation, Calpine Corporation, Constellation Energy, Exelon Corporation, National Grid, New York Power Authority, NextEra Energy, PG&E Corporation, Public Service Enterprise Group, Inc., and Seattle City Light.

² PJM provides reliability and wholesale power market functions for the nation's largest integrated power market, serving 54 million customers in 13 MidAtlantic and Midwestern states including all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia.

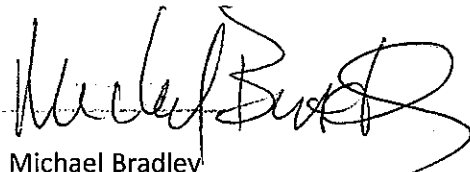
³ ISO New England is a regional transmission organization, serving Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

These market responses illustrate the diversity of ways that market participants can efficiently provide reliable power supplies while meeting future environmental requirements. Further, the markets are reflecting the capital investments companies anticipate making in order to comply by 2015 and consistent with the consent agreement in *American Nurses Assoc. et. al., v. Jackson* (D.C. Cir., April 15, 2010). If EPA were to delay the implementation of the Utility Toxics Rule or Transport Rule, it would undermine participants' business decisions and confidence in future market responses based on EPA's regulations.

This regulatory certainty is essential to ensuring that most companies will be required to comply with the Utility Toxics Rule requirements in the three years required by the Act. While the industry recognizes that the Clean Air Act permits EPA to grant limited extensions on a case-by-case basis if a unit needs additional time to install controls despite a company's best efforts, the industry does not need, nor anticipate, blanket extensions. Unit owners will make the capital investments needed to comply with regulations, and regulators will approve such plans, if the compliance timeline is clear. Thus, it is important that EPA continue to emphasize clarity surrounding the timing to comply with the upcoming regulations.

The Clean Energy Group members will file comments on the proposed rule to provide technical recommendations, and we appreciate EPA's significant efforts on the Utility Toxics Rule and Transport Rule. Needed regulatory certainty will result from EPA's timely implementation of regulations consistent with the Clean Air Act, which is in the best interests of the electric industry, the market, and customers.

Sincerely,



Michael Bradley

Executive Director of the Clean Energy Group's Clean Air Policy Initiative

cc: Gina McCarthy, Assistant Administrator, Office of Air and Radiation, EPA
Joseph Goffman, Senior Counsel, Office of Air and Radiation, EPA
Peter Tsirigotis, Director, Sector Policies and Programs Division, Office of Air Quality and Planning Standards, Office of Air and Radiation EPA