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Comments of

Missouri River Energy Services and Western Minnesota Municipal Power Agency
PSC Symposium on EPA Carbon Regulation
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Missouri River Energy Services (MRES) and Western Minnesota Municipal Power Agency (Western Minnesota) welcome this opportunity to provide comments relating to the EPA's Carbon Regulations for existing power plants.

Western Minnesota is a municipal power agency formed under Minnesota law. It is comprised of twenty-three member communities in Minnesota that each own and operate their own electric utility for the distribution at retail of electric services to citizens of their communities. Western Minnesota is one of six co-owners of the coal-fired Laramie River Station (LRS) in Wheatland, Wyoming. Western Minnesota owns a 16.47% share of LRS, which is the equivalent of approximately 282 MW of electricity. Western Minnesota sells its output of LRS to MRES pursuant to a long-term Power Supply Contract under which Western Minnesota agrees to sell and MRES agrees to purchase all output to which Western Minnesota is entitled.

MRES is a municipal power agency comprised of sixty-one member communities that own and operate their own electric utility. MRES members are located throughout Iowa, Minnesota, North Dakota and South Dakota. MRES provides its members with wholesale power and energy, as well as energy services. LRS is the single-largest source of power for the small communities that are members of MRES. Both MRES and Western Minnesota are public power entities, owned by the local governments and the consumers they serve, and operate on a not-for-profit basis.

We offer the following five principles for consideration by the Environmental Protection Agency in drafting the upcoming rule on existing sources:

1. Credit for early action. EPA must leave to the States the authority for utilities to be granted credit for early action, including their use of non-emitting resources such as federal hydropower, in allowing flexible State compliance mechanisms.

First and foremost, MRES and its members rely on hydropower to serve, on average, 45% of their power needs, and coal resources to serve almost 40%. The balance of the resource portfolio includes market purchases, and additional non-emitting resources such as more than 82 MW of wind, and a nuclear power purchase agreement in the amount of 32 MW. Western Minnesota and MRES are also in the preliminary stages of developing a hydroelectric plant at an existing US Army Corps of Engineers flood control dam, the Red Rock Hydroelectric Plant. Our resource decisions also include development of an aggressive demand-side management/energy efficiency program which is deployed in member communities in four states, and has resulted in total program savings of 26.4 MW since 2008. Collectively, these efforts have reduced our carbon intensity from 2,116 lbs. CO_2/MWh in 2008 to 1,710 in 2012.

EPA must leave States the authority to grant credit for early action in allowing flexible State compliance mechanisms. In addition, States should have the discretion to provide credit for early action taken in other states, to recognize the multistate nature of the utility industry.

2. EPA Guidelines limited. EPA must only set guidelines "inside the fence," based on technology demonstrated to be achievable.

EPA's guidelines for adequately demonstrated systems of emission reduction must focus on the "inside the fence" reductions that can be achieved at the sources of CO_2. Under section 111(d), EPA's standards must be based on technology and standards that are "achievable" by "affected sources." Setting the emission limitations using Best System of Emission Reduction (BSER) for controlling emissions at existing power plants must be determined by onsite, "inside-the-fence" actions.

3. State flexibility. EPA must defer to the states the authority and flexibility to implement standards and compliance mechanisms that may extend "outside the fence," and take into consideration the remaining useful economic life of existing sources, and avoid stranded investments.

While the emission standards for existing facilities set forth in a given state plan must generally be "no less stringent" than the emission guideline established by the EPA in its guideline document, 40 C.F.R. 60.24(b)(1), 60.24(c), States are at the same time afforded the discretion to provide, "on a case-by-case basis for particular facilities or classes of facilities, . . . for the application of less stringent emissions standards or longer compliance schedules." Id. 60.24(f). Only where a state fails to submit a plan, or submits a plan that is wholly inadequate, is EPA then authorized by the Subpart B rules to adopt a plan for a state. Id. 60.27(c). EPA must leave to the States the discretion and flexibility to adopt market-based approaches in order to

achieve what should be, at most, the minimal CO_2 reductions that EPA can justify through an appropriately crafted guideline document that reflects the application of BSER.

Any procedures or guidelines developed by EPA must also allow states to consider the economic life of power plants. Failure to account for a plant's useful life will result in billions of dollars of stranded investment. It may be in the best interest of ratepayers to maintain the operation of certain existing coal-fired power plants that meet environmental performance requirements for criteria pollutants. Section 111(d)(1)(B) requires the Administrator to permit a State, in applying standards of performance, "to take into consideration, among other factors, the remaining useful life of the existing source to which such standard applies." Moreover, rules should be written to encourage utilities to install more efficient components that improve generation efficiencies onsite without being penalized, through rigid New Source Review requirements. Finally, any compliance mechanism must ensure that consumers are not paying stranded costs for existing fossil-fired generation units and allow utilities to manage risks on investments – including regulatory risks – they make to comply with the state programs implemented under Section 111(d). States may choose to allow a systems-based approach to compliance, and take into account the economic life of existing power plants under section 111(d).

States, not the EPA, are in the best position to determine how to reduce CO_2 emission from power plants and power systems while protecting the interests of electric rate payers.

4. Recognition of regional and state differences. States must have the flexibility to develop regional programs, taking into account that generating resources can be located in states remote from the load they serve.

There are significant regional and state differences in generation mix, potential for emission reductions (whether mass-based or emission rate), utility industry structure, and participation in regional transmission organizations. Regional trading programs are essential in recognizing that public power utilities such as Western Minnesota and MRES operate across vast geographic regions, not confined to one state. Further, fossil generation resources may be remote from the load they serve, as is the case for MRES members in Iowa, Minnesota, North Dakota, and South Dakota. States must have maximum flexibility and discretion in implementing state plans because they are most familiar with the utilities in their states, as well as the supply-side efficiency measures that are in place.

5. Sufficient time for compliance. Achieving significant CO_2 reductions will take considerable time. Not only is this a complex regulatory undertaking, but setting a pace that is too rapid

will jeopardize our economy and the reliability of the electric system. Consumers and businesses alike will benefit if States are allowed a phased-in approach for compliance.

In conclusion, when it comes to New Source Performance Standards for CO_2 from existing power plants, the role of the EPA is limited to establishing Guidelines, and States are the authorized entities to implement standards to achieve reductions. The overarching concern must be to maintain a reliable and affordable energy supply to our nation that protects both consumers and the economy. To do so, these priorities must be recognized.

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