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December 1, 2014

VIA ELECTRONIC SUBMISSION AND U.S. MAIL

United States Environmental Protection Agency
EPA Docket Center (EPA/DC)
Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Attention: Docket ID No. EPA-HQ-OAR-2013-0602

Dear Madam or Sir:

The State of Michigan respectfully submits the enclosed comments on the United States Environmental Protection Agency's (USEPA) proposed rule titled, "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," published in the *Federal Register* on June 18, 2014 (79 *Federal Register* 34830).

Michigan's "no regrets" energy policy has called for an adaptable system that provides reliable, affordable energy and protects the environment and public health. Consequently, the State of Michigan is well prepared to meet its energy future and will build upon the progress it has already made. However, there are several areas in the proposed rule that will slow that progress. These are summarized below:

Recognize Actions Taken by States to Reduce Carbon Emissions Prior to 2012

Since 2012, Michigan, along with several other states, has undertaken many actions to diversify our portfolio and reduce energy waste, measures which have (among other effects) reduced carbon intensity. In 2008 Michigan adopted an aggressive Renewable Portfolio Standard to require renewable energy investment and an Energy Optimization Standard to address energy waste. Partly due to these efforts, Michigan's current carbon intensity is lower than its neighboring states. As proposed, the methodology used to establish carbon reduction goals punishes states like Michigan that have taken early actions that have reduced emissions than those states that have yet to take such action. Lagging states are rewarded for their inaction with less stringent targets and are given a competitive economic advantage because their electricity production costs and rates will be lower, as they take more easily achievable measures to reach their targets. The targets must be reworked to take early actions into account and ensure that states are treated in an equitable manner.

It is unfair to treat states that have already reduced the pollutants proposed to be regulated here differently from states that have not done so on their own accord, given that energy waste reduction and pollution prevention measures will continue to improve air quality in the future.

Moreover, counting emission reductions from 2020 through 2029 to meet the final targets creates a perverse incentive that appears to work against the goal for reducing carbon intensity. States and power producers will likely defer implementing programs that reduce energy waste or mitigate pollution until 2017 or later.

Cannot Assume States Have Jurisdictional Control Over the Dispatch of Electricity

Utilities that are members of the Midcontinent Independent System Operator (MISO) regional transmission organization rely on MISO's dispatch process and have no authority to override, force, or modify this process. MISO manages generation dispatch and the transmission grid based upon security-constrained locational marginal pricing established by the market price of electricity. The state also has no authority over this dispatch process and no mechanism to force or modify dispatch of these plants. Until and unless some recently-announced transactions close, it should be noted that a substantial portion of Michigan's natural gas combined cycle (NGCC) capacity is owned by independent power producers that choose what markets to participate in – markets that are run by differing regional transmission organizations. The USEPA has failed to explain how the state could control the dispatch of these NGCC plants given current Federal Energy Regulatory Commission (FERC) regulations. The USEPA should not assume that all of the NGCC plants are owned and operated by the same entity that owns and operates coal-fired generation, nor should it assume that the run/not run decisions are within the state's decision-making authority, or even within the decision-making ability of a single market regulator or system operator.

Abandon the 2020 Interim Goal

The proposed interim goal requiring states to meet 80 percent of the 2030 target by 2020 is completely unworkable, especially given the lack of credit for early action. Given the timeline of submitting a plan, and the reality of receiving timely USEPA approval of a plan, states will have no more than three years to meet the 80 percent reduction requirement. A more realistic approach would be to permit states to develop a state-specific "glide path" to reach their 2030 target.

Perhaps more concerning is that the interim target presents significant reliability and affordability issues. No consideration is given to the expected coal plant retirements. The proposed rule has an inadequate lead time for planning, siting, and constructing new electric and natural gas infrastructure. Compliance with the rule will dramatically accelerate a fundamental shift in our generation fleet. A reasonable path must be provided for infrastructure, policy, and institutional planning and development to avoid rate shock and capacity shortfalls that threaten reliability.

Add a Mechanism to Address Reliability Constraints

Certain unanticipated events could affect electric reliability. For example, a severe weather storm or a shutdown at a nuclear power plant could threaten reliability, requiring more carbon-intensive electric generation to prevent outages. Similarly, if shortages develop in natural gas availability, electric generating use may have to be curtailed in order to allow gas for residential heating demand. Without a "safety valve" to replace that generation, states could potentially face power reliability constraints.

Use a Three-Year Average to Calculate the Base Year for State Goals

As proposed, the calculation of state goals carbon emissions relies on a single year: 2012. State carbon emission goals should not rely on electrical generation data from a single year as it does not accurately represent variations that could occur from one year to the next. Electrical generation data as well as carbon intensity varies from year to year. A three-year average, being 2010 through 2012, would more accurately represent a state's electrical generation and carbon intensity for the purposes of this rule.

Evaluate How Compliance Costs Will Affect Electric Rates

Compliance with the proposed rule will impose new costs and have an economic impact on electricity prices affecting commercial, industrial, and residential rates. The costs of the capital investment needed for the development of new generation sources and transmission projects will be borne by ratepayers.

Acknowledge State Transmission and Distribution Constraints

Increased development of renewable and other electric generation will require adequate electrical transmission and distribution systems. Expanded use of natural gas requires infrastructure to support the transport and supply of natural gas to new natural gas plants or to increase supply to existing plants. Without adequate transmission and distribution systems, electric reliability is compromised. Even though Michigan has made recent large investments in increased transmission, has one of the most robust natural gas pipeline structures in the nation, and has the largest natural gas storage in the nation, we believe significant new investment in Michigan's transmission and distribution infrastructure will likely still be needed to support alternative generation and increased natural gas use. This affects not just the cost of energy but also has significant implications for how quickly the state could comply. Moreover, if this is a concern for Michigan, we expect that states without the natural geology to allow storage, or without a robust natural gas pipeline infrastructure in place, will face even more severe constraints.

Account for Regional Differences in Power Supplies

By not accounting for the regional differences in power supplies, states are treated unfairly. The application of regional renewable energy in the development of the building blocks is an oversimplification of what is possible in different states. The consideration of both renewable energy and energy waste reduction should be

considered on a state-specific basis considering technical and economic opportunities and limitations. Michigan has already done extensive work regarding the availability and practicality of expanding in both sectors, and those reports are located in the appendices of the comments, for your information. Substituting more generalized assumptions regarding Michigan's capability in place of carefully-examined state data is not appropriate or wise. Moreover, penalties associated with existing nuclear power should be eliminated, as they are contrary to the goals of the proposed plan. The application of 5.8 percent at-risk nuclear plants to every state with nuclear energy is not appropriately considering the actual nuclear power availability in the states with those plants. Such a generalization is not appropriate or accurate, since the risk of closure is almost certainly quite high for a minority of plants and quite low for many others. States are in the best position to evaluate the real risk of closure of any particular plant.

Address Municipal Electric Providers

The final rule must provide the flexibility necessary to ensure that small electric providers – most of which are cooperatives or municipal systems that tend to have very small generation fleets largely dependent on a single plant – have compliance options that are achievable, so as not to seriously disadvantage their ability to continue operation.

We encourage the USEPA to give thoughtful consideration to our suggestions for improvements of the final Clean Power Plan. If you have any concerns or questions, please contact Mr. G. Vinson Hellwig, Senior Policy Advisor, Michigan Department of Environmental Quality (MDEQ), at 517-284-6773 or hellwigv@michigan.gov.

Sincerely,

Dan Wyant, Director
Michigan Department of Environmental Quality

John D. Quackenbush, Chairman
Michigan Public Service Commission

Michael A. Finney, President and CEO
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Enclosure

cc/enc: Governor Rick Snyder
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