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Governor

**Energy and Environment Cabinet
Department for Environmental Protection**

Division for Air Quality
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Leonard K. Peters
Secretary

February 4, 2011

Docket ID # EPA-HQ-OAR-2009-0491
U.S. Environmental Protection Agency
MailCode: 2822T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

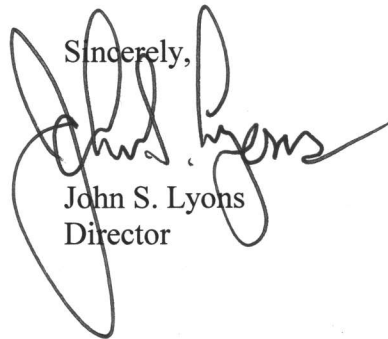
Re: Docket ID # EPA-HQ-OAR-2009-0491 – Notice of Data Availability (NODA)
(76 FR 1109, January 7, 2011)

Dear Sir/Madam:

The Kentucky Division for Air Quality (Division) hereby submits the enclosed comments on the U.S. Environmental Protection Agency's Notice of Data Availability (NODA) for the Proposal to Issue Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone (76 FR 1109, January 7, 2011). The Division appreciates the opportunity to comment on this NODA for the proposed Transport Rule.

In addition, the Division is providing a copy of comments on the NODA received from the Utility Information Exchange of Kentucky (UIEK) for EPA's consideration. If you have any questions regarding the Division comments being provided, please contact Mr. Martin Luther, of my staff, at (502) 564-3999.

Sincerely,



John S. Lyons
Director

JSL:mrl
Enclosures

Kentucky Division for Air Quality (Division)
Comments on the U.S. Environmental Protection Agency's (EPA's)
January 7, 2011 Notice of Data Availability (NODA) for the Proposal to Issue
Federal Implementation Plans to Reduce Interstate Transport of Fine
Particulate Matter and Ozone (commonly called the Transport Rule)
(76 FR 1109, January 7, 2011)

General Comments

- Deadlines for achieving mandated emission reductions should be designed to support the attainment deadlines prescribed for the standards. At the same time, the regulated community must be granted the required time to design and implement control equipment and operational changes necessary to meet new emissions limits.

Specific Comments

Include Provisions for States to Submit Abbreviated Transport Rule SIPs

- The Division supports and encourages EPA in the final Transport Rule to provide rule provisions by which states may submit abbreviated Transport Rule SIPs providing for state allocation of unit allowances and/or state action of allowances.

Consult with State Air Agencies

- It appears that the date criteria for defining an existing unit in the NODA has changed to reflect those units that commenced commercial operation prior to January 1, 2009, as opposed to the proposed Transport Rule (75 FR 45210) that indicated existing units as units that commenced commercial operation or are planned to commence commercial operation prior to January 1, 2012. Given these existing unit criteria differences and in the interest of accuracy, the Division requests that before the Transport Rule existing unit allocations are finalized and recorded that EPA consult with the Division and other state air agencies to make sure that all existing units subject to the final Transport Rule have been properly identified in the final rule's existing unit allowance allocations. The Division reserves the right to inform EPA of any unit omission or incorrect inclusion for EPA's Transport Rule even after the comment period deadline has passed.

Proposed Transport Rule Should Include NOx SIP Call Non-EGU Units Currently in CAIR

- As with proposed Transport Rule, the January 7, 2011 NODA also omits NOx SIP Call Non-EGU units from existing unit ozone season NOx allowance allocations as provided in the NODA's alternative allocation tables and underlying data spreadsheet (*altallocationtablesdata.xls*). The Division again requests EPA to reconsider its decision not to allow the inclusion of NOx SIP Call Non-EGUs now in CAIR into the proposed Transport Rule NOx ozone season trading program. Due to the very small emissions budget for the Division's six NOx SIP Call Non-EGUs (64 ozone season (OS) NOx tons) that was added to the CAIR NOx OS budget, Kentucky disagrees with EPA's contention that including these units in the proposed Transport Rule would jeopardize a state's

ability to eliminate its part of significant contribution and interference with maintenance that EPA has identified. As EPA has indicated in the Transport Rule preamble, states need a way to continue to meet their NOx SIP Call obligation for Non-EGUs and the Division recommends that the transport rule be that new way. Therefore, given the limited number of subject Non-EGUs and the small amount of their NOx ozone season budget emissions, the Division requests that EPA include the NOx SIP Call Non-EGUs into the proposed Transport Rule. If EPA changes its position to include the NOx SIP Call Non-EGU units, then the Division requests that EPA consult with the Division to ensure that all applicable Kentucky Non-EGUs are properly accounted for in the final Transport Rule.

Applicable Units

- As for the proposed Transport Rule (75 FR 45210), the below comment remains relevant to the January 7, 2011 NODA since the Calvert City Cogeneration unit (26 MWe turbine – ORIS – 55308-Gen1) should be examined to determine its applicability for the Transport Rule and the existing unit allowance allocations. Therefore, the Division requests that EPA contact and work with the Division to properly determine the Calvert City Cogeneration turbine's status pursuant to the proposed Transport Rule.

Pursuant to the proposed Transport Rule Preamble Section V.D.4.b.(1), the Calvert City Cogeneration EGU (turbine – ORIS - 55308-Gen1) as shown in EPA's Technical Support detailed allocation file (*BADetailedData.xls*, *Units Characteristics Worksheet*) should indicate a capacity of 26 MWe instead of 23 MWe as is listed. This cogeneration EGU was part of the NOx SIP Call NOx ozone season trading program and was brought into the CAIR NOx ozone season program. However, the unit was exempted from the CAIR NOx annual program since it met the CAIR NOx annual program cogeneration exemption. Even with the CAIR ozone season cogeneration exemption, the unit was subject to the CAIR NOx ozone season trading program since it was previously subject to the NOx SIP Call NOx ozone season program, which did not provide a cogeneration exemption. For the Calvert City Cogeneration EGU, the Division requests that EPA work with the Division to: (1) verify that the unit is exempt from the proposed Transport Rule NOx annual trading program pursuant to the cogeneration exemption; and (2) determine whether the unit is subject to the proposed Transport Rule NOx ozone season trading program given that the unit was first subject to the NOx SIP Call ozone season trading program.

Utility Information Exchange of Kentucky (UIEK)

Comments on EPA's January 7, 2011 Notice of Data Availability (NODA)

For the Proposed Transport Rule



February 1, 2011

Mr. John Lyons, Director
Kentucky Division for Air Quality
200 Fair Oaks Lane
Frankfort, Kentucky 40601

Re: Notice of Data Availability (NODA) Supporting Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone, Federal Register/Vol. 76, No. 5 / Friday, January 7, 2011

Dear Mr. Lyons,

The Utility Information Exchange of Kentucky (UIEK) has the following comments on EPA's January 7, 2011 Notice of Data Availability Supplementing the proposed Transport Rule. The UIEK is an organization comprising electric utilities operating in the Commonwealth of Kentucky. Some members also operate generating facilities in other states. Member utilities may also be submitting comments individually. We appreciate the opportunity to provide these comments.

The proposed alternatives serve to highlight the unacceptable uncertainty facing utility companies and regulatory agencies under the rulemaking process and the need to extend the compliance deadlines. Comparing the original allocation proposal with the alternatives illustrates the magnitude of uncertainty regarding the number of allowances that units and companies might receive. The number of allowances that companies would receive at their Kentucky plants varies by tens of thousands, equating to variations of over 50% for several companies. Attachment A provides additional details. In some cases, companies will be in compliance, will curtail or retire unit operations or will need to install additional controls, depending on the allocation method selected. EPA has stated that it expects to finalize the rule and the accompanying allocations in mid-2011. This schedule is totally unacceptable since it allows only six months for companies to develop compliance plans, apply for and receive approvals from environmental agencies and public utility commissions, obtain financing, and construct required equipment. This is clearly unreasonable for affected companies and for regulatory agencies. It has been suggested that companies plan for the worst case and install equipment to comply. The rationale is that if a company receives more allowances than planned for, it will have surplus allowances that can be sold. To the extent that many companies go this route, the surplus of allowances would depress prices and result in inefficiencies that could be avoided by more reasonable compliance schedules. It is simply unreasonable to put utilities and the public utility commissions that approve their compliance investments in the position of being forced to undertake action without knowing the final targets. We request U.S. EPA delay issue of a final rule until they consider all comments on the four proposal notices thus far, correct all databases, remodel as necessary and issue a supplemental proposal for public comment.

Please feel free to contact me at 859-367-5658 or Glenn.Gibian@lge-ku.com.

Sincerely,

A handwritten signature in cursive script that reads "Glenn P. Gibian".

Glenn P. Gibian,

On behalf of Utility Information Exchange of Kentucky

Attachment A: Illustration of Unacceptable Level of Uncertainty in Transport Rule Rulemaking Process

Comparison of EPA's Proposed Alternative Allocations (January 2011) with Original Proposal (July 2010) for Utilities in Kentucky

	EPA Proposed Option 1				EPA Proposed Option 2			
	SO ₂ Allocation 2012	SO ₂ Allocation 2014	NOx Annual Allocation	NOx OS Allocation	SO ₂ Allocation 2012	SO ₂ Allocation 2014	NOx Annual Allocation	NOx OS Allocation
Tonnage Change from Original Proposal:								
Big Rivers Rural Elec. Coop.	9,620	(3,484)	(319)	(165)	6,718	(3,673)	(276)	11
Duke	6,852	2,223	1,888	779	7,539	2,312	1,901	603
East Kentucky Power	9,012	2,029	(27)	(89)	5,574	965	(275)	(351)
Henderson Municipal	(3,842)	-	(401)	(174)	(3,842)	-	(401)	(174)
Kentucky Power	(21,854)	3,908	1,341	361	(20,793)	4,047	1,362	436
LG&E and KU	9,567	(2,578)	2,043	823	10,067	(2,162)	2,124	840
Owensboro Municipal Utilities	(335)	(465)	(53)	39	104	(407)	(45)	76
TVA	(8,582)	(2,385)	(4,214)	(1,502)	(4,528)	(1,857)	(4,136)	(1,252)
Others	448	232	143	103	467	237	144	108
Percentage Change from Original Proposal:								
Big River Rural Elec. Coop.	50%	-19%	-3%	-4%	35%	-20%	-3%	0%
Duke	336%	93%	170%	160%	370%	97%	171%	124%
East Kentucky Power	52%	18%	0%	-2%	32%	8%	-3%	-9%
Kentucky Power	-61%	122%	41%	25%	-58%	126%	41%	30%
Henderson Municipal	-100%	0%	-100%	-100%	-100%	0%	-100%	-100%
LG&E and KU	14%	-6%	9%	8%	15%	-5%	9%	8%
Owensboro Municipal Utilities	-6%	-14%	-3%	5%	2%	-12%	-2%	10%
TVA	-14%	-8%	-19%	-17%	-7%	-6%	-19%	-14%
Others	>100%	>100%	>100%	>100%	>100%	>100%	>100%	>100%

Notes: The original proposal Allocation Table included an SO₂ allocation for an unnamed Kentucky unit in 2012 but was missing an allocation for 2014. The unit is believed to represent Trimble County unit 2 (TC2), a unit operated by LGE-KU which commenced commercial operation in 2010 as defined in the proposed rule. Accordingly, it should receive an allocation for both 2012 and 2014 as an "existing unit" as defined in the proposed regulations. The above values assume it would receive the same allocation in 2014 as EPA assigned it in 2012. This is consistent with the IPM projected emissions for the unit provided with the proposed rule. Under Options 1 & 2, TC2 would receive an allocation as a "new unit" equal to its emissions from the previous year and company projections of these emissions are included in the values for the Proposed Options. LGE-KU own 75% of Trimble County units 1 & 2 and this equity share is used in the above values.