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Energy/Clean Power Plan: American Public Power Association Comments on Proposed "Federal Plan Requirements" and "Model Trading Rules"

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The American Public Power Association ("APPA") submitted comments on the proposed "Federal Plan Requirements for Greenhouse Gas Emissions from Electric Utility Generating Units Constructed on or before January 8, 2014; Model Trading Rules; Amendments to Framework Regulations" proposal.

An APPA news release notes as an initial matter:

While the final Section 111(d) Rule contained a number of positive changes reflecting some of the recommendations made by APPA and others, it still tries to do too much too fast for public power utilities and their customers in many states. In so doing, the final rule has a high potential for creating stranded costs and curtailing the remaining useful life of existing electric generating units (EGUs), increasing operating costs, unduly adding new costs for related infrastructure, and ultimately raising electricity bills for millions of customers. Increases in some states could be as much as 30 percent according to recent studies.

The APPA's comments address both the federal plan and model trading rule components of the federal proposal.

As to the "federal plan", the APPA recommends that EPA:

- Adopt both rate-based and mass-based plans;
- Work with affected states to determine what constitutes remaining useful life of a facility on an EGU-specific basis, without determining in advance that the plan itself inherently protects an affected EGU's value;
- Establish a price safety valve;
- Include the reliability safety valve and modify it to: 1) allow it to operate for a longer time; and 2) clarify certain terms and the specific roles of reliability entities;
- Recognize renewable energy constructed after finalization of the Section 111(d) Rule;
- Allow energy efficiency projects and programs to qualify for generating credits under a rate-based plan;

- Modify the Clean Energy Incentive Program (CEIP) to allow all renewable, other non-emitting resources, and energy efficiency programs to qualify, and to make it a true incentive by not deducting the credits or allowances from a state budget;
- Allow states to submit a partial plan that determines the methodology for allocating allowances without being required to adopt the CEIP;
- Provide greater safeguards for smaller entities consistent with EPA's obligations under the Small Business Regulatory Fairness and Enforcement Act, including more time for compliance;
- Address the flaws in the Alternative Compliance Pathway and make it available in rate-based plans as well as mass-based plans; and
- Alleviate the conflict of interest that the New Source Review program creates for compliance with the Section 111(d) Rule.

As to the "Model Trading Rules", the APPA recommends that EPA:

- Ensure broad access to wide and deep emissions trading markets for affected entities;
- Establish mechanisms to guard against market manipulation;
- Make out-of-state renewable energy widely available for compliance. APPA agrees with EPA that renewable energy from a state with a mass-based plan can be used for compliance in a state with a rate-based plan;
- Establish a conversion factor to allow states that adopt a rate-based plan to trade compliance instruments with states that adopt a mass-base plan and vice versa;
- Include all forms of biomass as eligible and pre-approved renewable energy;
- Adopt a process for adding new qualifying renewable energy;
- Allow states to determine the methodology for allocating allowances to retired EGUs. If a state subject to a federal plan does not submit a partial plan to take control of allowances, EPA should consult with the state on the methodology for allocating allowances to retired EGUs;
- Allow unlimited banking and borrowing of emission rate credits or allowances;
- Ensure enforcement, monitoring and verification requirements for energy efficiency programs are not burdensome and that existing state and local requirements are incorporated;
- Eliminate the requirements for set-asides to address leakage in mass-based plans. EPA has failed to demonstrate that leakage will occur; and Defer to and acknowledge that states have discretion to modify the model rules.

[Click here to download a copy of the APPA news release describing these comments.](#)