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Governor

STATE OF NEBRASKA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Docket ID No. EPA-HQ-OAR-2013-0602
EPA Docket Center
Environmental Protection Agency
2822T 1200 Pennsylvania Ave NW
Washington, D.C. 20460

Dear Administrator McCarthy,

On behalf of the Nebraska Department of Environmental Quality (NDEQ), thank you for the opportunity to comment on the Environmental Protection Agency's (EPA) proposed Section 111(d) regulations, Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, referred to by EPA as the Clean Power Plan. The proposal may be found at Federal Register Volume 79, Number 117 pages 34830 – 34958. The NDEQ implements state and federal clean air regulations for the State of Nebraska. The NDEQ has been delegated the authority to administer 111(d) regulations in the State of Nebraska.

The NDEQ is concerned that EPA has relied on strategies to establish the Nebraska emission goals which fall outside the scope of EPA's jurisdiction and the Nebraska air regulatory programs. EPA has not demonstrated that they have the authority to establish renewable energy targets and require the implementation of demand-side energy efficiency programs. We are also concerned that the assumptions EPA used as a basis are unrealistic. If finalized as proposed, EPA's proposal has effectively narrowed our ability to develop a compliance plan that can meet the intended objectives.

The NDEQ is also concerned that Nebraska's public power districts may be unduly affected by EPA's proposed Clean Power Plan. As you are aware, Nebraska is the only state who, by statute, meets all of its power needs through a public power system. All power in Nebraska is delivered by entities governed by independently elected boards. This system continues to be extremely effective in meeting the needs of Nebraska citizens by delivering reliable, low-cost electricity. As it stands, the Nebraska public power districts may need to reduce capacity and reliance on existing units in order to comply with this proposal.

In the last 10 years, Nebraska's population has grown only by 0.7%. Our rural areas are faced with many challenges. Since 2000, 69 of our 93 counties have experienced a decline in population, while our urban areas have experienced the added challenge of serving an increasing population. Both create unique population dynamics that the power districts must be ready to serve and sustain. The proposed Clean Power Plan, in concert with other already enacted

regulatory issues facing Nebraska utilities such as the Mercury and Air Toxics Rule, the Cross State Air Pollution Rule, and the Sulfur Dioxide standard/consent decree, has the potential to disproportionately impact Nebraska's public power system. The Nebraska public power sector is being required to implement many costly compliance measures over such a short period of time.

We have numerous other concerns with the proposed rule. EPA's proposed Clean Power Plan does not afford the flexibility for Nebraska to comply as advocated by EPA. Our primary concerns are listed below:

- Lack of authority to mandate reduction measures beyond the fence line
- Impact on Nebraska's all-public power sector
- Inaccurate assumptions and unrealistic expectations in the building blocks
- Neglect to factor in the crucial role of Regional Transmission Organizations and Independent System Operators in electric grid management
- Ambiguity with respect to the inter-state movement and sale of electricity
- Lack of incentive for reducing non-CO2 greenhouse gas emissions
- Expansion and reinterpretation of Section 111(d) applicability
- Lack of transparency with EPA's data and methodology for state baseline electricity generation
- Lack of specific EPA-prescribed mass-based emission goals
- Inability to revise state plans once enacted
- Uncertainty with regard to periodic rule review by EPA

These concerns are described in further detail in the attached comment document. We respectfully submit these comments and urge EPA to carefully consider them before you move forward in the rulemaking process.

Sincerely,

A handwritten signature in black ink that reads "Patrick W. Rice". The signature is written in a cursive, flowing style.

Patrick W. Rice

Acting Director

Attachment