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Joseph Goffman
Principal Deputy Assistant Administrator, Office of Air and Radiation
U.S. Environmental Protection Agency
EPA Docket Center
Docket ID No. EPA-HQ-OAR-2022-0723
Mail Code 28221T
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Comments on the Environmental Protection Agency's Request for Information on the Agency's Efforts to Reduce Greenhouse Gas Emissions from New and Existing Fossil Fuel-Fired Electric Generating Units, Docket ID No. EPA-HQ-OAR-2022-0723.

Dear Principal Deputy Assistant Administrator Goffman:

The Petroleum Alliance of Oklahoma ("The Alliance") appreciates the opportunity to provide information responsive to the Environmental Protection Agency ("EPA") regarding its Request for Information on the Agency's Efforts to Reduce Greenhouse Gas Emissions from New and Existing Fossil Fuel-Fired Electric Generating Units ("EGUs") Docket ID No. EPA-HQ-OAR-2022-0723 ("RFI").

The Alliance represents more than 1,400 individuals and member companies and their tens of thousands of employees in the upstream, midstream, and downstream sectors and ventures ranging from small, family-owned businesses to large, publicly traded corporations. Our members produce, transport, process and refine the bulk of Oklahoma's crude oil and natural gas. Our members provide energy for power generation, but they also consume energy. They rely on (and require) the power generation sector to provide electricity to their homes and businesses, 365 days a year, no matter the demand level.

We appreciated having the opportunity to discuss the RFI with EPA staff in Oklahoma City on December 12, 2022 (Tim Profeta joined us in person, and Kevin Culligan and Mikhail Adamantiades joined us virtually), and we would welcome future opportunities to engage meaningfully with EPA staff. The comments we have provided in this letter echo comments we shared during our meeting with EPA staff.

As discussed in more detail below, we believe EPA's forthcoming EGU rule should ensure (1) reliability and resiliency, (2) flexibility, and (3) affordability.

I. EPA's forthcoming EGU rule should ensure reliability and resiliency.

a. The Southwest Power Pool ("SPP") (the regional transmission organization tasked with ensuring reliable electricity to a 14-state region that includes Oklahoma) experienced record low temperatures in Feb. 2021 simultaneous with a 12-day wind drought affecting not only SPP, but also Midcontinent



Independent System Operator, Electric Reliability Council of Texas and Western Pennsylvania-New Jersey-Maryland Interconnection. As electricity and natural gas demands increased due to the cold, power producers simultaneously faced fuel-supply issues and equipment malfunctions, and the overall reliability of the bulk electric system was severely challenged.¹ Though the winter storm in Feb. 2021 affected all energy sources, the SPP was able to continuously maintain a reliable supply of wholesale electric service across its region with two brief exceptions.² SPP's report on this issue identified many issues that contributed to the lack of power generation including, fuel-supply deficiencies, wind turbine freezing, and other challenges associated with operating equipment in extremely cold conditions (e.g., frozen cooling towers, intakes, fuel lines, and transmitters) and it has prioritized response actions to address future reliability issues. However, SPP's report points out that, "The event highlighted the need to further assess SPP's ability to reliably operate the system with the increased use of intermittent resources and further reduction of base-load resources." It is imperative that EPA's EGU rule avoid requirements that limit energy suppliers or power generator's ability to supply a reliable and resilient energy grid for all consumers, especially in extreme weather events.

b. The oil and natural gas industry will continue to play a significant role in power generation. As previously stated, our members produce, transport, process and refine the bulk of Oklahoma's crude oil and natural gas. U.S. produced oil and natural gas is affordable, reliable, and abundant. The U.S. Energy Information Administration predicts oil and natural gas will remain the most-consumed sources of energy in the U.S. through 2050.³ EPA must recognize future demand and the vital role natural gas has and will continue to provide in the role of electric generation. Clean-burning natural gas has enabled the U.S. to become the global leader in greenhouse gas emissions reductions.⁴ Natural gas is a proven energy source and partnered with renewable energy, it can provide an affordable and reliable energy source while reducing carbon emissions domestically and internationally.

c. A diverse resource mix is crucial for a resilient, reliable grid. A diverse electricity generation mix is critical for avoiding electricity interruptions and is integral in providing a reliable and stable grid. Also, a diverse electricity generation mix is key to affordable electricity. EPA's forthcoming EGU rule should not disincentivize investment in new natural gas-fired EGUs, recognizing they are essential for both base-load electricity and meeting peak electricity demand. Additionally, states have access to different resources, and as such, should not be limited to a specific resource mix that may be more available or more implementable elsewhere.

II. EPA's forthcoming EGU rule should ensure flexibility.

a. EPA should not propose a "one-size-fits-all" EGU rule. EPA should not propose a "one-size-fits-all" regulation that treats new and existing sources the same. New facilities are better able to implement proven technologies that reduce emissions in a cost-effective manner; however, it is significantly more difficult to retrofit or replace equipment at existing older facilities because of costs, facility design, operational requirements, and other similar constraints. The best system of emission reduction ("BSER") for

¹ Southwest Power Pool, SPP's Response to the February 2021 Winter Weather Event, July 19, 2021, [website](#) visited on 3-14-23.

² Id.

³ U.S. Energy Information Administration, Annual Energy Outlook 2022, [website](#), March 3, 2022.

⁴ [Global CO2 Emissions in 2019](#), IEA, February 2020; [U.S. Energy-Related Carbon Dioxide Emissions, 2019](#), U.S. Energy Information Administration (EIA), September 2020.



existing fossil fuel electric generation facilities must be flexible and account for the life expectancy of the EGU.

b. Diverse technology options, including quick start natural gas turbines, are a must.

EPA should not mandate the use of specific technologies to achieve emissions reductions. EGU operators should have flexibility to implement technologies to reduce emissions that are best suited for their site-specific situation. As such, EPA should build into its forthcoming EGU rule flexibility in how EGU operators and states can comply with any emission reduction standard. Additionally, quick start natural gas turbines are necessary as fast start power is needed to account for the ups and downs of renewables. EGU operators need quick start natural gas turbines to manage intermittent power generation and peak demand situations. EPA's proposed EGU rule should not place limitations on these critically needed turbines.

c. Carbon capture and underground storage ("CCUS") should be an option.

CCUS is important in maintaining fossil-fueled base-load, dispatchable electricity to consumers and it should be an option available to EGU operators and states in EPA's forthcoming EGU rule. EPA must resolve the requirements and length of time related to permitting and the delegation of authority to states for Class VI wells. Currently, we are only aware that two states have delegated authority for Class VI wells, and EPA has only [permitted](#) one well since 2014. The Energy Act of [2020](#), the Infrastructure Investment and Jobs [Act](#), and the Inflation Reduction [Act](#) of 2022 provided incentives for CCUS. Accordingly, EPA must allow CCUS as an option in its forthcoming EGU rule and create a process that incorporates reasonable requirements and timely permitting of CCUS projects.

d. States should have maximum flexibility to develop and implement regulations for existing sources.

By dividing regulatory authority under Clean Air Act ("CAA") Section 111 into separate programs for new and existing sources, Congress clearly recognized that existing sources are less able to comply with regulatory requirements as compared to new sources. States have good working relationships with the power generators in their respective states - they understand their capabilities and limitations, their existing emission reductions, their future plans to reduce emissions, and their customer base. There are significant Federalism issues associated with EPA's forthcoming rule. EPA should work collaboratively with states, like Oklahoma, to allow maximum flexibility (as allowed by the CAA) to develop and implement practical and workable requirements for existing sources. In the forthcoming rule, EPA should not force state-delegated agencies to conduct lengthy analyses or equivalency determinations with the emission guideline ("EG") for existing sources.

e. EGU operators need sufficient time to implement new requirements.

EGU operators need time to plan and budget for any new regulations. Many public power suppliers rely on financing from bonds and loans based on active units. EGU operators need time to obtain and install equipment or retrofit equipment. Any proposed rule must contain realistic compliance time frames to avoid electricity interruptions and provide a reliable and stable grid.

III. EPA's forthcoming EGU rule should ensure affordability.

a. Affordability is essential for consumers.

All consumers require reliable and affordable energy for their homes and businesses. This is especially important in critical peak electricity demand times. A poorly designed regulatory regime could have significant, negative effects on public health and safety – particularly for consumers on fixed incomes. The demand for electricity is only going to increase. A poorly



designed regulatory regime that creates situations where electricity is unreliable, unaffordable or undispensible to consumers is unacceptable. EPA must thoroughly consider the cost impacts on consumers for any proposed rule to address emissions at existing EGUs.

b. Affordability is crucial for environmental justice (“EJ”) communities. The State of Oklahoma submitted comments to EPA regarding the agency’s November 2021 oil and gas methane proposal. Those comments discussed in detail impacts of the proposed rule on rural environmental justice communities reliant on oil and gas industry.⁵ We incorporate those comments by reference because they explain how EPA’s forthcoming EGU rule could have significant impacts on EJ communities if the agency does not emphasize affordability. Reliable and affordable energy, especially in peak demand times, is critical to ensuring equity and public health and safety. EPA should conduct outreach and clearly explain to EJ consumers how cost impacts were considered and incorporated into the rule and how the agency ensured that any such costs would not negatively impact EJ consumers.

IV. EPA must take a systematic approach to its rulemaking process.

a. EGU requirements should be achievable and adequately demonstrated in accordance with the CAA. The CAA states that, “The term ‘standard of performance’ means a standard for emissions of air pollutants which reflects the degree of emission limitation **achievable** through the application of the best system of emission reduction which (**taking into account the cost of achieving such reduction** and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been **adequately demonstrated.**”⁶ EGU operators should not be forced to implement or convert to unproven, unreliable, nondispensible technologies or implement costly emission controls or equipment that would ultimately negatively impact consumers. EPA’s forthcoming EGU rule should ensure that any proposed standards and/or controls adhere to the key terms of achievable and adequately demonstrated that accounts for the cost of achieving such reductions. As new technologies advance and meet these criteria, EPA has the authority under the CAA to review and revise those standards every 8 years, if warranted. Also, the CAA allows the Governor of a State to submit an application if a new, innovative or improved technology or process has been adequately demonstrated.⁷

b. EPA should collaborate with states on appropriate state submittal timeframes in advance of the forthcoming rule. In a separate proposed rule, EPA is proposing that states would have 15 months to submit a state implementation plan after the final publication of an EG.⁸ This proposed rule further states that EPA would have 12 months to take final action on a state plan after submission. It goes on to state that there may be EGs for pollutants or source categories that require exceptions or accommodations to these general requirements. The administrative process (e.g., any new legislation needed, development of regulations, significant outreach to the public and environmental justice communities, or permit development) to regulate existing sources can be very time-consuming. As in EPA’s proposed oil and gas methane rule, EPA proposed significant source-by-source equivalency determinations and stringent standards around remaining useful life and other factors determination. States can provide the most accurate

⁵ State of Oklahoma, Office of the Secretary of Energy & Environment, [comment](#) submittal, January 25, 2022.

⁶ 42 U.S.C. § 7411.

⁷ Id.

⁸ EPA, Adoption and Submittal of State Plans for Designated Facilities: Implementing Regulations Under Clean Air Act Section 111(d), 87 Fed. Reg. 79176, December 23, 2022.



information on the amount of time needed to complete a state plan for this effort. EPA should collaborate closely with states in advance of the forthcoming rulemaking to identify an appropriate timeframe for state plan submittal; however, since this forthcoming rulemaking will significantly affect all consumers, EPA should allow states at least 3 years to develop their plan.

c. EPA’s forthcoming EGU rule should provide, at a minimum, a 120-day comment period. EPA’s forthcoming proposed EGU rule will presumably be significant and far-reaching and will have direct impacts on all consumers. As such, EPA should provide a comment period of at least 120 days.

d. EPA’s forthcoming EGU rule should contain regulatory text. When promulgating the proposed methane rule for the oil and gas industry, EPA first published a preamble on November 15, 2021 that contained no regulatory text. More than a year later, the agency then published a supplemental rule that contained regulatory text on December 6, 2022. However, EPA maintains that November 15, 2021, is the applicability date. EPA’s forthcoming EGU rule must contain regulatory text so that the EGU operators, states, and the public can provide meaningful comments.

e. EPA’s forthcoming EGU rule should account for relevant regulations and timelines imposed by other federal agencies. The regulations of other federal agencies may affect dates by which EGU operators are able to achieve emission reductions required by the forthcoming EGU rule. For example, the Federal Energy Regulatory Commission (“FERC”) has jurisdiction under the Natural Gas Act to issue a certificate of public convenience and necessity to a company seeking to construct and operate an interstate natural gas pipeline. New gas-fired EGUs will continue to reduce overall emissions from the power plant sector as they replace coal-fired EGUs that are gradually being retired. To fuel these new gas-fired EGUs, it is likely that new interstate natural gas pipelines will need to be constructed; therefore, EPA’s forthcoming EGU rule will need to account for the lengthy and unpredictable FERC permitting timelines for new interstate natural gas pipelines. EPA must work with other federal agencies to determine if their rules and requirements have implications on EPA’s forthcoming EGU rule.

V. EPA must follow its statutory jurisdiction as provided under the CAA.

EPA’s forthcoming EGU rule must follow the CAA. In addition, EPA must stay within the bounds provided by the June 2022 Supreme Court ruling in *West Virginia v. EPA*. EGU operators and states require regulatory certainty, and consumers demand reliable and affordable electricity. EPA must stay within these legal bounds and provide lawful, reasonable rules that are practical to implement.

The Alliance appreciates the opportunity to provide comments to the EPA on its RFI. If you have questions, please contact me at angie@okpetro.com or 405-601-2124.

Sincerely,

Angie Burckhalter
Senior V.P. of Regulatory & Environmental Affairs