February 19, 2014

Ms. Gina McCarthy, Administrator
US Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 1101A
Washington, DC 20460

RE: EPA's regulations of greenhouse gas emissions from new fossil fuel power plants in Docket EPA-HQ-OAR-2013-0495 and guidelines for existing fossil fuel power plants

Dear Administrator:

We would like to offer the following comments from the governors and legislators who comprise the Southern States Energy Board (SSEB). The Southern States Energy Board is a regional, interstate compact of sixteen states and two territories that advocates innovations in energy and environmental policies, programs, and technologies. SSEB is planning to be actively engaged with EPA and our member states on the greenhouse gas rulemaking. We appreciate the opportunity to provide the Board's perspectives on recently proposed new power plant emissions regulations and the upcoming greenhouse gas (GHG) guidelines for existing power plants. These comments reflect the general view of the majority of our members.

Reducing global greenhouse gas emissions is a vital endeavor that will require cooperation and action from many segments of our economy, throughout the nation and in international activities. There are, however, regions of the country that will be more dramatically impacted by GHG emissions requirements, and the SSEB region is one such example. The economics of coal and natural gas, especially for electrical generation, have helped the region develop a critical manufacturing and industrial base leading to an improved quality of life not only for the residents of the South but also for the nation. To that end, EPA must consider the economic health of the region and its impact on the vibrancy and security of the national economy over the foreseeable future.

We at the Southern States Energy Board are also actively engaged with the Department of Energy through the National Energy Technology Laboratory and numerous stakeholders in developing solutions to reducing GHG emissions from electrical generating units. The Southeast Regional Carbon Sequestration Partnership (SECARB), managed by SSEB, has one of the most advanced carbon capture and storage (CCS) projects in the nation and, arguably, worldwide. The Early Test CCS Demonstration Project at the Cranfield, Mississippi, site has injected 9 million metric tons of CO2, stored nearly 5 million metric tons, and the CO2 has been used to extract additional oil from the previously depleted oilfields through enhanced oil recovery processes. SECARB's Anthropogenic Test is being conducted on a 25 MW slip stream at one of Plant Barry's coal units, an Alabama Power site, and entails all three major components of CCS:

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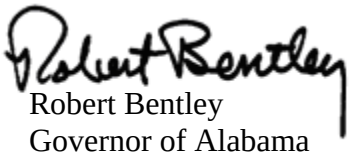
carbon capture technology; transport; and storage in a nearby geologic formation. These projects receive funding from U.S. DOE. At the same time, Southern Company's subsidiary, Mississippi Power, is building the Kemper County IGCC facility in Mississippi, which will utilize indigenous lignite in a new technology (TRIG) and capture 65 percent of the CO2 from the plant's operation. These projects are an important step in bringing CCS closer to economic and commercial viability over the next decade.

We, therefore, urge EPA to adopt greenhouse gas regulations for base-load coal and natural gas electricity generating plants that set realistic targets and recognize the timeframe in which compliance can realistically be accomplished as well as associated cost implications. EPA must establish balanced and reasonable guidelines for regulating carbon dioxide emissions from new and existing power plants.

For existing plants, EPA should set guidelines that allow each state the flexibility to tailor the requirements to address the unique characteristics of its energy infrastructure. Maintaining a reliable and affordable power supply should be key criteria considered as these plans are made. In particular, these guidelines must: 1) maintain an adequate, reliable power supply; 2) respect the primacy of states by allowing states to develop plans that establish performance standards and discretion and flexibility in establishing compliance mechanisms; 3) base EPA guidelines on cost-effective, achievable reductions at the affected power plant units that do not advance retirements, strand assets, or curtail operations of the current fleet; 4) establish emissions guidelines based on adequately demonstrated systems that are fuel and technology specific; 5) provide credit for significant reductions already accomplished including credits for energy efficiency; and 6) be fair and equitable to electricity consumers.

Enclosed is a more complete description of the SSEB, a more detailed position statement, and specific examples of the regulatory provisions that we support. I invite you and your staff to contact SSEB Executive Director, Ken Nemeth, who would be pleased to work with you on these matters.

Sincerely,



Robert Bentley
Governor of Alabama
Chairman

c: President of the United States, SSEB Member State Congressional Delegations, SSEB Member State Governors, Legislative Leadership, Attorneys General, Public Utility Regulatory Commission Chairs, Environmental Agency Commissioners, Energy Officials

Description of Southern States Energy Board (SSEB)

The SSEB is an interstate compact with enabling legislation in each of its sixteen member states and two territories that collaborate to enhance economic development and the quality of life in the South through innovations in energy and environmental policies, programs, and technologies. The SSEB region is comprised of member states Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, U.S. Virgin Islands, Virginia and West Virginia. The governor and a member from the state House and Senate comprise the Board. In addition, the SSEB interstate compact is sanctioned and authorized through federal legislation, P.L. 87-563 and 92-440, and provides for a federal representative, appointed by the President of the United States. The southern region relies heavily on affordable, reliable electricity generation and delivery in its manufacturing-based economy.

The SSEB region produces more than half of U.S. domestic energy supply, and serves nearly 40 percent of the nation's population. Many southern states are substantially exceeding the nation's annual eight percent population growth rate. Seven SSEB states are among the nation's top ten states when ranked by manufacturing jobs per capita. The SSEB economy relies heavily on manufacturing and agricultural jobs. As such, SSEB and its members have created a robust and innovative energy supply that includes all the traditional fuel sources as well as renewable energy and energy efficiency, and these resources have been developed partially through supportive policies and legislation throughout the region. This energy-rich approach has helped create a five trillion dollar economy, one-third of our nation's $16 trillion economic output.

The following statistics illustrate the importance of the SSEB states to the nation's energy supply:

- Three of the top five coal, oil, and natural gas producing states are located in the South. The southern states produce 66 percent of the nation's natural gas supply and four southern states (Texas, Louisiana, Alabama, and Oklahoma) produce more than 50 percent of U.S. domestic crude oil. West Virginia, Kentucky, and Texas rank among the top six coal producing states and collectively produce 25 percent of the nationwide coal supply, more coal than the rest of the top ten combined, with the exception of Wyoming's Powder River Basin. (Wyoming produces 40 percent of the nation's coal supply).

- Of the top ten states producing renewable fuels, six of them are in the SSEB region (Alabama, Georgia, Florida, Texas, North Carolina, and Louisiana). Texas, Oklahoma, and West Virginia have almost 16 Gigawatts of wind capacity, representing the first, sixth, and 22nd most wind capacity in the nation. Approximately 50 percent of the biomass used to generate electricity in the U.S. is used in the South. Texas also has a renewable standard that includes requirements for wind generation that have long been surpassed.

- Thirteen SSEB states are host to 26 nuclear plants with 45 reactors, producing 44 percent of the nation's nuclear generated electricity. Four new Westinghouse AP1000 nuclear units are under construction in Georgia and South Carolina and the Tennessee Valley Authority is completing a long-delayed second unit at Watts Bar. At the same time this energy revolution is occurring, our SSEB states have made great progress in environmental quality improvements. Efforts to continuously improve efficiencies are underway through significant investment in combined heat and power activities along with state building codes that promote the efficient use of energy in state-owned buildings, businesses, and homes. West Virginia received a 'Most Improved State' award in 2013 from the American Council for an Energy Efficient Economy, for example, while Mississippi and Maryland have passed some of the most stringent building efficiency codes in the nation within the past two years. A significant bioeconomy is also promoted through industry, supporting research and development of clean energy technologies, and state governments are adopting 'lead by example' policies. More details are on the SSEB web site at www.sseb.org.

SSEB Positions

SSEB plans to be actively engaged with EPA and our member states on the greenhouse gas rulemakings. SSEB concerns include the following:

1. Long term implications for fuel diversity should be among the factors considered. While proposed standards for new coal fired power plants are based on carbon capture and storage (CCS), the technology identified as commercially proven and available for new power plants today, these standards should be carefully considered. CCS is not yet adequately demonstrated. Kemper County IGCC in Mississippi, set to come online later this year, is utilizing unique, site-specific characteristics to pursue CCS, but the economics of capturing carbon dioxide while generating electricity from coal are, to date, on the very high end of the cost curve. Capital and operating costs of new coal plants with carbon capture are economically unattractive at this juncture. Additional research and demonstration funding is necessary to reduce the cost of both building and operating the CCS facility before that technology should be used as the basis for the new plant standard. Another more practical option, proposed by Senator Joe Manchin of West Virginia, among others, would be to base the standard on the very latest, cleanest coal plants that have been constructed in the past several years such as the Virginia Hybrid Energy Center (Circulating Fluidized Bed Combustion) or the J.W. Turk plant in Arkansas, an ultra supercritical coal plant.

2. Timing of requirements for reducing GHG emissions from existing power plants should factor in the realities of coal plant closures. These plants are being closed due to several factors including: economics of the plants versus natural gas facilities; cost of environmental compliance; uncertainty regarding additional environmental compliance; little or no load growth in the utility service territories; and the natural end of useful life of a significant portion of the coal fleet in the U.S. Ensuring continued reliability must be a key consideration when these rules are established.

3. It must be recognized that regulatory requirements to reduce GHG emissions will lead to increases in the cost of electricity which, in turn, will impact manufacturing companies and businesses in the South.

4. These increased electricity costs will likewise affect household incomes and measures should be in place to assist ratepayers who are least able to afford such increases in the cost of electricity to ensure that basic quality of life decisions do not become more complex.

5. EPA should consider the viewpoints of multiple stakeholders in the development of guidelines for the states, including the National Association of Regulatory Utility Commissioners, the Southeastern Association of Regulatory Utility Commissioners, Southern States Energy Board, the Edison Electric Institute, and other national, regional and state organizations in consensus with these policy positions.

In concert with these positions of state policymakers, SSEB asserts that EPA is required to develop existing power plant guidelines that are fully compliant with relevant Clean Air Act sections and their implementing regulations. Doing so would establish a balanced and reasonable regulatory framework that each SSEB state can tailor to address the unique characteristics of its energy infrastructure to preserve the reliability and affordability of electric service. The regulations should:

1. Maintain an adequate, reliable, affordable electrical generating fleet.
2. Respect the primacy of states by allowing states to develop plans that establish performance standards and discretion and flexibility in establishing compliance mechanisms.
3. Be based on EPA guidelines for cost-effective, achievable reductions at the affected power plant units.
4. Establish emissions guidelines based on adequately demonstrated systems that are fuel and technology specific.
5. Provide credit for significant reductions already made or being made.
6. Avoid premature retirements and stranded assets.
7. Be fair and equitable to all electricity consumers.

Specific examples of regulatory provisions

1. New power plant regulations should be set separately for coal power plants and natural gas generating units. These emission level standards should be based on best system of emission reductions adequately demonstrated for power plants that are operating commercially in the U.S.

2. The existing plant regulation should provide guidelines that are achievable as best system of emission reductions adequately demonstrated for AFFECTED POWER PLANT UNITS as prescribed under the Clean Air Act and its implementing regulations 40 CFR 60. SSEB notes that 40 CFR 60 refers to affected facilities, not electricity systems. Once the guidelines are issued, SSEB states would adopt performance standards based on cost-effective, achievable emission reductions at affected plants relying on the discretion and flexibility afforded states under the Clean Air Act and its implementing regulations.

3. As EPA prepares its guidelines for existing plants, it should follow the legal advice of the 18 state attorneys general and environmental commissioners who understand that Section 111(d) and its implementing regulations under the Clean Air Act give states primacy and maximum discretion and flexibility to implement the regulation. Each SSEB state and the SSEB region are unique in the policies, energy needs, resource mix, energy efficiency (both grid-side and customer measures), and economic conditions. The statistical illustrations for Kentucky and Maryland at the end of this document convey why it is critical to recognize and accept that states and regions will be different in levels of emissions reductions that they can achieve. EPA should offer flexibility when comparing emissions reductions and schedules for the various SSEB member states, given the authority they already have to consider the unreasonable cost of emission reductions resulting from plant age, location, or basic process design. Timing to meet emissions reductions requirements should consider past investments in environmental controls on coal-fired power plants such that some reasonable time should be allowed to recover those investments as well as ensuring an adequate, reliable supply of electricity.

4. Through resolutions adopted by the National Association of Regulatory Utility Commissioners and the Southeastern Association of Regulatory Utility Commissioners, public utility regulators agree with the attorneys general that the Clean Air Act and its implementing regulations for existing power plants limit EPA to issuing guidelines pertaining to existing fossil generating units. These regulators recommend that the guidelines recognize emissions reductions that have already been achieved. They also recognize states' jurisdiction over integrated planning (or other similar planning processes) that do not mandate prescriptive fuel mix portfolios. Regulators cautioned EPA not to impinge on the flexibility of states to develop and implement existing power plant regulations that lower both the cost and reliability risks from the regulation. SSEB also recommends that EPA engage with the policymaker teams in all SSEB states as the President directed in his June 25, 2013, memorandum to EPA, and that EPA include other federal agencies and departments having expertise in and responsibility for the economy and the electric system.

List of state policymaker papers and resolutions relevant to EPA greenhouse gas regulations for power plants:

- SSEB Resolution Concerning Proposed US EPA Greenhouse Gas Emission Standards for New Fossil-Fueled Power Plants (posted on www.sseb.org)
- SSEB Resolution Calling for the EPA to Evaluate and Publish a State-by-State Analysis and Summary of Projected Greenhouse Emissions Resulting from the New Source Performance Standards Introduced on September 20, 2013, and Planned Standards for Existing Sources to be Proposed on June 1, 2014 (posted on www.sseb.org)
- SSEB Resolution regarding Best Available Control Technology for Coal-based Electric Generation (posted on www.sseb.org)
- SSEB Resolution regarding the "Train Wreck" (posted on www.sseb.org)
- NARUC Resolution on Increased Flexibility with Regard to the EPA's Regulation of Greenhouse Gas Emissions from Existing Power Plants (posted on www.naruc.org)
- SEARUC Resolution on the EPA's Guidelines for Greenhouse Gas (GHG) Emissions from Existing Power Plants (posted on www.searuc.org)
- Perspective of 18 States on Greenhouse Gas Emission Performance Standards for Existing Sources under Section 111(d) of the Clean Air Act (commonly known as the Attorneys Generals' Whitepaper posted on http://energycommerce.house.gov/sites/republicans.energycommerce.house.gov/files/20130911StateAGWhitePaper.pdf)

Profiles for Kentucky and Maryland illustrate the wide variation in energy diversity that should be considered in setting EPA greenhouse gas regulations.

Sources:

- Southern States Energy Profiles and Digest of Climate Change and Energy Initiatives in the South Report on www.sseb.org.

- Industrial electricity consumption(percent of state total): KY 49%, MD 8%.
- Industrial electricity consumption per capita: KY 10 MWH, MD 2 MWH
- Industrial electricity average electricity price(cents per KWH): KY 5 cents, MD 8 cents
- Commercial electricity consumption per capita; KY 4 MWH, MD 5 MWH
- Electricity use (KWH) per real state GDP ($): KY 0.6, MD 0.2
- Electricity Generation (annual GWH): KY 90 GWH , MD 44 GWH
- Coal based electricity generation(percent by fuel): KY 93%, MD 52%
- Hydro based electricity state generation, percent by fuel: KY 4%, MD 6%
- CO2 emissions (annual metric tons): KY 85 million metric tons, MD 26 million metric tons