STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Air Pollution Control
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April, 4, 2024

VIA Email to Kaitlyn.Peterson@mail.house.gov

Kaitlyn Peterson
Legislative Clerk
Energy, Climate, and Grid Security & Environment, Manufacturing, and Critical Materials
U.S. House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515-6115

RE: Response to Congressional Question from Subcommittee on Environment, Manufacturing, and Critical Materials

Dear Ms. Peterson:

Please find below my response to the additional question received from the Subcommittee on Environment, Manufacturing and Critical Materials.

The Honorable Russ Fulcher asked:

Electric co-ops and other have raised concerns over EPA's timelines not being "realistic." Assuming the EPA meets its timelines, then state plans would not get approved until April 2027 at the earliest. That leaves less than three years for coal-fired plants to limit operations by 20% with the follow-on retirements and other cuts to coal-fired and coal- and natural gas-fired plants, while installing the Carbon Capture and Storage (CCS) technology. Co-operatives have been involved in the development of CCS technologies and they are saying these technologies won't yet be ready. What is the effect on states that rely on the grid – partly powered by coal and natural gas – in trying to comply with this rule? Given the EPA's track record in this regard and the continued litigation that will come from it, will states get their plans approved in adequate time by the EPA to implement trying to comply with this rule?

Response: In Tennessee's written comments and my written and oral testimony, we indicate that EPA's Best System of Emission Reduction (BSER) was not adequately demonstrated for various reasons. If the rule becomes effective and is not stayed pending litigation, states are likely to be challenged in developing state plans given the uncertainty associated with the final outcome of litigation. Utilities and

pipeline operators are likely to avoid making substantial investments in carbon capture and sequestration (CCS) projects or infrastructure. It is more likely that states and the regulated industry would be looking to retirements, idled units and/or capacity restrictions to attempt to comply with the rule. Even with certainty around the outcome of the rule, it is not likely that the CO_2 infrastructure needed to achieve the CCS elements of the rule will be available in time, even if a CCS scaled projected was deemed viable. In Tennessee's comments on the rule, we indicated that there were 5,339 miles of CO_2 pipelines in operation in 2021, and we estimated that around 115,000 miles of pipeline would be needed to transport CO_2 emissions. Our numbers assumed that the number of fossil plants would remain fairly constant over the next ten years. Even with some coal retirements, there is still a substantial need for infrastructure that is unlikely to be built in time for rule compliance. Our comments also indicated that there were limited opportunities for carbon sequestration sites in Tennessee and that EPA's approval process for underground injection wells is too slow to keep up with what could be a significant increase in demand for carbon sequestration. Given all the challenges noted, it is unlikely that states will be able to submit plans timely or that EPA will approve those plans on a timely basis. This will likely result in more litigation from groups that sue EPA when it or states do not meet mandated deadlines. The result is frequently consent or settlement orders that establish deadlines for EPA to meet, including when a Federal Implementation Plan would be imposed.

Thank you for the opportunity to respond to the submitted question. Please contact me should you have any additional questions.

Sincerely,

Michelle W. Owenby

Michelle Walker Owenby
Director
Division of Air Pollution Control