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Mr. Chris Recchia (via e-mail)
Executive Director
Ozone Transport Commission
444 North Capitol Street, Suite 638
Washington, DC 20001

Re: Exelon Comments on the "Draft Summary of Regulatory Options to Implement Additional EGU Reductions Beyond Clean Air Interstate Rule (CAIR) Budgets"

Dear Mr. Recchia:

Thank you for the opportunity to provide comments to the Ozone Transport Commission (OTC) regarding the above-referenced materials. Exelon Generation has ownership interests in approximately 25,000 megawatts of generation in the eastern United States. Our generation portfolio includes: nuclear, coal, hydro, pumped storage, oil/gas steam and primarily oil-fired combustion turbines (CTs). Within the Ozone Transport Region (OTR), we own about 4,025 MW of fossil generation that operates in various base, intermediate and peaking capacities.

Comments on "Draft Summary of Regulatory Options to Implement Additional EGU Reductions Beyond CAIR Budgets"

Scope of Draft Model Rule Regulation

Exelon recommends that the OTC limit its current model rule to only consider any incremental, beyond-CAIR, ozone season NOx emission reductions required to meet the current 8-hour ozone standard. To date, the OTC does not appear to have conducted any significant modeling to examine the need for additional annual NOx emission reductions, or SO2 emission reductions, to address fine particulate (PM2.5) attainment needs. Any new, incremental, requirements to address PM2.5 emissions should only be considered after the OTC states have conducted modeling to assess the new PM2.5 standard and nonattainment areas. For example, EPA modeling released in conjunction with the revised PM2.5 standards in September 2006 indicates only three OTR counties in nonattainment of the revised standard in 2015 (all in Pennsylvania) after implementation of all "on the books," "on the way" controls. Without additional OTR PM2.5 modeling of regional emission reduction needs, all available control options, and a public participation process, we believe that it is premature to identify additional annual NOx and SO2 emission reductions for EGUs beyond CAIR requirements.

Considerations – SO2

Should the OTC elect to pursue additional SO2 emission reductions at this point in time, Exelon recommends that electric generating units (EGUs) that installed SO2 scrubbers prior to the Acid Rain program baseline years (1985-1987) should not be excessively penalized. We recommend that if the OTC elects to pursue its preferred option of increasing the CAIR surrender ratios, that EGUs with early SO2 scrubbers should not be required to further surrender SO2 allowances at the same surrender ratio as EGUs that were not controlled in the baseline period. Specifically, separate surrender ratios should be developed for early-scrubbed units that consider their early action. This ratio could provide a credit to the early scrubbed unit for the delta between the national emission rate (1.2 lbs/mmBtu) used to issue Acid Rain SO2 allowances to most EGUs and the permit emission rate of early scrubbed units that was used as the basis for allocations to such units under the 1990 Clean Air Act Amendments.

For example, Exelon Power's Eddystone Unit 1 and Unit 2 coal-fired units installed SO2 scrubbers in the early 1980s and received Acid Rain SO2 allowances based on their permitted emission rate at the time (0.45 lb/mmBtu). Similarly, Exelon Power's Cromby 1 installed SO2 scrubbers in the early 1980s and received Acid Rain SO2 allowances based on its permit emission rate of 0.9 lb/mmBtu. Under our suggested approach, Eddystone coal unit surrender ratios would be calculated based off of the same 1.2 lb/mmBtu that was the basis for most Acid Rain EGU allocations in the OTR, rather than being based on a further reduction based off of their 0.45 lb/mmBtu Acid Rain allocation emission rate.

In the event that the OTC elected to pursue a non-CAIR-linked strategy with a separate SO2 allowance currency, such a program should be similarly structured such that it does not penalize EGUs that installed early SO2 scrubbers.

Considerations – Ozone Season NOx

The draft model rule appears to be silent on the issue of banked NOx SIP Call allowances and how they would, or would not, transition to the CAIR program in 2009. Exelon recommends that the OTC address this issue in its model rule so that industry has a clear roadmap to determine the value of early action and emissions banking leading up to 2009. As a general policy manner, Exelon supports the ability to early bank emission allowances as early-banked allowances represent over-compliance with regulatory requirements and over-compliance/early control installation should be encouraged, not discouraged, as a mechanism to smooth transitions between step changes in regulatory requirements.

Considerations – Annual NOx

The draft model rule suggests that the OTC states should not allocate compliance supplement pool allowances. As just mentioned, Exelon supports incentives to over-comply and install pollution controls before step changes in regulatory compliance. Some affected sources may have included the potential value of compliance supplement pool annual NOx allowances in their business cases for early pollution control retrofits. From a public policy perspective, early action should be encouraged, not discouraged, by regulatory requirements.

Thank you for considering these comments. Please feel free to call me at 215-841-5687 with any questions.

Sincerely,

Bruce Alexander
EH&S Strategy Manager

Cc: Mr. J. Wick Havens (via e-mail), PA DEP Bureau of Air Quality
Mr. Doug Austin (via e-mail), OTC