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Ozone Transport Commission
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Via Email: ozone@otcair.org

RE: Clean Air Act (CAA) Section 184(c) petition submitted by Maryland on May 30, 2019

The Appalachian Region Independent Power Producers Association (“ARIPPA”), on behalf of its member companies, hereby provides comments in response to the Ozone Transport Commission’s (OTC) request for public comment regarding Maryland’s petition to the OTC under Section 184(c) of the Clean Air Act. This petition should be rejected, as existing regulatory requirements are achieving significant air quality reductions and the petition does not sufficiently establish the requisite causation between NAAQS exceedances and emissions from Pennsylvania power generation facilities to justify granting Maryland’s petition.

Organized in 1989, ARIPPA is a nonprofit trade association based in Camp Hill, Pennsylvania, comprised of independent electric power producers, environmental remediators, and service providers that use coal refuse as a primary fuel to generate electricity. The association represents 14 unique environmentally beneficial electric generation facilities located in Pennsylvania and West Virginia that remediate mining affected lands by utilizing circulating fluidized bed (CFB) boiler technology to convert coal refuse into alternative energy and steam.

These plants are located in or near the anthracite and bituminous coal regions and, although relatively small in size with all but one facility between 33-112 megawatts (MW) net operating capacity, have a combined generation capacity of over 1,300 MW in Pennsylvania. Coal refuse reclamation to energy units utilizing CFB boiler technology have inherently lower NOx emissions which are even lower during low load operations absent the injection of ammonia. ARIPPA’s membership includes Cambria Cogen, Panther Creek Power, Scrubgrass Generating, and Seward Generation, which are referenced in Maryland’s petition.

These plants play a critical role in environmental remediation in the coal regions where they are located by removing coal refuse piles, remediating and reclaiming mining affected lands and reducing or even eliminating surface and groundwater pollution by acid mine drainage (AMD) from coal refuse piles. In fact, the EPA has stated that “[u]nits that burn coal refuse provide multimedia environmental benefits by combining the production of energy with the removal of coal refuse piles and by reclaiming land for productive use.”¹

¹ 76 Fed. Reg. 25,066 <https://www.federalregister.gov/d/2011-7237/p-1050>

ARIPPA is a participant in the Midwest Ozone Group (MOG) and endorses the various analyses and MOG comments that demonstrate that Maryland's petition is flawed and must be denied. Following is a summary of the reasons why the Maryland petition should be denied:

- While Maryland proposes that additional control measures be mandated for the sources it has named, the Maryland petition does not offer even a single sentence assessing whether such measures are necessary to bring Maryland and the New York Nonattainment Area (NYNA) into attainment by the dates mandated in the CAA.
- Maryland's modeling assumptions compromise the validity of key findings in their sensitivity results as related to Pennsylvania EGU contribution at OTC receptors.
 - University of Maryland, College Park's (UMD) 2023 EGU base case assumes no PA EGU has any control associated with the promulgated CSAPR Close-Out rule and uses mass percentage adjustments to simulate compliance with CSAPR in other states.
 - UMD's 2023 base case assumes a 50% NO_x reduction in mobile sources associated with their Science Framework.
 - UMD fails to demonstrate that differences in maximum 8hr average ozone (MDA8) calculated for any receptor occur on days when the model predicts exceedances of the 2008 or 2015 ozone NAAQS.
- 2023 is the appropriate year for assessing whether additional control measures are necessary to bring the areas involved into attainment.
- State-of-the-science 12km air quality modeling performed by both EPA and MOG demonstrates that in 2023 all monitors located in Maryland, the NYNA and the remainder of the OTR will show attainment with the 2008 (75 ppb) ozone NAAQS.
- State-of-the-science 4km air quality modeling performed by MOG demonstrates that in 2023 all monitors located in Maryland, the NYNA, and in the remainder of the OTR, will be in attainment with the 2015 (70 ppb) ozone NAAQS.
- Application of EPA's alternative maintenance monitor methodology demonstrates there will not be any maintenance monitors located in Maryland and the NYNA in 2023.
- Because there will be no nonattainment or maintenance monitors located in Maryland or the NYNA in 2023 with respect to either the 2008 or 2015 ozone NAAQS, the Maryland 184(c) petition must be rejected by the OTC.
- If Maryland or any other states in the OTR believes there are remaining ozone air quality concerns related to Maryland and the NYNA those concerns must first be addressed with controls on local sources rather other than those sources named in the petition.
- EPA's analysis confirms that any current remaining ozone problems in Maryland and the NYNA are more related to local sources than to sources in upwind states.
- The issues being raised by the Maryland 184(c) petition have already been considered and rejected by EPA in other proceedings.
- Maryland's request to have emission control limits set on a daily basis has been previously considered and rejected by EPA and should also be rejected here.
- Maryland's petition erroneously assumes that NO_x emission controls in Pennsylvania are

not being “optimized.”

- Consideration of Exceptional Events that occurred in 2016 would result in all New York monitors measuring attainment of the 2008 Ozone NAAQS. Failure by New York to invoke EPA’s exceptional events rule or otherwise to exclude certain Canadian wildfire events from 2016 ambient monitoring data reveals a fatal flaw in its analysis and requires denial of the Maryland 184(c) petition.
- International emissions must be addressed as an integral part of the consideration of this petition. Failure by Maryland and New York to invoke CAA §179B to account for international emissions provides an additional basis for denial of the Maryland 184(c) petition.
- Maryland’s failure to provide any data addressing the cost effectiveness of the controls that it has proposed provides an additional basis for denial of the petition.

These issues demonstrate the failures of the Maryland petition and are the bases for denial of the petition. All of these identified issues are comprehensively described in the MOG comments to this action by Maryland. ARIPPA fully supports the comments submitted by MOG to the Maryland petition.

For all of the reasons identified and explained in detail in the MOG comments and summarized in these ARIPPA comments, it is clear that the Maryland petition must be denied on both technical and regulatory bases.

Thank you for the opportunity to provide these comments to the OTC regarding the Maryland petition. If the OTC has any questions about these comments, please contact me at 717-763-7635 or the address set forth above.

Respectfully submitted,

A handwritten signature in black ink that reads "Jaret A. Gibbons". The signature is written in a cursive, flowing style.

Jaret A. Gibbons
ARIPPA Executive Director

cc: Gary Merritt, ARIPPA President