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May 21, 2012

Erica Fetty  
Ohio Environmental Protection Agency, DAPC  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049

VIA EMAIL AND U.S. REGULAR MAIL

**Re: Redesignation and Maintenance Plan for the Ohio Portion of the Cleveland-Akron-Lorain 24-Hour PM<sub>2.5</sub> Nonattainment Area**  
*Our File No. 043591*

Dear Ms. Fetty:

In April, 2012, Ohio EPA provided public notice of its intention to request that U.S. EPA redesignate the Cleveland-Akron-Lorain 24-hour PM<sub>2.5</sub> nonattainment area as "attainment." The following comments regarding this action are submitted on behalf of the Ohio Utility Group and its member companies (the "Utilities").<sup>1</sup> Based on a review of the draft request for redesignation ("Ohio Request"),<sup>2</sup> the Utilities support Ohio EPA's redesignation request to attainment for the Cleveland-Akron-Lorain 24-hour PM<sub>2.5</sub> National Ambient Air Quality Standards ("NAAQS").

First, data from Ohio's monitors demonstrate that the Cleveland-Akron-Lorain area is attaining the 2006 24-hour PM<sub>2.5</sub> NAAQS. This is based on quality assured air quality monitoring data for 2008-2010. It is notable that the downward trend in PM<sub>2.5</sub> in the ambient air coincides with the installation and operation of flue gas desulfurization pollution controls on many electrical generating units ("EGUs"). In fact, the Ohio Request identifies emission controls on EGUs as one factor leading to this trend.<sup>3</sup>

<sup>1</sup> The member companies include: Buckeye Power, Inc., The Dayton Power and Light Company, Duke Energy Ohio, First Energy, Ohio Power Company (a unit of AEP), and Ohio Valley Electric Corporation.

<sup>2</sup> Ohio EPA, Draft: Redesignation Request and Maintenance Plan for the Cleveland-Akron-Lorain 24-Hour PM<sub>2.5</sub> Nonattainment Area, Cuyahoga, Lake, Lorain, Medina, Portage, and Summit, Ohio (April 2012), available at [http://www.epa.ohio.gov/portals/27/SIP/Attain/PM2\\_5\\_24hr/Cleveland\\_PM25\\_24-hr\\_redesig\\_DRAFT.pdf](http://www.epa.ohio.gov/portals/27/SIP/Attain/PM2_5_24hr/Cleveland_PM25_24-hr_redesig_DRAFT.pdf), last visited May 16, 2012. Hereinafter "Ohio Request."

<sup>3</sup> *Id.* at 13.

Second, Ohio EPA has demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions. This air quality improvement is attributable to the implementation of the Clean Air Interstate Rule ("CAIR") and NO<sub>x</sub> SIP Call Rules.<sup>4</sup> These rules have a direct impact on the Utilities, requiring the Utilities to install controls to reduce PM<sub>2.5</sub> and its precursor pollutants.<sup>5</sup> U.S. EPA has determined that the regulations developed in response to both of these rules are permanent and enforceable because both cap the total emissions allotted in each covered state and both impose strict compliance deadlines. In addition, since U.S. EPA's initial designations were made federally enforceable, "federal consent decrees required the reductions of SO<sub>2</sub> and NO<sub>x</sub> emissions from utility sources."<sup>6</sup>

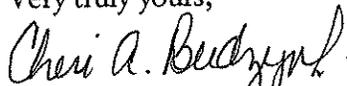
Third, Ohio EPA has addressed their obligation to reduce regionally transported pollutants. Ohio EPA has an approved CAIR program that requires EGUs to reduce emissions that impact downwind states. While the federal CAIR rules were vacated and later remanded to U.S. EPA, the CAIR rules remain in effect at this time. In 2011, U.S. EPA finalized a replacement (Cross-State Air Pollution Rule or "CSAPR") to CAIR. However, CSAPR was challenged in the United States District Court, District of Columbia. During the appeals process, the Court stayed CSAPR in December 2011. In issuing the stay, CAIR was reinstated by the D.C. Circuit and remains in effect. Thus, Ohio EPA's reliance on CAIR is appropriate until the final regulations replace CAIR.

Fourth, Ohio EPA has developed a Plan that indicates that these reductions will be maintained. These reductions will be maintained due to the implementation of CAIR, which ensures that the current and future emissions of NO<sub>x</sub>, directly emitted PM<sub>2.5</sub>, and SO<sub>2</sub> for the area remain at or below attainment year emission levels.<sup>7</sup>

Finally, because of the implementation of rules such as the NO<sub>x</sub> SIP Call and CAIR, Ohio EPA has incorporated into the Utilities' permits additional controls, monitoring, recordkeeping, and reporting requirements. These controls have resulted in a downward trend in air pollutants and have been a contributing factor to why monitors in the Cleveland-Akron-Lorain are now measuring attainment.

The Utilities appreciate the opportunity to comment on the Ohio Request. Based on the information provided, the Utilities support Ohio EPA's request for redesignation. If you have any questions regarding these comments, please contact me.

Very truly yours,

  
Cheri A. Budzynski

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<sup>4</sup> *Id.* at 4-5.

<sup>5</sup> Ohio Request at 40.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 26-36.