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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
Steubenville-Weirton, WV-OH 24-Hour PM_{2.5} 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 Ohio portion of the Steubenville-Weirton, WV-OH 24-hour PM_{2.5} 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").¹

Based on a review of the draft redesignation request, Ohio has met all applicable requirements for redesignation under the Clean Air Act §107(d)(3)(E) and the Utilities support Ohio EPA's redesignation request to attainment for the Ohio portion of the Steubenville-Weirton, WV-OH 24-hour PM_{2.5} National Ambient Air Quality Standards ("NAAQS").

Section 107(d)(3)(E) sets forth the requirements for redesignation to attainment. The Utilities have reviewed the information contained in Ohio EPA's draft request for redesignation ("Ohio Request") and believe that it meets the requirements for redesignation.² Most notably, Ohio EPA has indicated that the improvement in air quality is attributable to implementation of the Clean Air Interstate Rule and NOx SIP Call Rules, rules that have a direct impact on the Utilities.³

¹ 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.

² Ohio EPA, Draft: Redesignation Request and Maintenance Plan for the Ohio Portion of the Steubenville-Weirton OH-WV 24-Hour PM_{2.5} Nonattainment Area, Jefferson County, Ohio (April 2012), available at http://www.epa.ohio.gov/portals/27/SIP/Attain/PM2_5_24hr/Steubenville-Weirton_PM25_24-hr_redesig_DRAFT.pdf, last visited May 11, 2012. Hereinafter "Ohio Request."

³ *Id.* at 4-5.

Further, Ohio's Maintenance Plan does not revise or remove any existing emissions limit or control requirement and, thus, ensures attainment of the 2006 24-hour PM_{2.5} NAAQS in the Steubenville-Weirton area.

A. Ohio's 2008-2010 monitoring data demonstrate that the Steubenville-Weirton area is in attainment of the 2006 24-hour PM_{2.5} NAAQS

Data from Ohio's and West Virginia's monitors demonstrate that the Steubenville-Weirton area is attaining the 2006 24-hour PM_{2.5} NAAQS. This is based on quality assured air quality monitoring data for 2008-2010. The information provided in Ohio's Request demonstrates that "there has been a clear downward trend in design values for all monitors in Ohio and West Virginia."⁴ Based on these data, U.S. EPA made the final determination that the Steubenville-Weirton area has attained the 24-hour PM_{2.5} NAAQS, which was just published in the Federal Register on May 14, 2012.⁵

B. Air quality improvement in the Steubenville-Weirton area is due to permanent and enforceable emissions reductions

Pursuant to Clean Air Act §107(d)(3)(E), Ohio EPA has demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions. As indicated in the redesignation request, many of these reductions are a result of regulations that directly impacted the Utilities and required the installation of controls to reduce PM_{2.5} and its precursor pollutants.⁶

The regulations providing for permanent and enforceable reductions of these emissions are the NO_x SIP Call and CAIR. 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 imposed strict compliance deadlines. In addition, since U.S. EPA's initial designations were made federally enforceable, "federal consent decrees required the reductions of SO₂ and NO_x emissions from utility sources."⁷

C. Ohio EPA's maintenance plan is fully approvable

Pursuant to Clean Air Act §107(d)(3)(E), Ohio EPA has developed a Maintenance Plan. Ohio EPA's Maintenance Plan provides for maintenance of the 2006 24-hour PM_{2.5} NAAQS. Ohio EPA's Plan demonstrates maintenance by showing that current and future emissions of NO_x, directly emitted PM_{2.5}, and SO₂ for the area remain at or below attainment year emission levels.⁸

⁴ *Id.* at 10-16.

⁵ Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Ohio; Determination of Clean Data for the 2006 24-Hour Fine Particulate Standard for the Steubenville-Weirton Area, 77 Fed. Reg. 28264 (May 14, 2012).

⁶ Ohio Request at 36.

⁷ *Id.*

⁸ *Id.* at 26-36.

The Utilities also agree with Ohio EPA's reliance on CAIR to demonstrate that long-term reductions are being achieved even though CAIR was remanded to U.S. EPA. While U.S. EPA finalized a replacement (Cross-State Air Pollution Rule or "CSAPR") to CAIR in 2011, CSAPR was appealed and the rule was stayed 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.

E. U.S. EPA has suspended other requirements necessary for redesignation to attainment

Finally, U.S. EPA issued its final rule in which it determined that the Steubenville-Weirton Area is monitoring attainment based on 2008-2010 data. In making this determination, U.S. EPA suspended Ohio EPA's obligation to "submit ... attainment demonstrations, associated reasonably available control measures (RACM), reasonable further progress plans, contingency measures, and other planning State Implementation Plans (SIPs) related to attainment of the 2006 PM_{2.5} standard ..."⁹ Because U.S. EPA has suspended these obligations, the Utilities believe that Ohio EPA met the requirements for seeking redesignation of this area. Accordingly, the Utilities support Ohio EPA's action of requesting that U.S. EPA approve Ohio EPA's redesignation request.

The Utilities appreciate the opportunity to comment on the proposed rule. If you have any questions regarding these comments, please contact me.

Very truly yours,



Cheri A. Budzynski

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⁹ 77 Fed. Reg. at 28264.