

## Many Power Companies Well Prepared for New EPA Clean Air Protections

Misguided efforts to delay new Environmental Protection Agency (EPA) regulations will cause significant harm to public health. As noted by the American Lung Association and other prominent health groups, delaying just two of the targeted EPA air pollution rules would result in up to 51,000 premature deaths and 520,000 more asthma attacks each year, many in our most vulnerable populations – children and the elderly.<sup>i</sup> The fact is that many U.S. utilities are well prepared to meet EPA's rules. These rules have been under development for years, and those utilities that took pragmatic, responsible, reasonable steps to prepare for the rules are now ready to comply. Here is what some of them had to say (emphasis added by EDF):

- **Gale Klappa, Chairman, CEO of Wisconsin Energy** said: "**We really see very little impact on customer electric rates or our capital plan between now and 2015 as a result of all the new EPA regulations that have been proposed...** So that gives you an example of how well we are positioned from the environmental standpoint in terms of complying with even the new proposed rule." *Wisconsin Energy 5/3/2011 Investor Meeting.*
- **Ralph Izzo, CEO of PSEG** said: "**Frankly, action is long overdue.** The air pollutant regulations proposed by EPA are in response to the D.C. Circuit's rejection of two rules (the Clean Air Interstate Rule (CAIR) and the Clean Air Mercury Rule) originally proposed by the Bush Administration. **Thus, these regulations do not come out of the blue...For our part at PSEG, we believed it made good business sense to be proactive in positioning our generation fleet to meet what the rules would require.** During the past five years, we have invested more than \$2 billion to replace inefficient, older generating units and upgrade our existing facilities in New Jersey, New York, Connecticut, and Pennsylvania...Existing pollution control technologies have demonstrated their mettle, and they need to be further deployed throughout the nation. **Our experience shows that it is possible to clean the air, create jobs, and power the economy at the same time.**"<sup>ii</sup>
- **John Rowe, CEO of Exelon** said: "There has been a lot of noise about these rules and there will continue to be noise as people fight them. I don't think the noise will go away, but I don't expect Congress to do anything to change the rules. **The EPA is simply enforcing the requirements of the existing Clean Air Act as the Act has been interpreted by the courts, including the Supreme Court of the United States. The last major amendments to that Act are now over 20-years old. Neither the rules nor their implementation should be a surprise to anyone.** My confidence is bolstered by the fact that the Senate failed to pass legislation that would stop EPA from regulating greenhouse gases. That legislation only got 50 votes, so it seems highly unlikely that the Senate could find the required 60 votes it would need to block EPA's health rules on mercury, arsenic, or other toxins. If the Senate didn't choose to block carbon regulation, it is not going to pass legislation that most people believe will negatively impact the health of babies, children and pregnant women." *Exelon 4/27/2011 Investor Meeting.*
- **The Tennessee Valley Authority ("TVA"),** which owns 17,000 megawatts ("MW") of coal-fired generating capacity, announced plans in April 2011 to retire 18 older coal-fired generation units at three power plants as part of the utility's vision of being one of the nation's leading providers of low-cost and cleaner energy by 2020. The utility will replace "older and less-economical generation with cleaner sources." **Tom Kilgore, TVA's CEO** said "a variety of electricity sources, rather than heavy reliance on any single source, reduces long-term risks and helps keep costs steady and predictable...In the longer term,

these actions reinforce our vision to keep bills low, keep our service reliability high and further improve air quality as we modernize the TVA power system." *TVA Press Release, April 14, 2011.*

- **James Lash, CNO of FirstEnergy** said: "I know that all of you are aware of these pending Environmental Protection Agency regulations. I would draw your attention to two that probably present the largest challenge to our industry. And they are the transport rule and the maximum achievable control technology regulation. They are both due to become final this year and expected to be implemented in January – to start to be implemented in January 2012 for transport and January 2015 for MACT. **We will continue to study these new regulations, and as they evolve, we are confident that we are well positioned to handle the final requirements that will come from them.**" *FirstEnergy 5/3/2011 Investor Meeting.*
- **William Johnson, CEO of Progress Energy & future CEO of Duke Energy** said: "**We believe the new company [created by the Duke-Progress merger] will be well positioned to meet the new EPA MACT regulations expected later this year and in to 2012.** We still have much work to do to comply with these new rules, which could require significant additional capital investment and additional announced plant closures. However, we are further down the road on compliance than many other companies with large coal fleets." *Progress Energy 1/10/2011 Investor Meeting.*
- **Benjamin Fowke, COO of Xcel Energy** said: "Like many of our peers, we are in the process of evaluating what if any impact [EPA's Utility Toxics Rule] may have on our operations. Based on our preliminary review we do not anticipate that the rule will require extensive changes to our plans at [Northern States Power] and [Public Service Company of Colorado]...**Our proactive steps to reduce emissions through the MERP project in Minnesota and our plans for the Clean Air Clean Jobs Act in Colorado put us in good position to comply with these rules.**" *Xcel 4/28/2011 Investor Meeting.*
- **William Spence, CEO of PPL Generation** said: "**Our proactive approach to environmental compliance positions the PPL fleet favorably for future EPA regulation.** Ninety-six percent of the competitive coal generation is scrubbed, 88 percent has NO<sub>x</sub> controls already installed." *PPL 4/4/2011 Investor Meeting.*
- **Mauricio Gutierrez, COO of NRG** said: "The proposed [Toxics Rule] provides flexibility in that compliance can be achieved through facility averaging and company selected control technology. It also recognizes the inherent differences in mercury emissions from lignite coal...[T]he key takeaway is that **we do not expect at this time any additional environmental CapEx beyond what we have previously announced.**" *NRG 5/5/2011 Investor Meeting.*

*Note: Companies quoted above are heavily coal dependent*

Quoted Utility	Headquarters	% Generation by Coal (2010 MWh)
Exelon	Chicago, IL	<b>14%</b>
FirstEnergy	Akron, OH	<b>42%</b>
NRG	Princeton, NJ	<b>58%</b>
PPL	Allentown, PA	<b>70%</b>
Tennessee Valley Authority (TVA)	Knoxville, TN	<b>50%</b>
Wisconsin Energy	Milwaukee, WI	<b>83%</b>
Xcel	Minneapolis, MN	<b>67%</b>

*Source: SNL Financial (as of 6/14/2011)*

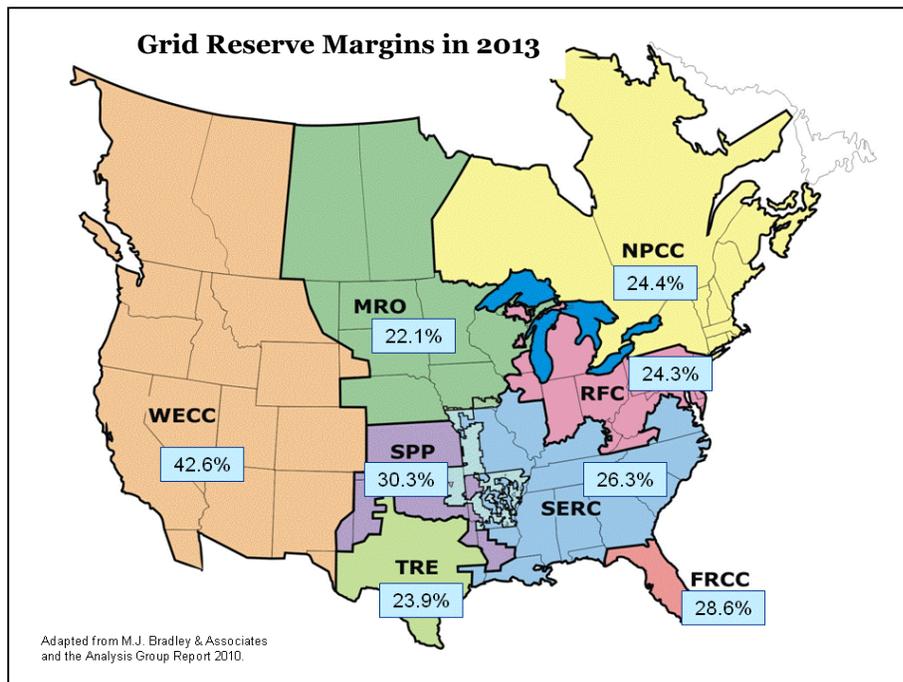
In addition to these individual utility voices, on March 16, 2011, a group of six leading energy companies - Calpine Corporation, Constellation Energy, Exelon Corporation, PG&E Corporation, Public Service Enterprise Group and Seattle City Light – joined together to applaud EPA’s release of one of the proposed rules. At that time, the companies said: **“We know from experience that constructing this technology can be done within a reasonable timeframe, especially with good advance planning ...The industry has had more than enough time to study and prepare for these requirements.** We support the EPA’s efforts to finalize the rule in order to reap the significant public health benefits as indicated by the Agency’s analysis. **There ought to be no further delay.”**<sup>iii</sup>

Many of these same companies have noted the job creation benefits of the EPA rules. According to their CEOs: **“Contrary to the claims that the EPA’s agenda will have negative economic consequences, our companies’ experience complying with air quality regulations demonstrates that regulations can yield important economic benefits, including job creation, while maintaining reliability.”**<sup>iv</sup>

### **EPA rules include multiple provisions to enhance flexibility and grid reliability**

Regulated sources have had years of advance notice to prepare for new clean air standards and many power companies are well positioned for compliance. Further, sources have a range of compliance options available including pollution control retrofits, shifting capacity from higher emitting resources to under-utilized lower emitting resources, fuel switching, wholesale and retail energy purchases, demand side management, and transitioning from aging and high emitting infrastructure to cleaner power. For sources that have made a good faith effort to meet emission standards but are still facing challenges, EPA is authorized under the Clean Air Act to provide compliance extensions in accordance with specific statutory criteria.<sup>v</sup>

Additionally, large US grid reserve margins provide a significant reliability cushion to safeguard grid operation. Regional wholesale markets, state public utility commissions, and DOE also have numerous existing authorities to ensure reliability without delaying the EPA rules.



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<sup>i</sup> American Lung Association, American Public Health Association, Asthma and Allergy Foundation of America, Physicians for Social Responsibility, Trust for America's Health. Letter to Chuck Gray, Executive Director, NARUC (July 14, 2011).

<sup>ii</sup> Ralph Izzo, CEO, Public Service Enterprise Group. Council on Environmental Quality Blog, 10/27/2011, "We can clean the air, create jobs and power the economy at the same time." Accessible at <http://www.whitehouse.gov/blog/2011/10/27/we-can-clean-air-create-jobs-and-power-economy-same-time> (viewed 11/8/2011).

<sup>iii</sup> Calpine Corporation, Constellation Energy, Exelon Corporation, PG&E Corporation, Public Service Enterprise Group and Seattle City Light. Press Release: "Leading Energy Companies Commend EPA's Release of Proposed Rule to Reduce Toxic Air Pollution" (March 16, 2011).

<sup>iv</sup> PG&E Corporation, Calpine Corporation, NextEra Energy, Public Service Enterprise Group, National Grid, Exelon Corporation, Constellation Energy Group. Wall Street Journal, Letter to the Editor: "We're OK with the EPA's new air-quality regulations," 12/8/2010.

<sup>v</sup> Michael Bradley, Susan Tierney, Christopher Van Atten et al., August 2010, "Ensuring a clean, modern electric generating fleet while maintaining electric system reliability" and "Summer 2011 update." Accessible at: <http://www.analysisgroup.com/article.aspx?id=10786> (viewed 8/18/2011).