



August 29, 2014

**Via Email**

Ms. Angela Dickens, Wisconsin Department of Natural Resources

[Angela.Dickens@wisconsin.gov](mailto:Angela.Dickens@wisconsin.gov)

Ms. Delanie Breuer, Public Service Commission of Wisconsin

[Delanie.Breuer@wisconsin.gov](mailto:Delanie.Breuer@wisconsin.gov)

**RE: CUB's Response to WDNR and PSCW Questions on EPA's Clean Power Plan Proposal**

Dear Ms. Dickens & Ms. Breuer:

Thank you for inviting the Citizens Utility Board of Wisconsin (CUB) to comment on the Wisconsin Department of Natural Resources (WDNR) and Public Service Commission of Wisconsin's (PSCW) Questions on the Environmental Protection Agency's (EPA) Clean Power Plan Proposal (also referred to as the "Proposal" or "Rule 111(d)"). CUB recognizes that evaluating the Proposal and developing a State Implementation Plan (SIP) when the rule is finalized is a significant undertaking that will require the efforts of multiple agencies and many stakeholders; therefore, CUB appreciates the consideration of its input on behalf of residential and small business electricity customers at this early stage. We look forward to continuing to work with you on this task.

As evidenced by the questions from WDNR and PSCW, and the publicly available information analyzing and explaining the Proposal, Rule 111(d) presents a number of complex issues that require the experience and input of a variety of stakeholders. Regarding the questions posed by WDNR and PSCW, CUB as a consumer advocate, will be better positioned to provide comments on the topics raised after it has an opportunity to review the input of other stakeholders, particularly input from Wisconsin's electric utilities. Without outside assistance, CUB lacks some of the technical experience that would be helpful to answer certain questions at this point in time, and it believes that many of its responses will be shaped by information provided by the utilities and other stakeholders regarding approaches and outcomes they deem technically feasible. Therefore, CUB respectfully requests that WDNR and PSCW share with CUB and the other stakeholders the answers and comments the agencies receive in response to the questions posed. With the foregoing considerations in mind, CUB offers the following comments.

### **Overarching Issues**

On June 2, 2014, EPA released its proposed Rule 111(d), presenting guidelines for reducing CO<sub>2</sub> emissions from existing fossil fuel-fired power plants (Existing Sources). The Proposal assigns each state interim and final goals, in the form of reduced CO<sub>2</sub> emissions, to achieve ultimate compliance with Rule 111(d). According to EPA, compliance with Rule 111(d) by 2030 will lead to a reduction in CO<sub>2</sub> emissions from Existing Sources of 30% when compared to emissions in 2005. It seems that compliance with Rule 111(d) requires finding a way to make Existing Sources emit less CO<sub>2</sub>, or reducing the amount of generation - and therefore CO<sub>2</sub> emissions - from Existing Sources. It is fair to say this blunt assessment belies the complexity of the task.

#### *System- Versus Unit-Based Approach*

It appears that EPA's interpretation of the Best System of Emission Reduction (BSER) is reasonable in terms of reaching beyond the "fence-line" and not limiting goal-setting to a unit-based approach. EPA is proposing a national rule for states with various generation mixes and challenges to achieving lower CO<sub>2</sub> emissions. It is reasonable, particularly at this early stage, to enable states to consider a variety of approaches to lowering emissions. With EPA defining the electrical system broadly, Wisconsin can draw from a deeper toolbox that not only includes unit-based controls and efficiencies, but also demand-side efficiencies. Additionally, states will not be required to follow any or all of the Proposal's Building Blocks, meaning that if a state determines that the most reasonable method of compliance is entirely inside, or outside, the fence-line a state will be able to develop a corresponding SIP. A broad based approach may also help states identify least cost opportunities to achieve compliance and will likely encourage more thorough integrated resource planning.

### **Setting State Goals**

#### *Building Blocks*

CUB sees EPA's Building Blocks as starting points. It is possible that Wisconsin may utilize all of the Building Blocks, none of the Building Blocks, or something in between. The Proposal does not mandate that states implement each and every building block, and with that flexibility the Building Blocks appear an appropriate approach to setting state goals.

Each Building Block will not be equally applicable to Wisconsin, and the same is likely true for most other states. The Proposal allows Wisconsin to include alternative Building Blocks in the SIP. Regardless of whether a Building Block is EPA's or a new alternative, Wisconsin must not only take technical feasibility into consideration, but it must also consider economic feasibility. This means examining not only costs, but how costs will be paid and who will pay. Here again, having a broad based approach that can incorporate Building Blocks outside the fence-line may prove beneficial in terms of identifying least cost methods of compliance to help build a SIP that maximizes benefits for all Wisconsin residents at a reasonable cost.

Equitable cost allocation should be an element in considering the economic feasibility of a Building Block. Particularly, this may require addressing how unit-based Building Blocks, like Building Block 1 (heat rate improvements) will be financed in light of the stated societal benefits of Rule 111(d). Additionally, Wisconsin should strive to develop Building Blocks that not only provide societal and environmental benefits but also tangible benefits at localized levels, like energy efficiency and related demand-side programs, among a large and diverse mix of residents and businesses across the state.

CUB will not address technical aspects of Building Blocks 1 or 2 in detail at this juncture. However, it is particularly interested in reviewing input from utilities and stakeholders regarding these Building Blocks as each triggers important questions in terms of technical and economic feasibility from the unit level to the wholesale market. Additionally, one estimate applying EPA's option 1 Building Blocks as outlined in the Proposal suggests that approximately half of Wisconsin's final goal compliance may be attributable to Building Blocks 1 and 2 combined. This means that if Wisconsin creates its SIP applying the Building Blocks in the Proposal without further modification, unit-based compliance methods will be expected to account for up to half of Wisconsin's final compliance. Assuming technical feasibility, these Building Blocks appear to represent a large stride toward compliance. However, the Building Blocks as laid out by EPA are not a least cost method of achieving compliance.

A thorough examination of the costs for implementing the Building Blocks, especially unit-based capital projects in the name of Building Blocks 1 and 2, should take place at an integrated statewide level. A broad approach should be implemented because the traditional methods for allocating costs for unit-based capital projects, *i.e.* allocating project costs to customers over time within a utility's service area, may not adequately account for the societal and environmental benefits of Rule 111(d) compliance that will not be limited to individual service territories. Relying on traditional regulatory methods and procedures may create the risk for economic "free riders" if costs associated with Building Blocks 1 and 2 are concentrated within individual service territories. Rather, a system-wide review meant to identify opportunities to achieve large impacts at reasonable costs appears desirable.

#### Building Block 3a

Building Block 3 is premised on the fact that both nuclear and renewables provide generation without the CO<sub>2</sub> emissions of Existing Sources. Building Block 3a includes "at-risk" and under-construction nuclear generation. In addition to nuclear already slated for retirement, EPA determined that 5.8% of nuclear generation in the United States is "at-risk" for retirement, and therefore it assigned a 5.8% credit of each state's nuclear capacity to respective state's Rule 111(d) goals. According to a June 10, 2014 EPA technical support document, Wisconsin has 69 MW of "at-risk" nuclear capacity, or 547 GWh of generation.

In Wisconsin, the license for Point Beach unit 1 expires in October 2030 and the license for unit 2 expires in March 2033, at which point the units will be 60 years old. Wisconsin has a conditional moratorium on new nuclear generation. Thus, it is appropriate to question whether Building Block 3a is practical for Wisconsin. Building Block 3a is not a key component to achieving Rule 111(d) compliance in Wisconsin, and Building Block 3a is of no value in those states without any current or under-construction nuclear generation.

#### Building Block 3b

Increased generation of renewable energy will likely be an important part of Rule 111(d) compliance. Deploying more renewable generation, particularly fuel free (*i.e.*, solar and wind) units, creates the opportunity to re-dispatch generation from Existing Sources and thereby lower the state's CO<sub>2</sub> emissions. Additional renewables can also serve new load that might otherwise have been served by Existing Sources and put upward pressure on emissions levels. Of course, expanding intermittent generation poses challenges to the conventional electrical system, and CUB would support encompassing renewables within an integrated resource plan for Rule

111(d) compliance. Developing consistent and clear statewide policies for future renewable deployment is likely to prove beneficial in identifying milestones toward compliance.

Building Block 4

CUB believes Building Block 4, increased energy efficiency, is a key outside the fence-line Building Block for achieving Rule 111(d) compliance. Indeed, it is an area where Wisconsin can take the lead and set an example for the country. According to EPA, in 2012 Wisconsin was one of eight states with energy efficiency incremental saving as a percentage of retail sales between 1.0% and 1.49%, with only three states exceeding that range. Thus, Wisconsin is better positioned than most states to reach 1.5% incremental savings, but with 2012 incremental savings calculated at 1.05% the state will need to close a gap. At EPA's 0.20% per year pace of improvement that gap can close quickly, and all states are expected to reach 1.5% incremental savings per year by 2025. CUB encourages WDNR and PSCW to work with Focus on Energy (Focus) technical staff to determine if EPA's pace of improvement is appropriate and whether Wisconsin can reach and sustain yearly incremental savings beyond 1.5%.

The Focus on Energy program is a logical choice for carrying out the work of this Building Block. Wisconsin has already invested in a sound program that is achieving quantifiable results, and that makes Focus an attractive vehicle for Building Block 4. But implications of the federal-enforceability of the SIP as it relates to Focus should be fleshed out. Also, utilizing Focus for Building Block 4 creates added importance for the Quadrennial Planning Process because changes in goals and policies will need to be considered in the context of Rule 111(d) compliance, and long term planning for Focus and any similar programs will need to integrate SIP milestones.

An important aspect of meeting, sustaining, and perhaps exceeding the 1.5% incremental savings per year goal is removal of barriers to energy efficiency deployment. First and foremost, this should include changes to existing legislation that limits spending on Focus. This should also include bolstering information efforts to reach as many Wisconsin residents as possible, continuing easing of financial constraints for low income residents, and increased incentives to adaptation of energy efficiency measures not only for home and business owners but also for landlords and others who may not directly pay electricity costs but have the ability to improve a building's efficiency. Finally, clarification should be sought on whether EPA considers Wisconsin to be a net importer of electricity for purposes of Building Block 4.

CUB appreciates the opportunity to provide WDNR and PSCW with its initial comments and concerns regarding Rule 111(d). CUB looks forward to working with the agencies and other stakeholders over the coming months and years to identify and address the complex issues that surround Rule 111(d) now and are likely to persist even after the rule is finalized. Please feel free to contact me directly with any questions.

Sincerely,



Kira E. Loehr  
Acting Executive Director and General Counsel