LA DWP Los Angeles Department of Water & Power

CUSTOMERS FIRST

July 30, 2018

Mr. Kevin Orellana
Planning, Rule Development and Area Sources
South Coast Air Quality
Management District
21865 Copley Drive
Diamond Bar, CA 91765

Dear Mr. Orellana:

Subject: Proposed Amended Rules 2001 – Applicability and 2002 – Allocation for Oxides of Nitrogen and Oxides of Sulfur (SOx)

The Los Angeles Department of Water Power (LADWP) appreciates the opportunity to provide comments on Proposed Amended Rules (PAR) 2001 and 2002. LADWP remains committed to working with the South Coast Air Quality Management District (SCAQMD) to transition electric generating facilities (EGFs) from the current RECLAIM program to Rule 1135 in an efficient and effective manner. LADWP strongly believes that SCAQMD should strive to complete that transition in a manner that will achieve the air quality goals of the Clean Air Act (CAA), while taking into account energy and economic impacts – including the minimization of any potential adverse impacts on the electric power grid and the economy. To that end, LADWP respectfully submits the following comments on the July 20, 2018 versions of PARs 2001 and 2002.

PAR 2001(j) – Rule Applicability

PAR 2001(j) currently identifies in Table 1 those Oxides of Nitrogen (NOx) regulatory requirements that do not apply to NOx RECLAIM facilities. In the case of EGFs, these requirements include the NOx emissions limitations established in Rule 1135 and the New Source Review (NSR) permitting requirements under Regulation XIII. In PAR 2001, SCAQMD is proposing to add a new transitional provision requiring NOx RECLAIM facilities "to comply with all NOx provisions in rules contained in Table I that are adopted or amended on or after (date of amendment)." The draft staff report further states that even if a facility remains in the RECLAIM program after the amendment date of applicable rules (such as newly revised Rule 1135), the facility "would be required to comply with the NOx requirements of each rule that is amended if it operates equipment covered by several of these rules." LADWP generally agrees with this approach and recommends that SCAQMD add clarifying language that the RECLAIM facility's obligation to exit is not tied to when the landing rule is adopted but tied to the Best Available Retrofit Control Technology (BARCT)

compliance deadline of the landing rule. In particular, the clarifying language should explicitly confirm that affected facilities could remain in the RECLAIM program until at least some reasonable period of time after the date that the facilities must comply with the newly established NOx BARCT limitation.

The applicability provision of PAR 2001(j) should also be closely coordinated with the RECLAIM exit rules in PAR 2002. For example, PAR 2002(f)(11) requires all RECLAIM facilities to exit by a date no later than December 31, 2023. This absolute deadline is potentially in conflict with the applicability rules of PAR 2002(j), which do not allow an affected facility to exit RECLAIM until after the NOx BARCT compliance deadlines of the landing rules. As SCAQMD recognizes, AB 617 allows for the implementation of the new BARCT limitations until as late as December 31, 2023. Given that some affected RECLAIM facilities may need to take the entire compliance period allowed under AB 617, it is impracticable to require these facilities to exit RECLAIM on the same date that they will be required to achieve compliance with their newly established BARCT limits. To address this situation, LADWP recommends SCAQMD review PAR 2001(f)(11) to require all facilities to exit RECLAIM by no later than July 1, 2024, which is six months after the latest BARCT compliance deadline under AB 617.

Extension of the final RECLAIM exit date to July 2024 should not pose risks to air quality or the environment. Each facility that remains in RECLAIM would continue to meet the command-and-control NOx limits as required per the facility's landing rule. It is reasonable to expect that such facility would continue to comply with RECLAIM's monitoring, reporting and recordkeeping requirements as the facility would have RECLAIM Trading Credits (RTCs) in its facility accounts to reconcile its NOx mass emissions on a quarterly and annual basis.

LADWP urges SCAQMD to include clarifying language in Regulation XIII and/or PAR 2001 that explains the timing with respect to applicability of Regulation XIII. Although NSR is not a regulatory control program (e.g. command-and-control landing rule) but a pre-construction permitting program, it is included in Table I amongst other NOx emission reduction rules. PAR 2001(j)(2) states that NOx RECLAIM facilities are required to comply with the NOx provisions in rules contained Table I that are adopted or amended on or after (date of adoption). In particular, this provision introduces a potential problem with the timing of applicability of Regulation XIII – NSR. Since a RECLAIM facility that has not yet exited the program would continue to hold RTCs, it would be appropriate that the facility remain subject to Rule 2005, the RECLAIM NSR rule, not Regulation XIII as listed in Table I. LADWP recommends the following clarifying language to the description associated with Reg. XIII: NSR <u>(after a NOx RECLAIM facility exits).</u>

<u>Facilities Under Common Ownership – Exit from RECLAIM</u>

SCAQMD should allow RECLAIM facilities under common ownership to exit the RECLAIM program in a coordinated fashion to account for the facilities' operational requirements. For the reasons discussed below, this flexibility in the exit rules is especially important in the case of EGFs, such as LADWP, that operate their EGFs as part of an integrated electric utility system.

LADWP is planning on retrofitting a significant amount of its generating units with selective catalytic reduction (SCR) technology to meet PAR 1135's proposed NOx limits. LADWP will have to complete SCR retrofit installations within a relatively short period of time in coordination with its plans to shut down and possibly replace other existing generating units subject to the once-through-cooling requirements under Section 316(b) of the Clean Water Act. As a result, LADWP will need to complete these SCR installations during facility outages in a staggered manner over a multi-year period to avoid adversely impacting reliability of the electricity system. As a result of this staggering of the SCR retrofit installations, a BARCT compliance date of December 31, 2023 will very likely be necessary for LADWP's affected facilities.

Second, another factor weighing strongly in favor of a flexible RECLAIM exit deadline is the revisions to key conditions and requirements of the facility permits. In the case of LADWP's electric utility system, it owns and operates four RECLAIM facilities that have Title V facility permits. These permits contain many permit conditions that currently are tied to RECLAIM rules. The uncertainty with respect to the timing of when the amended permits are effective is another factor to consider in facilities' exit from RECLAIM.

Third, LADWP operates its EGFs in an integrated, system-wide manner that requires load shifting among its Los Angeles basin facilities. Specifically, this load shifting could result in substantial swings in generation among LADWP's Los Angeles basin EGFs due to a wide range of changing circumstances, many of which could be unforeseen and unavoidable. For example, LADWP could experience a forced outage of an EGF, unforeseen loss of transmission which requires shifting of generation to relieve loading on remaining transmission circuits or other electric power system emergency.

Although a LADWP EGF may meet Rule 1135's NOx limits and be ready to exit the RECLAIM program well before the December 31, 2023 exit deadline, that EGFs's exit may result in compliance challenges for the other LADWP facilities still remaining within the RECLAIM program. A significant reduction in LADWP's system-wide RTC holdings due to the exit of one or more facilities from RECLAIM would result in less RTCs available to transfer from one facility to another in response to significant shifting of generation among LADWP's Los Angeles basin EGFs. SCAQMD should consider the operational issues associated with facilities under common ownership in setting the deadlines for exiting the RECLAIM program. In particular, SCAQMD's rules should establish a mandatory RECLAIM exit date of no earlier than July 1, 2024 and allow facilities under common control of one owner or operator to exit collectively as an integrated system rather than on a piecemeal basis.

SCAQMD Executive Officer Determination that a Facility's Submission is Complete

PAR 2002(f)(7) authorizes the Executive Officer to determine if the facility will be transitioned out the NOx RECLAIM program based on whether a facility's submission of permitted and unpermitted NOx RECLAIM emission equipment and permitted NOx emission levels are complete. Furthermore, PAR 2002(f)(7)(B) states that failure to submit the required information to SCAQMD in a timely manner "will result in the prohibition on all RTC uses, sales, or transfers by the facility until all requested information is submitted." LADWP believes that the prohibition on all RTC uses is unnecessarily punitive and would

result in a facility's inability to comply with the RTC holding requirements of the RECLAIM regulation. To address this problem, LADWP recommends the following amendments in underline/strikeout format:

> Failure to submit the requested information within 45 days of the initial determination notification date or failure to timely revise an incomplete submission, as indicated by the Executive Officer, will result in the prohibition on all RTC ~~uses,~~ sales~~, or transfers~~ by the facility until all requested information is submitted.

Restrictions Placed on Existing Facilities

PAR 2002(f)(10) imposes stringent requirements on the owner or operator of a RECLAIM facility that receives a final determination to exit the RECLAIM program. First, paragraph (f)(10)(A) prohibits all sales and transfers of "any future compliance year RTCs as of the date specified in the final determination notification." This restriction could be a problem for LADWP and other electric utilities that may need to exit their EGFs collectively as an integrated system rather than on a piecemeal basis as described above. To address this problem, LADWP recommends that this restriction on the sale or transfer of future compliance year RTCs will apply to only those future years when the EGFs no longer have RTC compliance obligations under the RECLAIM program.

Second, paragraph (f)(10)(B) prohibits the procurement of Emission Reduction Credits (ERCs) under Rule 1304 to offset any emission increases until NSR provisions governing emission calculations and offsets for former RECLAIM sources are amended after (date of adoption). This proposed language appears to require a RECLAIM facility that has not yet exited NOx RECLAIM to provide ERCs for emission increases which appears to conflict with SCAQMD's intent. The draft report appears to state that the intent PAR 2001 (which is linked to PAR 2002(f)) is to require RECLAIM facilities *that have exited* the NOx RECLAIM program to provide ERCs to cover emission increases (but only from the open market until SCAQMD amended Regulation XIII). To clarify when the NSR requirement applies, LADWP recommends the following amendment to PAR 2002(f)(10):

> The owner or operator of any RECLAIM facility that receives a final determination from the Executive Officer pursuant to paragraph (f)(8) and has subsequently exited NOx RECLAIM:

Municipal or Public Electric Utility Definition

PAR 2002(f)(4) defines an "Electricity Generating Facility" as "a facility that generates electrical power and is owned or operated by or under contract to sell power to California Independent System Operator Corporation, a municipal or public electric utility, or an electric utility on Santa Catalina Island, with the exception of landfills, petroleum refineries, publicly treatment works, and cogeneration facilities." This approach of differentiating between the segments of the electric generating sector is potentially confusing. It seems to conflict with SCAQMD's stated intent to establish only one regulation that applies to all affected EGFs. For these reasons, LADWP recommends that SCAQMD establish one set of applicability criteria for determining whether a facility is subject to the PAR 1135

requirements. We suggest SCAQMD consider using the following language for the definition of "Electric Generating Facility:"

> ELECTRIC GENERATING FACILITY (EGF) means a facility with electric power generating unit(s) that generates electricity for distribution in the State or local grid system, regardless of whether it also generates electricity for its own use or for use pursuant to a contract, with the exception of landfills, petroleum refineries, publicly owned treatment works, and cogeneration facilities.

If SCAQMD decides to retain the current definition of EGF, LADWP has concerns that the definition of "Municipal or Public Electric Utility" is not defined. As an alternative, in lieu of introducing a new definition for "Municipal or Public Electric Utility" LADWP recommends clarifying the definition of EGF as shown below in underline/strikeout format:

> ELECTRIC GENERATING FACILITY means a facility that generates electrical power and is owned or operated by or under contract to sell power to California Independent System Operator Corporation, ~~municipal or public electric utility,~~ a local publicly owned electric utility (as defined in the California Public Utilities Code Section 224.3), or an electric utility on Santa Catalina Island with the exception of landfills, petroleum refineries, publicly owned treatment works, and cogeneration facilities.

If you have any questions or would like additional information, please contact me at (213) 367-0403 or Ms. Jodean Giese at (213) 367-0409.

Sincerely,

Mark J. Sedlacek

MARK J. SEDLACEK
Director of Environmental Affairs

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