

Written Testimony

**Eric Svenson, Vice President
Policy and Environment, Health & Safety
Public Service Enterprise Group**

To

**United States Senate
Committee on Environment and Public Works
Clean Air and Nuclear Safety Subcommittee**

**Oversight: EPA's Proposal for Federal Implementation Plans to Reduce Interstate
Transport of Fine Particulate Matter and Ozone**

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Good morning Chairman Carper, Senator Vitter, and Members of the Subcommittee. I am pleased and honored to appear before you today on behalf of Public Service Enterprise Group Incorporated (PSEG). My name is Eric Svenson, Vice President of Policy and Environment, Health & Safety at PSEG. Mr. Chairman, I would like to thank you for the opportunity to testify on behalf of PSEG on EPA's proposed Transport Rule. The rule is designed to limit emissions of SO₂ and NO_x from power plants in 31 states and the District of Columbia.

PSEG supports EPA's efforts to address the persistent ozone and fine particle nonattainment challenges in the Eastern U.S. by limiting air pollution transport under the "good neighbor" provisions of the Clean Air Act, and I want to start by offering the following key points in response to EPA's proposed rule:

1. First, PSEG believes that the electric power industry can meet the emissions caps and timelines proposed by the Transport Rule. The emissions reductions proposed are essential to meet the air quality goals required by the Clean Air Act and would achieve the substantial human health benefits identified by EPA.
2. Second, we believe the rule proposes a reasonable compliance structure given the constraints imposed on EPA by the D.C. Circuit Court's decision to remand the Clean Air Interstate Rule (CAIR). We believe it is important to facilitate a more robust trading market and better integrate the program with the existing Title IV SO₂ allowances, but we

recognize that it might only be possible to address these issues through new federal legislation.

3. Regulatory certainty is critical for the electric power industry to be able to make long-term capital investments. We have seen repeated legal delays and resulting uncertainty with EPA's air regulations. We continue to believe comprehensive legislation limiting power plant emissions with a robust trading mechanism that ensures compliance with the national ambient air quality standards (NAAQS) would provide the certainty our industry needs to make the right investment decisions.

PSEG

PSEG is a publicly traded diversified energy company with annual revenues of more than \$12 billion. Our family of companies distributes electricity and gas to more than two million utility customers in New Jersey and owns and operates approximately 16,000 megawatts of electric generating capacity concentrated in the Northeast, Mid-Atlantic, and Texas. We own a diverse fleet of generating units, including 2,400 megawatts of coal-fired capacity and 3,700 megawatts of nuclear capacity.

PSEG has long supported an integrated, multi-pronged strategy to reduce power plant emissions, and we have worked closely with our state and federal partners to advance this goal. We have strongly supported Senator Carper's multi-pollutant legislation because it provides the electric power sector with a greater degree of business certainty as we make long-term investment decisions. We have advocated for tighter limits on power plant NO_x and SO₂ emissions in order to address the air quality challenges that have plagued the state of New Jersey and other states in the region. The New Jersey DEP estimates that 26 to 82 percent of the ozone problem under the current NAAQS in New Jersey stems from upwind sources of pollution outside of the state, and as EPA tightens the NAAQS, this contribution will only increase.

PSEG has also been a leader in proactive environmental action and has invested heavily in new, clean generation. Since 1990, PSEG has invested more than \$3 billion to replace inefficient, older generating units and upgrade existing facilities in New Jersey, New York, Connecticut, Pennsylvania, and other states. Two-thirds of this spending has occurred in the last five years.

Through these efforts, PSEG has dramatically lowered its emissions of NO_x, SO₂, and fine particulate matter. Today, our domestic electric generation fleet is among the cleanest in the country, and our performance will continue to improve as we complete the installation of advanced emissions control technologies – including SCRs, SO₂ scrubbers and baghouses – at our New Jersey coal-fired units by the end of this year. We have invested to reduce mercury and other emissions at our Connecticut coal plant. Through the installation of a baghouse and carbon injection system, we have reduced the plant’s mercury emissions by more than 90 percent. In Pennsylvania, we have retrofitted the Keystone facility with both an SCR and a SO₂ scrubber. Additionally, the Conemaugh facility in Pennsylvania has been retrofitted with an SO₂ scrubber, and we are evaluating whether to also add an SCR system for NO_x control.

Our efforts are also creating jobs. For example, installing the latest emissions control equipment at both our Mercer and Hudson plants created approximately 1,600 construction jobs at the peak of construction. In addition, we are adding staff – approximately 25 new positions at each plant – to operate and maintain the equipment which, we estimate, will reduce mercury, NO_x, SO₂ and particulate matter emissions by 80 to 90 percent or more.

We are also investing over \$1.25 billion in energy efficiency and renewable energy capacity. As a result, we are very familiar with the technologies, capital costs, and logistics associated with meeting the requirements of a regulation such as EPA’s proposed Transport Rule. Moreover, we will have completed these investments four years in advance of the schedule contemplated by the Transport Rule.

As EPA notes in the proposal, the Transport Rule is the first of several rules to be issued over the next two years that will target power plant emissions. It should come as no surprise to the industry that EPA is seeking to further limit NO_x and SO₂ emissions as well as other air pollution emissions. Most companies, including PSEG, have continued with the installation of controls despite the legal uncertainties created by the challenges to CAIR. We believe it is important for EPA to move forward with the Transport Rule and are encouraging EPA to coordinate its upcoming rules to the extent that it has the authority to do so.

Benefits of the Transport Rule

While the rule is quite complex, and we continue to evaluate the many details of the proposal, we are supportive of the proposed emission caps for NO_x and SO₂ as well as the timelines for the reductions. The rule also establishes an important framework by which EPA can revise the Transport Rule to provide further reductions to address any revised NAAQS. By 2014, EPA estimates that the Transport Rule, in combination with other state and EPA actions, will reduce power plant SO₂ emissions by 71 percent and NO_x emissions by 52 percent below 2005 levels. Although the court remanded all of CAIR, the electric power industry remains on track to achieve much of these reductions based on the installations that were planned to comply with CAIR.

EPA's air quality modeling demonstrates that the Transport Rule will help bring most areas in the Eastern U.S. into attainment with the 1997 ozone and fine PM NAAQS. Most significantly, EPA has concluded that the Transport Rule will ensure the achievement of important health benefits that should not be delayed. EPA's analyses explain that fine particulates, formed, in part, by NO_x and SO₂, contribute significantly to respiratory problems such as asthma attacks and chronic bronchitis, significant health problems such as heart attacks, and premature deaths. Additionally, NO_x contributes to the formation of ground-level ozone, which has been linked to respiratory problems and can also lead to premature death. EPA estimates the annual benefits of the proposed rule range from \$120-\$290 billion (2006 \$) in 2014. EPA predicts that by implementing the proposed rule, 14,000 to 36,000 premature deaths will be avoided as well as 23,000 non-fatal heart attacks.

In addition to the health benefits of the rule, by bringing these areas into attainment, EPA is lifting an important economic barrier in regions where industrial facilities and power plants would otherwise be required to obtain emission offsets in order to expand their operations. This requirement discourages development due to the increased permitting and financial obligations compared to attainment areas.

Electric Power Industry Can Meet the Requirements of the Transport Rule

We believe that the electric power industry is capable of meeting its obligations under the Transport Rule and other provisions of the Clean Air Act while maintaining electric system reliability. While there may be isolated reliability issues that will need to be addressed, the Transport Rule and other air pollution regulations affecting the electric power industry can be effectively managed while maintaining electric system reliability. There are several factors that lead us to this conclusion.

- First, the industry has already made substantial investments in air pollution control technologies, as reflected in the substantial improvements that have occurred to date. Since 1990, power plant emissions of SO₂ and NO_x have been reduced by 64 percent and 70 percent, respectively, and over 65 percent of coal-fired generating capacity has been retrofitted with SO₂ scrubber controls or will soon have scrubber controls installed.
- Second, to the extent that the industry opts to retire some of its oldest generating units rather than investing in controls, this will likely have the largest effect on smaller, less efficient units, and we believe the electric system has the excess generating capacity necessary to absorb these retirements without impacting reliability.
- Third, the electric power sector has a broader range of strategies available for reducing emissions while maintaining electric system reliability beyond simply installing end-of-the pipe controls. Companies are making significant investments in new clean generation, energy efficiency programs, and load management programs. As I noted earlier, PSEG is planning to invest over one billion dollars in energy efficiency and renewable energy capacity. PJM recently completed a capacity auction to secure capacity resources to meet the region's electricity needs for 2013 and 2014. Three fourths of the new capacity resources clearing the auction came from renewable energy, demand response, and energy efficiency resources.

Potential Implications of Transport Rule for Allowance Markets

The D.C. Circuit court's CAIR decision limited EPA's authority to allow interstate trading. Despite this constraint, our first impression is that EPA has proposed a reasonable approach that balances the industry's ability to trade allowances and implement the most cost-effective control options while at the same time recognizing that the Clean Air Act requires EPA to prohibit emissions that significantly contribute to nonattainment or interfere with maintenance in downwind states. PSEG is a strong supporter of market-based regulatory approaches because of their cost effectiveness, and we hope that EPA will, at a minimum, preserve its preferred trading approach as it develops its final rule. The cap-and-trade approach has a long history of success in regulating power plant emissions.

Based on the D.C. Circuit's decision, the Agency is not proposing an allocation methodology that would rely on existing Title IV allowances to comply with the Transport Rule. This creates an unfortunate dynamic whereby companies, such as PSEG, that have invested in pollution control equipment are essentially penalized as the value of their banked allowances is reduced by exclusion of Title IV allowances in the new trading program. Additionally, the allocation structure proposed in the Transport Rule fails to recognize these early investments. These early reductions are the ones that EPA and Congress should be encouraging, and we are concerned that an unintended consequence of the proposal will be to deter companies from taking proactive actions to reduce emissions. PSEG believes it is important to restore this lost value, preferably by incorporating Title IV allowances into any new program, but at a minimum, allocating any new allowances in a manner that recognizes early investments to reduce emissions. The approach proposed by EPA rewards the highest emitting sources by allocating allowances based on emissions.

Both of these issues may be better addressed through legislation. Installing end-of-pipe pollution controls is a capital intensive undertaking requiring long-term investment decisions. A well-functioning market-based program encourages companies to make early reductions by giving them the confidence that allowances will have ongoing value. We are continuing to evaluate how the Transport Rule's trading may work in practice, but our initial impression is that its complex structure may significantly curtail the trading of allowances, driving up the costs of

the program. Given that EPA's authority to establish a robust trading market is severely constrained, legislation could provide the market structure and certainty to allow the industry to make the investment decisions that achieve the greatest improvements in air quality.

Mr. Chairman, as I indicated earlier, PSEG was an early proponent of your Clean Air Planning Act, which would have established a national, multi-pollutant cap-and-trade program for the four major power plant pollutants -- SO₂, NO_x, mercury, and carbon dioxide. We are urging Congress to enact this year a market based program that reduces the electric sector's greenhouse gases emissions. Additionally, we believe your Clean Air Act Amendments of 2010, which would control emissions of NO_x, SO₂ and hazardous air pollutants, including mercury, would provide the necessary long-term business certainty and restore the allowance market that we believe the Transport Rule may not achieve.

Conclusion

In conclusion, we support EPA's efforts to help bring us closer to attainment of the important health standards and believe the Transport Rule provides a reasonable framework given the confines of the D.C. Circuit decision. We have concerns, however, with the limitations placed on allowance trading and the effect the program will have on Title IV SO₂ allowances. We believe there may be an opportunity to enact legislation that ensures a robust and equitable trading market with stringent emission caps to ensure attainment of the current and future NAAQS. We look forward to working with the Committee and your staff to evaluate whether Congress can pass such legislation this year.

Mr. Chairman and members of this Committee, thank you for your consideration, and I would welcome any questions you may have.