National Rural Electric Cooperative Association
A Touchstone Energy® Cooperative

November 2, 2011

Cass Sunstein
Administrator, Office of Information and Regulatory Affairs
Office of Management and Budget
Eisenhower Executive Office Building
Room 216
Washington, District of Columbia 20503

Dear Mr. Sunstein:

Thank you for taking the time to meet with NRECA on Monday to discuss the importance of providing sufficient time for all utilities to comply with the requirements of the forthcoming Utility MACT regulation. This is a particularly important issue for not-for-profit electric cooperatives that are working hard to keep electricity rates as affordable as possible while meeting our nation's environmental objectives.

NRECA is concerned that even under ideal conditions, EPA has little basis to assume that the entire electric utility industry could install the significant number of pollution control devices that will be required to meet the new regulation within three or four years. This is especially true for cooperatives and other small entities that might have just one or two units in need of additional pollution control devices. Oftentimes, small systems must compete with larger utilities for the limited number of engineering experts and equipment venders that would profit most from first dealing with larger clients that offer multiple projects with smaller administrative overhead on a dollar revenue basis. In these cases, small systems are simply put at the back of the line – which is an unfortunate position to be in when regulations require compliance within an overly-strict timeframe.

Further, when these units are taken off line to be retrofitted with MACT emissions controls, substitute baseload generation would have to be purchased in the wholesale market under uncertain market conditions that are likely to exist as the entire utility industry undertakes MACT obligations. Small systems needing to retrofit one or two units would need to schedule outages to meet extremely short compliance deadlines (absent an extension of time) irrespective of the availability of affordable alternative generation or even whether substitute baseload power is available at all.

NRECA believes that the best option to provide the necessary additional time to comply with the Utility MACT is an Executive Order delegating authority to grant one or more extensions of time under the Clean Air Act (section 112(i)(4)) for up to two years each based on a finding that "(1) the technology to implement such standard is not available, and (2) it is in the national security interest of the United States to do so." Such an

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Executive Order should clearly define the elements a utility must show to receive an extension (including the utility's good faith efforts to install emission controls and potential reliability or economic impacts detrimental to the nation or region) and should be as simple and straightforward as possible.

Finally, NRECA does not believe that administrative or consent orders (under section 113 of the Clean Air Act) are a suitable alternative. Significant uncertainty would remain for cooperatives that are working to install additional pollution control equipment (but would be unable to do so within the time allowed for the reasons outlined above) because lawsuits challenging individual decisions to grant additional time would be extremely likely under the administrative order scenario.

Again, thank you for meeting with NRECA to discuss this important issue. Please do not hesitate to contact me to discuss this matter further.

Sincerely,

Kirk Johnson
Senior Vice President, Government Relations
National Rural Electric Cooperative Association

Cc: Lisa Jackson, Administrator, Environmental Protection Agency
Heather Zichal, Deputy Assistant to the President for Energy and Climate Change
Dominic Mancini, Chief, Natural Resources and Environment Branch, OIRA