U.S. Environmental Protection Agency

Virtual Public Hearing on the Ozone Transport Commission's Recommendation Under Section 184(c) of the Clean Air Act

1:00 p.m. - 3:00 p.m. (Eastern Time)

Tuesday, February 2, 2021

EPA Panel:

BETH MURRAY, Chairman of the Panel, Office of Air and Radiation

MIKE GORDON, EPA Mid-Atlantic Office (Region 3)

KAYTRUE TING, Office of General Counsel

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PROCEEDINGS

MS. MURRAY: Good afternoon and welcome to EPA's virtual public hearing on the Ozone Transport Commission's Clean Air Act (CAA) Section 184(c) recommendation. My name is Beth Murray, and I work in EPA's Air Office. I will be the Chair of today's virtual public hearing.

Because of current CDC (Centers for Disease Control) recommendations, as well as state and local orders for social distancing to limit the spread of COVID-19, we are holding this hearing virtually. For many of us, myself included, this is a first. And I should add that it's also a good thing, given all the snow we have gotten in the last few days!

I'd also like to thank everyone for joining us today. We are here to listen to your comments on the Ozone Transport Commission's Clean Air Act section 184(c) recommendation.

Joining me today on the panel are Mike Gordon, from EPA's Mid-Atlantic office in Region 3, and Kaytrue Ting from EPA's Office of General Counsel.

On June 8, 2020, the OTC submitted a recommendation to EPA under section 184(c) of the Clean Air Act, in which they recommended that EPA require Pennsylvania to adopt daily limits on emissions of nitrogen oxides from coal-fired power plants with existing SCR (Selective Catalytic Reduction) or SNCR

(Selective Non-Catalytic Reduction) with limits at least as stringent as limits in place for plants in Delaware, Maryland, or New Jersey. The stated purpose of the recommended limits would be to help to ensure that controls are optimized throughout the ozone season in order to assist downwind states in attaining the ozone standard by the attainment deadlines outlined in the Clean Air Act. EPA issued a notice of receipt in the Federal Register on July 7, 2020, and on December 15, 2020 posted a Notice of Public Hearing and Supplemental Information which was then published in the Federal Register on January 15, 2021. The supplemental notice summarizes the recommendation and supporting information submitted by the OTC and provides additional information that the Agency believes may be relevant in reaching a decision on the recommendation. In addition to today's public hearing, EPA is accepting public comment on this recommendation until March 8, 2021.

Regarding the closing date of the public comment period, last week EPA received a written request from the State of Maryland to extend the comment period on the supplemental notice by 30 days. EPA is currently considering that request and will make our decision known through formal notice as well as a statement on our website in the near future.

Additionally, following the public comment period, EPA will consult with the affected states as required by the Act before taking any final action on the recommendation.

Before we get started, I'd like to go over how we will conduct the virtual hearing. We will be calling witnesses one by one for today's testimony. This morning we emailed the order of the speakers to everyone who registered for the hearing. We ask that you monitor the list of speakers and be prepared to present your testimony when it is your turn to speak.

When we call your name, you will need to dial *6 to unmute yourself. And prior to making a statement, please state your name and spell it to help make sure we have an accurate transcript of these proceedings. Your comments will be transcribed and included in the docket along with the other comments EPA receives on this matter.

Each speaker will have up to five minutes to provide their oral testimony. We will be monitoring each speaker's time and out of respect for subsequent testifiers, we ask speakers to end promptly at five minutes or before.

If you would like to testify but did not request to speak in your registration, you will have the opportunity once we give all the scheduled speakers their turn, and we will try to accommodate everyone who wants to testify today.

We are here to listen to you; however, a panel member may ask questions to clarify your comments. And with that being said, we will not be responding to questions.

Thank you again for taking the time today to share your comments on EPA's proposal.

And I will now turn it over to Kim Liu to call on the first speaker.

MS. LIU: Our first speaker is Kelly Crawford from DC (District of Columbia) Department of Energy and Environment. You can hit *6 to unmute yourself and you have five minutes.

KELLY CRAWFORD, District of Columbia Department of Energy and Environment

MS. CRAWFORD: Thank you. Good afternoon. My name is Kelly Crawford. I am the Associate Director for Air Quality at the DC Department of Energy and Environment (DOEE). DOEE is a leading authority on energy and environmental issues affecting the District of Columbia. In relation to air, DOEE is a lead agency in ensuring health-and-welfare-based air quality standards are attained and maintained. DOEE consists of more than 350 dedicated engineers, biologists, inspectors, environmental specialists, public outreach specialists, and support staff who are working to protect and restore the environment, conserve

natural resources, mitigate pollution and climate change, and increase access to clean and renewable energy, and secure sustainable futures for over 700,000 residents who called the District home. I'm speaking today on EPA's Notice of Public Hearing and Supplemental Information published in response to the OTC recommendation submitted under section 184(c) of the Clean Air Act.

I'm here to express DOEE's concern and discouragement with the approach EPA appears to be taking in review of the OTC recommendation expressed in the supplemental notice. Before I discuss EPA's feedback on the notice itself, we would like to express our disappointment on the timing of this action. The time frames required under the Clean Air Act stipulate that this hearing should have been held by September 4th, 2020. Given this delay, it's very likely that the remedies requested by OTC's petition will not go into effect by the 2021 ozone season even though there would have been more than adequate implementation time had EPA followed the express deadlines outlined under the Clean Air Act. This means that yet another ozone season where our District residents' health will be negatively impacted from issues that could have been controlled. These delays have real life consequences for the health of our residents, and for EPA to ignore federal law is problematic to say the least.

The District continues to monitor nonattainment for the 2015 ozone NAAQS looking at certified data. OTC modeling has found that, in the District, emissions

from Pennsylvania contribute about the same magnitude of ozone as emissions originating from within the District itself. Regarding EPA's feedback on the notice, we must first address a major flaw in EPA's analysis of the OTC recommendation. The recommendation specifically called for daily limits to be placed on EGUs with installed post-combustion controls. However, through the supplemental notice, EPA consistently focuses on average emissions and emission rates throughout the ozone season. EPA's methods of analysis might be appropriate if the metric for meeting the health-based ozone NAAQS was in terms of an annual average ozone season or another form that encompasses a longer time span, but ozone levels are evaluated based on daily maximum 8-hour average readings — the fourth highest daily maximum to be precise. Therefore, EPA's evaluation of the recommendation should be based on that same standard. EPA's analysis needs to consider how the EGUs in Pennsylvania are behaving on the days with the highest ozone levels and the days where the units are emitting at their maximum daily levels. Averaging out emissions and emission rates over an entire ozone season clouds the evaluation, leaving the conclusions in the supplemental notice muddled. That being said, portions of the EPA analysis did illuminate the need for the required daily limit. The evidence from the data presented for Homer City 2, for example, shows that daily average rates are well above the rates typically associated with a properly operated selective catalytic reduction system. In 2019, for instance, EPA shows

that in every month of the ozone season, save October, the median emission rate was indicative of an SCR that was not operating optimally. In many of those months, even the maximum emission rate was well above the 0.12 pounds per million BTU, which the District has found to be a reasonable control rate for coal-fired EGUs. In a region with persistent ozone nonattainment, this is not acceptable. Fully operating SCRs are commonly used control technologies that have been in place for decades. When conducting cost benefit analysis for emission reduction, EPA considers the baseline cost of obtaining emission reductions through the use of an SCR to be simply the cost of operating the already-installed control at a fully operational level. Given the minimal cost, that EPA has not already required these controls to be fully operational under RACT (Reasonably Available Control Technology) requirements for the 2008 ozone NAAQS is unreasonable. No control is more reasonable than a control that solely requires operating costs to achieve reductions. It will be irrational for EPA to deny this petition given that it would only require some of the largest polluters in the Ozone Transport Region to run post-combustion controls that they already have installed. The evidence outlined in the OTC recommendation clearly demonstrates that post-combustion controls ought to be used and need to be operated on a daily basis during the ozone season, as is commonplace in Maryland, New Jersey, and Delaware. The analysis of the behavior of Homer City 2 provides a clear indication that daily limits requiring

units to run installed controls are reasonable and necessary. EPA should accept OTC's recommendation and require Pennsylvania to adopt daily limits during ozone season in its controlled EGUs in line with best practices. Thank you.

MS. LIU: Thank you, Kelly. Up next, we have Thomas Schuster from the Pennsylvania Chapter of the Sierra Club. You can hit *6 to unmute yourself and begin whenever you're ready.

THOMAS SCHUSTER, Sierra Club Pennsylvania Chapter

MR. SCHUSTER: Good afternoon. My name is Tom Schuster. I am the Clean Energy Program Director for the Pennsylvania Chapter of Sierra Club and I'm speaking today on behalf of our roughly 30,000 members in the Commonwealth in support of the OTC's petition for EPA to place additional restrictions on pollution from coal-fired power plants in Pennsylvania. Ozone pollution, resulting primarily from emissions of NO_X, presents a serious public health concern. The five county Philadelphia Metro area remains in nonattainment for the 2015 ozone standard, along with counties in northeastern Maryland, northern Delaware, and southern New Jersey.

Ozone is a corrosive air pollutant that inflames the lungs, constricts breathing, and likely kills people. It causes and exacerbates asthma attacks, emergency room visits, hospitalizations, and other serious health harms. Ozone--

induced health problems can force people to change their ordinary activities, requiring children to stay indoors and forcing people to take medication and miss work or school. NO_X emissions also contribute to the formation of fine particulate matter in the atmosphere. A recent study concluded that fine particle pollution increased COVID-19 mortality in North America by about 17% on average. Coal-fired power plants remain among the largest stationary sources and source categories of NO_X pollution in Pennsylvania. Still, Pennsylvania lacks NO_X regulations for power plants comparable to those in other OTR [Ozone Transport Region] states and, as a result, our plants continue to interfere with attainment and maintenance of the ozone standards in Philadelphia and in downwind states.

In 2017, new regulations known as Reasonably Available Control Technology Phase Two, or RACT II, for NO_X and VOCs [Volatile Organic Compounds] went into effect in Pennsylvania, that for the first time required coal-fired power plants with selective catalytic reduction to operate those controls regularly and achieve NO_X emission rates at or below 0.12 pounds per million BTU. The rate by itself is comparable to rates in other Northeastern states, but the Pennsylvania rule includes several critical loopholes absent from other state's regulations that allow our coal plants to avoid optimizing their SCR controls. First, the RACT II limit is a 30-day average, but the federal ozone standard is an 8-hour standard. That means that plants can make up for poor pollution control

performance on some days by over-controlling on other days, regardless of when ambient ozone levels are high. Second, RACT II allows emission rates to be averaged across generating units under the same ownership, allowing poorly performing units to be offset by well performing ones. Third, RACT II allows plants to triple their NO_X emission rates when operating with SCR inlet temperatures below 600 degrees. Sierra Club, represented by Earthjustice, appealed EPA's approval of this loophole-riddled regulation and in August of 2020, the Third Circuit ruled in our favor, calling the approval arbitrary and capricious, and requiring a new stricter regulation within two years.

Indeed, Pennsylvania coal plants have demonstrated that they can achieve much lower NO_X emission rates on a long-term basis. In July 2005, SCR-equipped units at Keystone, Montour, and Cheswick all achieved NO_X emission rates of between 0.042 and 0.075 pounds per million BTU under a wide range of operating temperatures in order to avoid having to purchase allowances under the Clean Air Interstate Rule. In 2018, the now-retired Bruce Mansfield plant maintained a relatively consistent NO_X emission rate of about 0.08 pounds per million BTU, despite frequently cycling up and down, demonstrating that less consistent operation and more temperature fluctuation does not preclude achievement of a rate well below the current regulatory limit. There is no technical impediment to Pennsylvania coal plants resuming consistent effective NO_X control that they've

already demonstrated that they can achieve. The OTC petition has made a compelling demonstration that, absent sufficient federal or state-level regulations to hold Pennsylvania power plants to consistent NO_X emission standards during the ozone season, Pennsylvania power plants are saddling downwind states, not to mention our own residents in Southeastern Pennsylvania, with excess NO_X pollution immediately before and during ozone events, thus making it difficult for them to come into compliance with federal air quality regulations. We urge EPA to correct this and put in place NO_X limits that require Pennsylvania power plants to meet strict daily NO_X limits that apply regardless of SCR inlet temperature. Thank you for the opportunity to testify.

MS. LIU: Thank you Tom. Up next, we have Ben Grumbles from Maryland Department of the Environment. Please hit *6 before beginning your testimony.

BEN GRUMBLES, Maryland Department of the Environment

MR. GRUMBLES: Thank you very much. My name is Ben Grumbles and I'm the secretary of the Maryland Department of the Environment. I want to thank you for the opportunity to testify on EPA's notice of supplemental information regarding ozone transport and the recommendation too, for daily nitrogen oxide emissions from certain sources in Pennsylvania. Colleagues, this is one of the earliest and most important opportunities for EPA and the Biden-Harris

Administration to make the right call and to do what is legally required under the Clean Air Act so that we can all make real progress on interstate transport of ozone. Over the last 50 years the Clean Air Act has benefited millions of Americans by reducing air pollution and improving public health while our nation's economy prospered. While great progress has occurred, interstate air pollution transport is still a major problem for states like Maryland. The majority of the state's population resides in areas designated as nonattainment for the 2015 ozone National Ambient Air Quality Standard of 70 parts per billion. Maryland continues to pursue aggressive in-state emissions reductions. At the same time, both real-world observations and EPA's attainment modeling continue to show that Maryland will struggle to attain the 2015 ozone NAAQS.

Research shows that transported ozone from upstate upwind states is sometimes already above the 74 per billion 2015 ozone standard as it enters the state of Maryland. Maryland is concerned that EPA is planning again to delay action on the critical but simple recommendation from the Ozone Transport Commission to reduce transport. The OTC's 184(c) recommendation asks EPA to mandate Pennsylvania require its coal-fired power plants with high-end emission controls to run those controls optimally to minimize NO_X emissions each day of the ozone season. That's it. Run the existing controls. Maryland, Delaware, and New Jersey have already done this. Pennsylvania does not require this. On some

days, emissions from Pennsylvania can be two to three times higher than they would be if the controls were optimized. As an example, on June 25th through the 28th of 2019, with the winds pushing air pollution from Pennsylvania to Maryland, based on EPA emissions data, over ten Pennsylvania coal-fired power plants emitted about 120 tons of excess NO_X emissions because of less-than-optimal use of control technologies. This led to Maryland recording very high ozone levels on the 26th through the 28th. These high readings contributed to both Baltimore and Washington [DC] nonattainment areas not being able to attain the 2015 ozone NAAQS by 2020, the Clean Air Act-mandated attainment date for both areas.

Over the last decade, Maryland, along with other states, has repeatedly sought remedies to address transported air pollution under various sections of the Clean Air Act. This includes a recommendation that EPA create a regional nonattainment area composed of the many states with sources that contribute to nonattainment within the suggested area, a petition under section 176A of the Clean Air Act asking EPA to expand the Ozone Transport Region to include states and sources that contribute to non-attainment in the petitioning states, various comments on the Cross-State Air Pollution Rule Update, and a petition under section 126 of the Clean Air Act asking EPA to find that certain coal-fired power plants in upwind states emit NO_X in amounts that violate the good neighbor

provision of the Clean Air Act by significantly contributing to nonattainment or maintenance problems of the ozone NAAQS in Maryland.

EPA has repeatedly chosen to delay and deny these common-sense solutions, often by pointing to a different Clean Air Act remedy each time it delayed or denied a new request to address air pollution transport. The OTC recommendation was tailored to provide Pennsylvania with the flexibility to implement a rule that is as stringent as any one of the rules that are already in place in Maryland, Delaware, and New Jersey. Research has shown that few other control programs within the region can provide the benefits that further controlling the specified coal-fired power plants in Pennsylvania can. These reductions would help to bring several areas of the Ozone Transport Region into attainment with the 2015 ozone standard.

The success of the Clean Air Act and its provisions to reduce ozone transport depend on a strong federal-state partnership to solve this persistent decades-long problem. Maryland will continue to work with the Ozone Transport Commission, other states, and the EPA to address transported air pollution. We request that in your role as a federal partner, EPA approve the Ozone Transport Commission recommendation. Thank you for the opportunity to testify. We will provide additional information and analysis in our written comments.

MS. LIU: Thank you for your testimony. Up next, we have Zachary Barber from PennEnvironment. Please hit *6 before beginning your testimony.

ZACHARY BARBER, PennEnvironment

MR. BARBER: Hello, my name is Zachary Barber. I'm the Clean Air Advocate with PennEnvironment and I'm a resident of Pittsburgh, Pennsylvania. PennEnvironment is a statewide, people-powered, environmental advocacy group working for clean air, clean water, and open spaces. We have thousands of members across the Commonwealth and I'm speaking today both as a resident of Pennsylvania and on behalf of our members when I say that we support closing the loopholes to make Pennsylvania's dirty coal-fired power plants run existing pollution controls to help clean up smog pollution.

As we've already heard, smog pollution poses a major risk to our health that inflames lungs leading to asthma attacks, emergency room visits, and even death. It is particularly harmful for the more than a million Pennsylvanians who are suffering from asthma, and it is particularly a problem in our region where many are living in designated nonattainment areas. It's clear to see that existing rules aren't doing enough to protect the public, and that by taking further action, significant health benefits could result. Last year, health experts released a study that found even small increases in smog pollution on the orders of parts per billion

could be as harmful as smoking a pack of cigarettes a day for 29 years, to the lungs. So, it's clear that action is needed to clean up smog pollution that is putting the health of so many at risk.

When we look at the sources of smog pollution, it's clear that Pennsylvania is not doing its fair share, and in particular, our coal fired-power plants are a huge part of the problem here on the East Coast. And as we've already heard, Pennsylvania is lagging behind many of its neighbors and peers in implementing meaningful smog protections. We don't have to reinvent the wheel here. We already have established policies and technologies that we know work for how to rein in this pollution. And so, what needs to happen is we need to rely on what has already worked by then closing these loopholes. Hold Pennsylvania coal-fired power plants to the same standards that we see in neighboring states. Require them to run the pollution controls that already exist, and are already working at the facility, instead of allowing them to turn it off and ratchet up smog pollution. So, in summary, we support the petition to make Pennsylvania close loopholes and strengthen protections on smog-forming pollution from coal-fired power plants.

MS. LIU: Thank you, Zachary. Up next, we have Terry Black from Homer City Generation. Please hit *6 before beginning your testimony.

TERRY BLACK, Homer City Generation

MR. BLACK: Good afternoon. Thank you for the opportunity to provide comments today on this very important matter. My name is Terry Black and I am offering comments on behalf of Homer City Generation LP. Homer City is a coal-fired merchant generating station located about 45 miles northeast of Pittsburgh in Indiana County, Pennsylvania. Homer City operates three wall-fired pulverized coal combustion units and auxiliary sources at the facility. Total generating capacity of the Homer City station is approximately 1,964 megawatts. All three Homer City units are equipped with flue gas desulfurization systems, PM [particulate matter] control systems, and low-NOx burner, over-fire air, and SCR systems for controlling NO_X. Homer City is offering the following comments in response to the December 15th, 2020 Federal Register notice related to the OTC Clean Air Act section 184(c) recommendation.

First of all, the recommendation is based on non-peer-reviewed modeling that used outdated emissions data, essentially 2011 data as we understand it. Since that time, NO_X emissions from Pennsylvania coal-fired EGUs have been reduced approximately 80% from 2011, the year which Maryland used in the model and which served as the basis for the OTC recommendation. Annual NO_X emissions from Pennsylvania coal-fired power plants in 2011 were approximately 145,420 tons, and in 2019 were reduced to approximately 28,020 tons. To our knowledge,

the Maryland model, which served as the basis for this recommendation, has not been peer reviewed and has not been made generally available to the public.

Secondly, the recommendation fails to provide objective standards for implementation. The recommendation would have Pennsylvania adopt regulations at least as stringent as either Delaware, New Jersey, or Maryland. As EPA has identified in the questions that it seeks comment on in the Federal Register notice, none of these regulations provide an objective standard for EPA to compare with any regulation proposed by Pennsylvania. The Delaware and New Jersey regulations fail to consider different types and sizes of coal-fired EGUs, and fail to consider different operating modes typically encountered, such as startup, low-load operation, and variable loads controlled by the grid operator. Obviously, these issues have to be addressed, but how Delaware addresses them is not apparent in the regulations. Maryland regulations require a source-specific plan for operating and optimizing pollution controls, which serves as an exemption from certain emission limits if operations are conducted in accordance with the plan. Presumably, the plans address startup, shutdown, low-load operations, and other operating modes where NO_X controls may not be available, or able to operate at peak efficiency. Therefore, the regulation fails to provide specific information concerning the contents of the plan. Without such specific information, EPA has

no standard by which to evaluate any Pennsylvania SIP [State Implementation Plan] submittal.

Third, the recommendation fails to consider the significant contribution of emissions from under-controlled and uncontrolled sources, such as high-energy-demand-day units. These sources are located within or in closer proximity to the nonattainment areas than Pennsylvania's coal-fired EGUs. Although those sources do not operate frequently, they often operate at times when conditions are most conducive to ozone formation. Moreover, these sources contribute substantial amounts of NO_X emissions at or near ground level. Emissions data for Delaware, Maryland and New Jersey indicate average emissions for units emitting at greater than 0.08 pounds of NO_X per million BTUs during the 2018 ozone season were approximately 0.18 pounds per million BTUs, 0.223 pounds per million BTU's, and 0.142 pounds per million BTUs, respectively. Those units accounted for 264 [tons], 538 [tons], and 86 tons of NO_X emissions in their respective states during the 2018 ozone season.

Fourth, the proposed CSAPR budget update, which must be promulgated by March 15th, 2021, will force additional reductions of NO_X emissions from Pennsylvania coal-fired EGUs for the 2021 ozone season. These reductions would occur sooner than any possible SIP approved if EPA were to approve the recommendation.

And fifth, the assumption that EGU operators have only to operate their NO_X controls consistent with historical best practices is not valid. Of the 21 units evaluated by the OTC in developing the recommendation, the best emission rates for 15 units were achieved 10 to 15 years ago when controls were operated only during the ozone season, and the EGU units were operated as baseload capacity. Today, Homer City and other coal-fired units in Pennsylvania operate their emissions controls year-round. Moreover, in today's unregulated capacity market, units such as those at Homer City are constantly changing load to follow demand. Under these operating conditions, emissions controls are less effective. Operators, including Homer City, are required by their Title V operating permits to operate their NO_X controls consistent with good operating practices. And finally, Homer City has had to spend tens of millions of dollars to upgrade controls to meet the Pennsylvania RACT II limits. Homer City would not have had to spend this money if all it had to do was operate the existing controls consistent with historical best emission rates. Thank you for the opportunity to comment and we will be submitting additional information in written comments.

MS. LIU: Thank you for your testimony. Up next, we have Mark Hammond from the Pennsylvania Department of Environmental Protection. You can hit *6 to unmute yourself and proceed whenever you're ready.

MARK HAMMOND, Pennsylvania Department of Environmental Protection

MR. HAMMOND: Good afternoon. Pennsylvania is the sole target of this petition, as well as a previous 126(b) petition brought by the states of Maryland and Delaware on the same subject. Maryland offered the petition to the OTC to instigate this action. Maryland did the modeling using Maryland's assumptions. Maryland controlled the modeling files and withheld them from the public. The OTC performed no modeling of emissions. The OTC did not review or verify Maryland modeling. Maryland testified today. The OTC will not. The 126(b) petition is the appropriate process for any OTC state to petition EPA to address significant downward contributions of specific sources located in other states. Maryland availed itself of the 126 petition process and lost. Because Maryland knows that it can never meet the legal standard for which the court rejected the appeal of their 126(b) petition regarding the '08 NAAQS [National Ambient Air Quality Standards], Maryland initiated this 184(c) process to accomplish what it lawfully cannot do but feels entitled to. How do we know this? Because Maryland has stated on numerous occasions that the purpose of the 184(c) is to avoid the insurmountable issues presented by a 126(b) petition. Comment has been requested on a number of issues regarding procedure for evaluating this petition, basic questions covering the gamut of how, what, who, and where? The mere fact that these questions need to be addressed help demonstrate why the 184(c) process is

not intended or appropriate here. As you heard, DEP is required NO_X sources identified in the petition to submit case-by-case RACT [Reasonably Available Control Technology] evaluations for both the 2008 and 2015 ozone standards. Those are due shortly, on April 1st. These proposals will be evaluated by PA DEP. These unit-specific RACT determinations using unit-specific factors undergo a thorough public participation process, providing an opportunity for every interested OTC state and EPA to comment. These unit-specific determinations will be submitted to EPA in a SIP revision request.

To find in favor of this petition, you must determine that five separate elements have been met. The petition must have been properly submitted in accordance with 184(c). The petition must demonstrate impairment of a downward state's ability to meet attainment. The petition must demonstrate causation. The petition must demonstrate that all feasible local actions have been taken and the petition must demonstrate that the requested remedy is sufficient, appropriate, and within EPA's legal authority. The OTC did not, which is, the OTC is required to solicit public input and evaluate the comments it receives before submitting a 184(c) petition. OTC prepared and attached responses to comments received on OTC 184(c) recommendation as part of its filing. This response document is fatally flawed. The response document provides responses in a vacuum. The comments are not included, summarized, or even referenced in the responses. It's a standard

practice, at a minimum, to summarize the comments and relate them to responses. This is how EPA, Pennsylvania Department of Environment Protection, New Jersey DEP, the vast majority, if not all, the OTC members do it. It's the process the Maryland Department of the Environment uses. There's a reason for that. It ensures the responses are in context and can be understood.

Many of the comments submitted were not addressed at all. For example, Homer City Generation submitted nine comments organized around three themes. Only one was directly addressed. Seven were clearly not addressed. One commenter noted further reductions will be realized as a result of recently announced closures of the Bruce Mansfield, Colver Power Project, and Cambria Cogen stations, all in western Pennsylvania. In 2017 and 2018, the combined NO_X emissions from these facilities were 3,046 tons and 4,550 tons, respectively, of NO_X. That is not a trivial comment. Yet the response document includes no information regarding that comment. Not one word.

Besides these substantive flaws, issuance of the response document was not properly authorized under the OTC bylaws. A Technical Support document was not prepared or included in OTC's petition. The OTC simply approved Maryland’s petition. Without technical review of the modeling, the OTC incorporated Maryland’s modeling whole cloth in their 184 petition with no review or independent analysis. And the OTC did not make Maryland’s modeling data

available for public peer review during the comment period. The OTC assumed without any evidence and based solely on Maryland's rhetoric, that cost-effective reductions are available. The court adopted EPA's position on cost-effectiveness in the Maryland 126(b) petition litigation and is the central pillar of the case's holding. Quoting the court's opinion: "Now suppose a source is found emitting above the EPA's estimated average, at 0.11 pounds per million BTU, for instance—after the Update Rule. Is the source failing to optimize? Petitioners seem to think so, but the EPA explained why that may not be so. The optimized rate for any particular unit depends on the unit-specific characteristics, such as boiler configuration, burner type and configuration, fuel type, capacity factor, and control characteristics such as age, type, and number of layers of catalyst and reagent concentration and type." End quote.

The Clean Air Act's 126(b) petition provides the appropriate procedures and modeling processes for states to use in determining if a source, or group of sources, are significantly contributing, i.e., at 1% of the NAAQS, or interfering with the maintenance of a NAAQS standard through interstate transport of ozone. The 126 petition process looks at specific unit impacts, or groups of units, and is not affected by the impact of trading program regulations. The 184(c) petition process does not provide an appropriate process necessary to evaluate a subset of EGUs that are already regulated by the emission trading program.

The Revised CSAPR Update rulemaking for the 2008 NAAQS has been proposed. It must be finalized by March 15th by court order. In its preamble in the Federal Register, EPA states that 25,000 tons of EGU NO_X reductions, an average of 163 tons per day, from all affected upwind states, will achieve an average ozone reduction of 0.2 ppb, as in billion, at downwind monitors. That's 163 daily tons of NO_X will achieve a 0.2 ppb reduction. The OTC petition to EPA indicates that a maximum of 47 tons per day of additional NO_X emission reductions could occur under their recommendation and would result in up to 7.0 ppb of downwind monitor reductions. The OTC finds 47 tons per day will generate 7.0 ppb reductions. EPA's modeling is 163 tons for 0.2 ppb. EPA models three times the daily ozone season reduction and gets 35 times less ground level ozone reduction. That's two orders of magnitude. It's identical to the difference between $20 and $2,100. Even with the differences between model coverage, Maryland's modeling simply does not pass the straight face test. Yet here we are, using modeling results prepared by Maryland, unvalidated by the OTC, not peer reviewed, not made available for data review, with results that are simply too good to be true.

And in its 184(c) petition, OTC proposes that Pennsylvania adopt parts of rules and regulations developed by one of three OTR states. We will address that further on our written comments. The federal Clean Air Act requires states, including Pennsylvania, to evaluate and implement RACT each time the ozone

NAAQS is revised by EPA, including the right and obligation to determine its own RACT-based emission limits and regulatory structure considering the technical and cost characteristics unique to its state and subject units. This petition seeks to eliminate Pennsylvania's ability to do this, in contravention of the court's holding in the litigation regarding Maryland's 126(b) petition.

EPA's Revised CSAPR Update rule and Pennsylvania's developing and publication of RACT for the 2008 and 2015 ozone seasons would be the appropriate remedy if the OTC had proven the five elements necessary to succeed on their petition. Section 184(c) requires the petition to demonstrate that additional control measures are necessary to bring an area of the OTC into compliance with the NAAQS. The petition failed on this account. And in fact, the OTC petition acknowledges that it fails on this account. The petition states that if the RACT III rulemaking being developed by Pennsylvania was to their liking, they would withdraw this petition. In other words, OTC indicates that the forthcoming RACT III rule could result in control measures that make additional control measures completely unnecessary. The petition is therefore premature and fails to meet the statutory criteria.

The fundamental reason that we are here today is set forth clearly and boldly in the OTC response document. Quoting, "This OTC 184(c) recommendation is needed as a specific, daily NO_X control measure because such a measure could not

be achieved through a collaborative process." This petition is not about impairment of downwind monitors. It is not about the imposition of daily limits or optimization. This petition is an end-run by Maryland to improperly overturn the results of the court's ruling in their previous 126(b) petition. It seeks to force Pennsylvania to draft our RACT III rules the way Maryland has deemed they should be, as set forth in Maryland's petition to the OTC. The deep-dive analysis performed by CAMD [Clean Air Markets Division] section of EPA in analyzing NO_X emissions from the various EGUs and conducting multiple meetings, explaining the analysis to us was extremely helpful and appreciated. We listened to the EPA in those meetings. We asked questions to ensure that we understood the analysis and more importantly, its implications. As a result, that analysis will be very valuable for us as we evaluate the case-by-case RACT proposals we will be receiving by April 1st.

MS. LIU: Sorry Mr. Hammond, you've exceeded the five minutes for the testimony. We ask that you—

MR. HAMMOND: I have three paragraphs left. As the State that is subject to the petition, may I please read them?

MS. LIU: Sure.

MR. HAMMOND: Thank you. Pennsylvania requests that the EPA recognize the significant legal, data assumption, and modeling errors that are inseparable from the petition. The petition fails as a matter of law if any of the five elements in 184(c) are not met. Several of them are not met and one is not addressed at all. OTC's failure to submit an approvable petition cannot be cured by post-petition submissions by petitioners. As stated earlier, use of a section 126 petition is the appropriate avenue to request EPA to address any significant contributions from specific sources located in another state to address an exceedance of a monitor.

Furthermore, even with the presumption of Pennsylvania sources' contributions, the current Pennsylvania RACT initiatives requiring unit-specific RACT determinations for the sources included in the OTC petition, would be a better, more timely, and lawful action than the nebulous remedy included in the petition. Therefore, we urge EPA to deny this OTC petition. Thank you for the opportunity to offer our comments.

MS. LIU: Thank you for your testimony. Up next, we have Laura Jacko. You can hit *6 to unmute yourself and you have 5 minutes.

LAURA JACKO, Resident of Verona, Pennsylvania

MS. JACKO: Good morning. Oh, I'm sorry. Can you hear me?

MS. LIU: Yes, we can.

MS. JACKO: Okay, perfect, sorry. My name is Laura Jacko. I'm a resident of Verona, PA, which is to the east of Pittsburgh. I am a Sierra Club member; however, I'm just speaking on behalf of myself as a PA resident here today. I would like to encourage the EPA to close the loopholes in PA's NO_X pollution limits, including the 30-day averaging provision. I support Maryland's petition and support the position that the EPA should impose additional daily limits on NO_X pollution from PA power plants.

This matters to me because I have two people in my home whose lungs are compromised due to illness. I have a 3-year-old son who was born prematurely. He has suffered from reactive lungs in the first year of his life, which is very common among premature infants. And you know, often for premature children they do suffer long-term ill effects in their lungs, especially. My husband also has asthma, and it makes him very difficult for him to breathe at certain times of the year. We actually monitor smog levels because he has noticed that they have an effect on his health and his personal ability to breathe during ozone season.

As you know, people have talked about NO_X reacts with VOCs in the atmosphere to produce ground level ozone or smog. This is a corrosive air pollutant that can inflame the lungs, constrict breathing, and possibly even kill

people. It causes and exacerbates asthma attacks, so again, something that is very personal to me, emergency room visits, hospitalizations, and other serious health harms. So, as you can tell, I am personally very concerned about the effects of these sorts of emissions on my own family's health. As a PA citizen, I'm also interested in this because I find it personally a little embarrassing that another state needs to petition our government to make us get our act together and stop polluting their air and land.

The current regulations have loopholes that allow generating units such as coal-fired power plants to average their NO_X emissions over a 30-day period to determine compliance. This means that they could fail to meet regulations on certain days, make up for it by emitting below the standards on other days. Again, I'm sure other people talked about this and you know this, but by allowing power plans to comply with these NO_X emissions limits by averaging over the 30-day period, PA is not protecting against these shorter term spikes and smog pollution that can and does harm human health and the environment. Again, from my own personal experience, I have seen the harmful effects in my husband.

Since NO_X travels long distances, we are not only polluting our own state, we are polluting our downwind neighbors. I think that this is something PA should just care about, but it seems like from this action that Maryland seems, at least on paper, to care more about its own citizen's health than PA does. And that, to me, is

an embarrassment. I love Pennsylvania. I want to see us be a leader both locally and nationally, and it appears from these sorts of actions that we are failing. Taking better control of our NO_X emissions, and being a good neighbor to our nearby states is the least we can do to very literally clean up our act. Thank you very much for your time and for listening to my statements and that's all I have today.

MS. LIU: Thank you Laura. Up next, we have David Heayn-Menendez from Pennsylvania Interfaith Power and Light. Whenever you're ready, please hit *6.

[PAUSE]

MS. LIU: Is David Heayn-Menendez on the line?

[PAUSE]

MS. LIU: In that case, our final scheduled speaker is Melanie Pallone. Please hit *6 and begin your testimony whenever you're ready.

MELANIE PALLONE, Pennsylvania Resident

MS. PALLONE: Hello. Can you hear me?

MS. LIU: Yes. We can hear you.

MS. PALLONE: Sorry, OK, my name is Melanie Pallone. I live in Oakmont, Pennsylvania. I was raised in New Kensington, Pennsylvania, about 5 miles away on the other side of the river and my family still lives there. I'm going

to testify not just about the loophole in monitoring smog forming pollution, but I also want to ask you consider an environmental justice perspective. When I was raised, we had two power stations just across the river from New Kensington, in both Springdale and Cheswick which, as the crow flies, are probably only a mile or two miles away. By road, it would be maybe two or three miles away. And we obviously had soot at that time, and the larger particulates that did harm you and lodged in the lungs. Now we suffer from the smaller particulates like SO_2 and nitrogen oxides that you can't necessarily see, but which also affect our lungs. I would note that 99% of the residents in Springdale are white, as maybe 96% in Cheswick; however, within three to five miles of those areas, 10% are black or Hispanic.

The average incomes of the people in this part of the Allegheny Valley are quite low. And they range, in Cheswick, from $40 to $50,000 per year in families. This, in some instances, would be considered below the poverty line. It would be obvious that some of these people also fall within the gap where they cannot afford health insurance, don't qualify for the Affordable Care Act, and make too much to qualify for Medicaid in many instances. Therefore, they would be left without any protections for the additional problems that they have with heart, lung, and cancer diseases. There is no SO_2 monitor nearby to assess whether the exceedances are too large for the power sources such as the plant in Cheswick. The former owner was

subject to enforcement orders by Allegheny County Health Department, which is the primary regulator in Pennsylvania. They've been delegated the authority from the DEP in our state, in particular in our county. There was a major source-operating-permit given to emit SO_2, but there were 13 exceedances between March of 2018 and February of 2019. There are nearly 53 tons of SO_2 emitted on the exceedances. As PennEnvironment has noted, along with some of our other groups in the area like the Sierra Club and GASP (Group Against Smog and Pollution), the Cheswick power plant is not only one of the toxic-10 polluters in our county, it is the largest emitter of toxics in Allegheny County. About five years ago, they were the largest emitter of both SO_2 and nitrogen oxides, the components of smog and one of the top five emitting carcinogens like benzene, and CO_2, which is the sort that I mentioned that I grew up with as a child. So, we've got both seen and unseen particulates that we're dealing with. There are many other dangerous chemicals besides these that are emitted from this plant, things that cause heart and lung disease, and cancer and nervous system disorders like lead, arsenic, dioxin, copper, nickel, vanadium, manganese.

Despite the testimony of 70 community members in the Cheswick area testifying against the 2017 permit being issued and a thousand people signing a petition for stronger limits on pollution, the county health department did issue the permit. However, in just July of 2020, the health department had to file to seek an

enforcement order against the plant for failing equipment. We already suffer in this county because permits are not issued on a total emissions basis of all sources, but by individual permits. Allowing power plants to switch off the pollution controls is to me like letting restaurants ignore bacteria standards when they get a shipment of meat just because they're overwhelmed on that particular day with their shipment of meat. It is documented by the American Lung Association, and other health-based groups, that our county has larger numbers of people of all ages suffering from respiratory problems, but it especially affects our children, our elderly and other vulnerable persons.

I developed asthma not as a child, but as a young adult and it persists to this day. I have spent five-sixths of my life in the Allegheny Valley. It does make it difficult to breathe many days. I know that we have what are called Ozone Action Days where we are warned against even going outside, and asked not to operate our own emissions, such as our lawn mowers and our cars which, granted, are other major sources of these same toxins. But nonetheless, as my predecessor asked, we are asked to be good neighbors as individuals. Therefore, this plant, even though it offers people jobs, should be a good neighbor as well. And I'm asking that the EPA, along with our state’s Department of Environmental Protection, not just for the sake of people of Maryland, but for the people of this area, have the

stronger controls because I know that they are capable of doing so if they're willing to put on the appropriate technology to their plants.

I would also strongly like you to consider that Pennsylvania has in the past objected to downwind emissions from states like Ohio, which you know I'm not vouching for Ohio as being a good neighbor. I'm just saying that we are the recipient of their downwind emissions and therefore Maryland and other states, south and east of us, are also the recipient of downwind emissions, and I certainly wouldn't want anyone in Maryland to suffer from these things any more than I would my own people in my beloved state of Pennsylvania. So, thank you for your time and I hope you consider my comments when you make these decisions for coal-fired power plants in our state.

MS. LIU: Thank you, Melanie. So, that was our last scheduled speaker but before turning it back over to Beth, I just wanted to check to see if David Heayn-Menendez from Pennsylvania Interfaith Power and Light was on the line. If so, please hit *6 before delivering your testimony.

[PAUSE]

MS. LIU: Okay, hearing nothing, I'm going to turn it back over to Beth.

MS. MURRAY: Thanks, Kim. Thank you everyone again for joining us today to share your perspectives. And I want to make sure everyone on the call that

wanted to speak had the opportunity. So, if anyone else is joining us today that is interested in testifying, now is the time to let us know. You can hit *6 and state your name.

[BRIEF PAUSE.]

MS. MURRAY: Hearing nothing, it seems as if we were successful in hearing from everyone. I want to thank all of the speakers and participants in today's hearing. I very much appreciate all the oral testimonies and I want to remind everyone that the public comment period closes on March 8th. We look forward to receiving your comments. And at this point in time, I am going to adjourn this public hearing. Thank you very much.

[Whereupon, at 2:01 p.m., the virtual public hearing concluded.]