November 25, 2019

Docket ID No. EPA–HQ–OAR–2017–0757
The Honorable Andrew Wheeler
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460
(submitted via regulations.gov)

Re: Proposed Rule – Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review

Dear Administrator Wheeler:

We appreciate the opportunity to comment on EPA's proposed rule, *Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review* (Proposed Rule). As companies that purchase natural gas for delivery to customers and for use as a fuel source in electric power generation, we have significant concerns with EPA's proposal to remove regulation of methane emissions from the oil and natural gas source category. Federal regulation of methane emissions from the natural gas industry is important for ensuring methane emissions reductions industry-wide to address climate change and protect public health. Oil and gas operators have been complying with requirements to control methane emissions for several years, which demonstrates that compliance is being achieved using available technologies and strategies. We, therefore, respectfully request that EPA rescind the Proposed Rule and continue its regulation of methane.

Natural gas plays a critical role in the U.S. energy mix. As production methods and methane detection technologies have improved, North American natural gas has provided increasingly significant economic and environmental benefits to customers in the electric power, residential, industrial, and commercial sectors across the U.S. economy. At the same time, it is critical that the entire natural gas industry continue taking innovative, measurable, and economically viable steps to produce, transport, and use this resource as responsibly as possible to ensure its use remains consistent with the clean energy transition.

In response to interest from customers and investors, a range of voluntary initiatives related to methane emissions are underway throughout the natural gas supply chain. Through these voluntary initiatives, oil and natural gas companies are improving approaches to estimating, reporting, and reducing methane emissions from operations. These initiatives include developing new, innovative, and more effective technologies and processes for detecting and measuring fugitive methane emissions. Such efforts are important steps that complement and inform appropriate regulatory programs and reflect the fact that methane emissions are a key area of interest for customers, investors, and communities with natural gas operations as well as for other stakeholders—including our companies.

While voluntary efforts are important for reducing emissions and understanding how production operations can become more efficient and deliver environmental benefits, they cannot replace uniform federal methane regulations for the oil and natural gas industry. Federal methane regulations can ensure that the best system of

emission reduction is deployed across the sector. With effective regulation, natural gas infrastructure can safely, reliably, and affordably deliver natural gas while controlling methane emissions.

In the Proposed Rule, EPA requests comment on an alternative interpretation of Clean Air Act (CAA) section 111. Previously, EPA has interpreted the section to provide it the discretion to determine which pollutants should be regulated within a source category that EPA has listed under section 111. Once EPA determines the source category contributes significantly to air pollution that may reasonably be anticipated to endanger public health or welfare, the Agency has regulated emissions from that source category provided there is a reasonable and non-arbitrary basis. However, EPA is requesting comment on an alternative interpretation that would require the Agency to make a significant contribution finding each time it regulates a pollutant from an already listed source category. We support EPA's current interpretation of the section, which has been the foundation for regulating emissions under section 111 and agree with EPA's finding that it has a rational basis for concluding that methane emission from the oil and natural gas source category merit regulation under section 111. We do not agree that separate findings for each pollutant are required and would oppose any action that alters that determination.

Regulation of Methane from the Oil and Gas Source Category

EPA should continue to directly regulate methane from new sources in the oil and natural gas source category. Through compliance with the existing federal methane regulation, the industry has demonstrated that it can control methane emissions at a reasonable cost using available technologies and strategies. Companies throughout the natural gas supply chain are gaining experience with advanced methane detection technologies. We recognize the potential value many of these technologies could provide and support EPA looking for opportunities as part of ongoing and future methane regulatory efforts to recognize innovative alternative methane detection technologies that are demonstrated to be as effective as existing approaches.

The importance of controlling these emissions is clear when considering that the oil and natural gas source category is the largest source of anthropogenic methane emissions in the U.S., contributing 31 percent of U.S. methane emissions in 2017 according to EPA's *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2017* (published in 2019).[1] Methane emissions have a higher global warming potential than carbon dioxide and are the second most significant greenhouse gas emitted from anthropogenic sources after carbon dioxide. Continued regulation of methane from the oil and natural gas source category is an important part of a strategy to reduce emissions that contribute to climate change.

In recent years, our companies have proactively reduced greenhouse gas emissions through investments in lower emitting generating resources, natural gas pipeline modernization, and implementation of best management practices. These initiatives reflect the expectations that our customers and investors have that the natural gas we use and deliver is produced, processed, and transmitted in a way that minimizes its environmental impacts. It is important for EPA to maintain the current requirements to deploy cost effective technologies that protect the environment and public health and to ensure a consistent regulatory framework.

Regulation of volatile organic compounds (VOC) emissions is not sufficient to control emissions from the oil and natural gas source category. VOC compositions can vary depending on the resource reservoir and the level of processing of the gas, resulting in different estimates of the cost effectiveness of control. Maintaining methane regulations for natural gas is not a redundancy, but a necessary method to control sources of air pollution.

[1] U.S. Environmental Protection Agency, Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2017 (April 2019) available at: https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks-1990-2017

EPA highlights in the Proposed Rule that states can and have implemented their own regulations to control air emissions from sources in the oil and natural gas source category. However, the structure of natural gas markets and the location of natural gas production basins is such that the gas our companies purchase, use, and deliver comes from a range of locations, frequently traveling hundreds of miles through pipelines to reach its destination. For example, EPA notes in the Proposed Rule that ten states, with 69 percent of natural gas production in 2018, have emission requirements for the oil and natural gas sector, but the sources regulated differ from state to state—creating a patchwork for the sector. Ten of the states regulate storage vessels and fugitive emissions at well sites, but only five regulate fugitive emissions at compressor stations, and only three directly regulate methane emissions. While we support state authority to implement their own requirements, especially in areas with air quality non-attainment concerns, federal regulation creates a consistent framework that establishes a minimum level of emission control that strengthens public confidence in the natural gas industry and ensures greenhouse gas emission reductions.

Regulation of Emissions from Transmission and Storage

In 2016, EPA conducted an analysis and concluded that there were cost effective strategies to reduce VOC and methane emissions from equipment associated with natural gas transmission and storage. EPA has not presented information in the Proposed Rule that supports a change in that conclusion. From our perspective, transmission and storage facilities are part of an integrated system that delivers natural gas to our systems and facilities. As such, we disagree with EPA's proposal to remove transmission and storage emission sources from the oil and natural gas source category. Rather, we support EPA's alternate proposal and historical definition of the source category—that transmission and storage sources are a part of the oil and natural gas source category. Consistent with the discussion above, we support retaining the methane standards as well as the VOC standards for transmission and storage sources.

Significant Contribution Finding for Methane

While the Proposed Rule retains EPA's interpretation of section 111 of the CAA related to the significant contribution and endangerment findings, EPA requests comment on whether section 111 should be interpreted to require EPA to make a pollutant-specific significant contribution finding for greenhouses gases as a prerequisite for regulating those emissions. We support EPA's current and historical interpretation of section 111 and would not support a change in this interpretation. If EPA were to change its current interpretation, the Agency would need to propose such a change as part of a separate rulemaking.

We see no ambiguity—the plain language of section 111(b) of the CAA directs EPA to make a determination of significant contribution when listing a source for regulation under section 111 and does not provide for such determination to be made when regulating other pollutants from that sector. As EPA explained in the 2016 NSPS OOOOa rule, section 111 makes clear that the significant contribution finding is made with respect to the source category, not a pollutant. Congress explicitly made this distinction when it did not include language in section 111 that requires EPA to make an endangerment finding for a particular pollutant as it did as part of other CAA provisions. For example, sections 211(c)(1) and 231(a)(2)(A) are specific for each pollutant. By contrast, section 111(b)(1)(A) is focused on EPA listing the source category, and section 111(b)(1)(B) directs EPA to propose and then promulgate regulations for new sources with each listed source category—not pollutant.

EPA has historically interpreted section 111 as granting the Agency the discretion to determine which pollutants should be regulated from the listed source category. In determining which pollutants are appropriate to regulate

for a source category under section 111, EPA has relied on a rational basis for its decision.[2] This remains a reasonable approach as it ensures that the regulation of a pollutant from a listed source category is not arbitrary and capricious.

This limiting factor—the requirement of a rational basis to ensure the regulation of a pollutant from a source category is not arbitrary and capricious—ensures that EPA would not have the authority or basis to regulate an air pollutant from a source category that emits such pollutant in a small amount that is "relatively benign in its effect on public health or welfare." In this case, it would be arbitrary and capricious for EPA to decline to regulate greenhouse gas emissions from new, modified, and reconstructed oil and gas sources given that the source category is the largest source of anthropogenic methane emissions in the U.S., methane emissions are the second most significant greenhouse gas emissions in the U.S., the potential quantity of emissions from new sources, and the impacts of greenhouse gas emissions. Thus, EPA has a rational basis to regulate greenhouse gases from the oil and natural gas source category.

The Proposed Rule also requests comment on what the appropriate criteria would be if EPA were to make a pollutant-specific contribution finding. While we have noted that we do not agree that the language of the CAA supports such an exercise, the criteria EPA offers in the Proposed Rule for comment also raise concerns. First, projections of future emissions are inherently uncertain and are often subject to market dynamics, which are difficult to predict. Moreover, in the context of greenhouses gases, the accumulation of emissions in the atmosphere from new, modified, and existing sources of the source category as well as from other sources is a significant concern and must be considered.

For similar reasons, we would be concerned if EPA were to use the "simple percentage criterion that holds across pollutants and source categories" as described in the proposal for a significant contribution finding. Percent thresholds will shift over time for different sectors as some sectors reduce emissions cost-effectively more quickly and other sectors require time to develop effective reduction strategies. Additionally, we would oppose a single percentage applicable for all source categories as it is important to consider the impacts of the emissions and the nature of the emissions for each sector and pollutant separately. There could be sectors that are low contributors to emissions of a pollutant on an overall percentage basis that nonetheless have important environmental impacts.

According to the Proposed Rule, methane emissions are six percent of total U.S. greenhouse emissions when measured on a 100-year carbon dioxide equivalence basis. While methane emissions from the oil and natural gas sector are not the largest source of greenhouse gas emissions in the U.S., the share of the contribution from the sector may increase on a relative basis as other sectors, such as the electricity sector, reduce emissions. Moreover, methane has a higher global warming potential when measured over a shorter time period, increasing the importance of near-term emission reductions. Addressing these emissions is an important component of addressing climate change and its impacts. Therefore, EPA should retain the source-specific methane regulations for the oil and natural gas sector.

Conclusion

Addressing climate change will require reductions from a wide variety of sources across a range of sectors. As recognized by the Supreme Court in *Massachusetts v. EPA*, climate change is the result of emissions from numerous and diverse sources, "[a]gencies, like legislatures, do not generally resolve massive problems in one fell regulatory swoop"—which does not make an individual regulation irrelevant, rather it makes each individual

[2] *See, e.g.,* Standards of Performance for Greenhouse Gas Emissions from New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units, 80 Fed. Reg. 64,510, 64,530 (Oct. 23, 2015).

regulation an important component of an effective response.[3] Evaluating opportunities for emission reductions within each sector allows EPA to identify cost effective emission reduction strategies and to promote investment and innovation to further reduce emissions.[4] Companies have demonstrated that methane emissions can be regulated directly and cost effectively by successfully complying with the existing federal methane emission standards since they were finalized in 2016. Our companies support a comprehensive regulatory program for the oil and natural gas source category.

We appreciate the opportunity to comment on this Proposed Rule. If you have any questions about these comments, please do not hesitate to contact any of the signatory companies.

Sincerely,

Austin Energy
Calpine Corporation
Consolidated Edison Company of New York, Inc.
Exelon Corporation
Los Angeles Department of Water & Power
National Grid
NW Natural
Pacific Gas and Electric Company
Public Service Enterprise Group, Inc.
Tenaska, Inc.
Vermont Gas Systems

[3] *Massachusetts v. EPA*, 549 U.S. 497 at 524 (2007).

[4] 42 U.S.C. § 7411(a)(1); *Sierra Club v. Costle*, 657 F.2d 298, 346 (D.C. Cir. 1981) ("Our interpretation of section 111(a) is that the mandated balancing of cost, energy, and non-air quality health and environmental factors embraces consideration of technological innovation as part of that balance.").