Notes: CPP Stakeholder Conference Call #3 December 9, 2015

General Topic: Mass-Based Implementation Approach

Tricia Jackson provided a summary of items for comment for the call. The summary of the topics for comment is provided below.

1) Compliance proposals:
    a. EPA is proposing to evaluate compliance over each multi-year compliance period. The first two interim compliance periods would be 3 years, while the last interim period and the final period would be divided into successive two-year compliance periods.
    b. EPA is proposing to allow banking of allowances for use in any future period, including the use of banked allowances from the interim period in the Final period. EPA is not proposing to allow borrowing across compliance periods.
    c. EPA is requesting comment on whether to require the surrender of allowances for CO_2 emissions attributed to biomass co-firing.
    d. EPA is also requesting comment on whether CO_2 mass and net generation reporting should be required in the year prior to the initial compliance period.
2) Allowance allocation
    a. EPA is proposing to allocate CO_2 allowances to affected EGUs based on shares of historic generation during 2010 – 2012, less three proposed allowance set-asides – a renewable energy set-aside, an output-based NGCC set-aside, and a Clean Energy Incentive Program Set-Aside
    b. EPA is also requesting comment on alternative approaches to allocations including dividing the total allowances into affected EGU source categories, updating allocation approaches, auctioning, allocating to load-serving entities rather than affected EGUs, and allocating to all generation in a state (including non-emitting generation).
    c. EPA requests comment on the timing of allowance recordation, specifically whether allowances should be recorded 7 months or 13 months prior to the start of a compliance period.
    d. EPA requests comment on treatment of allocations to affected EGUs that retire or modify or reconstruct.
    e. EPA requests comment on set-aside allocation methods.
        i. To address leakage to new natural gas combined cycle units, EPA is proposing an output based set-aside for existing NGCCs and a Renewable Energy Set-Aside. EPA is also requesting comment on whether other set-aside options could address leakage, including a set-aside that provides an incentive for demand-side energy efficiency and combined heat and power.
            1. With regard the RE set-aside, EPA is proposing to reserve 5 % of a state’s allocation of allowances for renewable energy projects during each compliance period. EPA proposes that projections of MWh will be the basis of the distribution of RE set-aside allowances. EPA requests comment on whether set-asides should be distributed proportional to

actual MWh provided by an RE project in a prior year or compliance period and whether to restrict projects to a maximum number of allowances per MWh of generation. EPA is proposing that any allowances remaining in the RE set-aside be redistributed to affected EGUs on a pro rata basis. EPA is also requesting comment on whether a portion of the RE set-aside should be reserved for RE projects that benefit low income communities.

2. For the output-based allocation set-aside, EPA is proposing to allocate allowances to affected NGCCs based on its net generation above a 50 % capacity factor starting in the second compliance period. EPA does not propose but does request comment as to whether steam generating units should also be eligible to receive allowances from the output-based allocation set-aside.

ii. EPA proposes to implement set-aside for the Clean Energy Incentive Program during the first compliance period. The Clean Energy Incentive Program set-asides for each state can found in table 10 on page 65026 of the proposal published in the Federal Register. EPA requests comment on the size of the set-aside, the distribution approach and timing, the amount of allowances awarded per eligible MWh, the criteria for eligible projects, and EM&V requirements.

f. EPA proposes to allow any state to replace an EPA –determined allowance distribution provision with state-developed allowance distribution provisions. Such provisions must address the risk of leakage. In the federal plan, EPA proposes to address leakage using an output based allocation for NGCC units and a renewable energy set-aside. States may also address leakage by including new-sources under a state plan by adopting the new source complement or submit an alternative option with a demonstration that leakage will not occur. EPA requests comment on transitioning from an EPA-determined allocations to state-determined allocation of allowances under a federal plan.

After summarizing the topics for comment, Tricia performed a roll call offering each stakeholder organization the opportunity to provide information or opinions on the items for comment.

America’s Natural Gas Alliance had no comments, but stated they would be emailing comments later.

Ken Smith, Arkansas Advanced Energy Association, stated that EPA should not pick one approach, mass- or rate-based, over the other, both options should be available and they should provide equal measure and support to either approach. He stated the preferred option for each state would depend on the state’s mix of generation type. He stated that issuance of allowances is important and that states should be able to trade allowances. He stated that allowances could be free or be auctioned and that, if auctioned, the value should be returned to the state to benefit ratepayers. He also stated that free allocation vs. auctioning should not have much effect on rates and described the RGGI auction process in which policy costs are reduced through investing the revenue in ratepayer programs. He stated that AAEA supports set-asides for renewable energy (minimum of 5%) off the top. After renewable energy set-asides are determined, historical generation at existing sources could be used to define allowances.

Arkansas Attorney General's Office stated that they were participating in the call in a listening capacity only.

Jordan Tinsley, Arkansas Electric Energy Consumers expressed concern about the potential for leakage. He recommended looking at methods of allowance distribution in California and Minnesota – they create allowances for trade exposed energy intensive industries that are likely to be vulnerable to rate increases. He also stated that AEEC would submit comments later.

Arkansas Public Policy Panel stated support for set-asides for CEIP, RE and EE, and biomass use if it is shown to be sustainable.

Audubon Arkansas had no comment.

Arkansas Electric Cooperatives stated that they support unlimited banking of allowances and borrowing allowance across compliance periods. The Acid Rain Program, CAIR, and CSAPR all allow unlimited banking of allowances; therefore, this rule should also allow banking. The ability to borrow across compliance periods would permit borrowing from a unit that will retire. They stated biomass should be included as an eligible measure. They saw no issues with a compliance demonstration date of no earlier than May 1st. They also stated that they do not support auctioning of allowances. Additionally, they stated that allowances should be based on historical emissions, rather than on historical generation.

Kelley McQueen, Entergy, stated that they are still evaluating the proposed plan. She stated they are concerned about taking allowances from the state pool for CEIP, that the state needs a robust trading program, and that Entergy's preference is not to base allowances on historic emissions.

MISO had no comment.

Nucor stated a preference to include language to encourage industrial energy efficiency in the final plan.

Plum Point had no comment.

Glenn Hooks, Sierra Club, stated that Sierra Club would support the positions of the Arkansas Public Policy Panel, and had no preference regarding a mass- or rate-based approach.

SWEPCO stated that the proposed three blocks of compliance periods would be helpful because they allow averaging across a multi-year period. They indicated that banking and borrowing should be allowed. SWEPCO stated that allowances should be allocated freely and that EPA does not have the authority to auction them. They also expressed the concern that taking allocations away from EGUs and placing them in a set-aside is a subsidy to non-emitting sources. Additionally, SWEPCO stated that leakage does not need to be addressed in the federal plan, that allocations to units that change status should remain, and that allocations to the CEIP should be funded from a federal pool, rather than a state pool. SWEPCO expressed the preference for allocation recordation to occur as early as possible; however, SWEPCO recognized that this may cause issues in the event of a shift from a federal plan to a state plan.

Southwestern Energy had no comment.

General Comments:

Ken Smith, Arkansas Advanced Energy Association, stated that AAEA supports Nucor's and Jordon Tinsley's comments on allowances for trade-exposed energy-intensive industry. He further stated that Industrial energy efficiency and combined heat and power should be part of the initial set-asides and should be included in the federal plan.

Eddy Moore, Arkansas Public Service Commission, stated that the CEIP proposal has a very vague definition of "low-income," and that the federal plan should have a flexible definition of "low-income" that could focus on communities, rather than individuals. He suggested using geographic information to identify areas with a high level of low income individuals. He also suggested that some programs, such as energy efficiency for mobile homes and multi-family housing, typically serve low-income communities. He also stated that Arkansas already has an EM&V program in place and suggested seeking federal approval of the program up-front.

Scott Weaver, SWEPCO, stated that SWEPCO supports broadening the definition of what could be considered low income for the CEIP, and also stated that allowances should be distributed by the states. Mr. Weaver further stated that allowance set-asides for the CEIP should not be part of the federal plan.

Ken Smith, AAEA stated, that he agreed with Arkansas PSC's position on broadening the definition of "low-income." He also stated that Arkansas has a lot of experience with EM&V and would also like to seek approval from EPA up-front. AAEA supports the use of in-state set-asides to match the federal pool under the CEIP.

Scott Weaver and Ken Smith both stated they believe the CEIP portion of the proposal was inserted at the last minute and was not well-thought-out.

A total of 45 phone lines participated in the call.