

**BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION**

**IN THE MATTER OF AMENDMENT TO ]  
REGULATION NO. 19, REGULATIONS OF THE ] DOCKET NO. 08-\_\_\_\_\_R  
ARKANSAS PLAN OF IMPLEMENTATION ]  
FOR AIR POLLUTION CONTROL ]**

**THIRD PARTY PETITION TO INITIATE RULEMAKING  
TO AMEND REGULATION NO. 19, REGULATIONS OF THE  
ARKANSAS PLAN OF IMPLEMENTATION FOR AIR POLLUTION CONTROL**

Entergy Arkansas, Inc., the Arkansas Electric Cooperative Corporation, the Conway Corporation, City Water and Light Plant of the City of Jonesboro and the West Memphis Utility Commission (hereinafter referred to as "Petitioners") are the co-owners of the White Bluff Steam Electric Station located near Redfield, Arkansas. Petitioners for their Third Party Petition to Initiate Rulemaking to Amend Regulation No. 19 state the following:

1. Petitioners are initiating the development phase of the Flue Gas Desulfurization installation for the White Bluff Steam Electrical Station located in Redfield, Arkansas. White Bluff Units 1 and 2 are required to lower the NO<sub>x</sub> and SO<sub>2</sub> emission rate pursuant to the Environmental Protection Agency's ("EPA") Regional Haze Rule. This rule requires certain facilities to reduce the facility's impact on Federal Class 1 Areas (Caney Creek and Upper Buffalo Wilderness Area) of Arkansas.

2. In 2007, the Arkansas Pollution Control and Ecology Commission ("Commission") approved revisions to Commission regulations for the installation of emission control technology as required by EPA's Regional Haze Rule, including a compliance date of September 28, 2013. This compliance date is prior to the compliance date required by the EPA Regional Haze Rule, which requires that states meet their obligations within five (5) years of

EPA approval of the Arkansas State Implementation Plan ("SIP"). To the contrary, Regulation No. 19 currently requires Arkansas industries to install Best Available Retrofit Technology ("BART") emission controls by September 28, 2013, or within five (5) years of EPA's approval of the SIP, whichever comes first.

3. As of this date, EPA has not yet approved the Arkansas SIP. The clock for this deadline, however, is already ticking. Petitioners are compelled to move forward with engineering and contract commitments to complete control technology installations by September 28, 2013. The possibility of EPA requiring changes to the SIP prior to approval creates an unnecessary risk of financial loss due to possible unanticipated changes in the technical requirements. This possibility is realistic because of the recent vacatur of EPA's Clean Air Interstate Rule by the United States Court of Appeals for the District of Columbia Circuit. The vacatur of that Rule may have an indirect impact on the Arkansas SIP's ability to ensure compliance with the BART Rule, and this may require alteration of the SIP at EPA's direction. These alterations, in turn, may require a different result at White Bluff. Petitioners propose this third-party rulemaking to amend the language of Regulation No. 19 to revise the compliance date to conform with EPA's Regional Haze Rule, which requires installation within five (5) years after EPA's approval of the Arkansas Regional Haze SIP.

4. Petitioners propose the existing language of Regulation No. 19.1504 be amended as follows:

from

"Each source subject-to-BART shall install and operate BART as expeditiously as practicable, but in no event later than six (6) years after the effective date of this regulation or five (5) years after EPA approval of the Arkansas Regional Haze State Implementation Plan, whichever comes first."

to


"Each source subject-to-BART shall install and operate BART no later than five (5) years after EPA approval of the Arkansas Regional Haze State Implementation Plan."

5. A black-lined version of the specific change to Regulation No. 19 is attached hereto as Exhibit "A" and is incorporated herein.
6. The Questionnaire for Filing Proposed Rules and Regulations with the Arkansas Legislative Council and Joint Interim Committee is attached hereto as Exhibit "B" and is incorporated herein.
7. The Financial Impact Statement is attached hereto as Exhibit "C" and is incorporated herein.
8. The Economic Impact/Environmental Benefit Analysis is attached hereto as Exhibit "D" and is incorporated herein.
9. The Minute Order to initiate rulemaking is attached hereto as Exhibit "E" and is incorporated herein.
10. Petitioners have reviewed Executive Order 05-04, and have determined that the proposed amendment to Regulation No. 19 affecting sources subject to BART does not affect small businesses, therefore no economic impact analysis by the Arkansas Department of Economic Development is required.

WHEREFORE, Petitioners request the Arkansas Pollution Control and Ecology Commission initiate rulemaking to amend Regulation No. 19 as set forth herein.

Respectfully submitted,

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By   
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CERTIFICATE OF SERVICE

I, William A. Eckert III, state that I have on this 2<sup>nd</sup> day of October, 2008, mailed a copy of the foregoing Petition to Initiate Rulemaking to Amend Regulation No. 19, Regulations of the Arkansas Plan of Implementation for Air Pollution Control to Ms. Ellen Carpenter, Arkansas Department of Environmental Quality, 5301 Northshore Drive, North Little Rock, AR 72218-5317.

  
William A. Eckert III