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BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

**IN THE MATTER OF AMENDMENT TO]
REGULATION NO. 19, REGULATION OF] DOCKET NO. 08-014-R
THE ARKANSAS PLAN OF IMPLEMENTATION]
FOR AIR POLLUTION CONTROL]**

**REQUEST TO WITHDRAW THIRD PARTY PETITION FOR
RULEMAKING AND TO TERMINATE RULEMAKING PROCEEDING**

COMES 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") and Request to Withdraw its Third Party Petition for Rulemaking and to Terminate the Rulemaking Proceeding and respectfully states the following:

1. On October 2, 2008, Petitioners as co-owners of the White Bluff Steam Electric Station filed a Third Party Petition To Initiate Rulemaking to amend Regulation No. 19. On October 24, 2008 the Arkansas Pollution Control and Ecology Commission ("Commission") by Minute Order 08-35 granted the petition to initiate rulemaking proceeding.
2. Petitioners seek to amend Regulation No. 19 to revise the regulatory compliance date for installation of emission control technology to conform with EPA's Regional Haze Rule, which requires installation of Best Available Control Technology within five years after EPA's approval of the Arkansas Regional Haze SIP. Petitioners have sought this regulatory amendment, in part, due to the vacatur of the Clean Air Interstate Rule ("CAIR") by the United States Court of Appeals, District of Columbia Circuit. The vacatur of the CAIR may result in necessary changes to the Arkansas Regional Haze SIP, causing subsequent delays in EPA's approval of the SIP and in compliance with the potential regulatory deadline of September, 2013 set forth in Regulation No. 19.
3. However, on December 23, 2008, the U.S. Court of Appeals modified its previous decision and remanded CAIR without vacatur to EPA to promulgate a CAIR consistent with the Court's opinion. Although the Court restated its opinion that there "was more than several fatal flaws in the rule", the Court determined that the rule's vacatur would sacrifice clear benefits to public health and the environment while EPA repromulgates the rule according to the Court's instructions. Based on this reinstatement of the CAIR by the U.S. Court of Appeals, Petitioners believe the current rulemaking proceeding can be delayed until EPA promulgates a revised CAIR consistent with the Court's direction. This will provide the Petitioner's the opportunity to review the revised CAIR to determine its impact on the Arkansas SIP and the timing of compliance with

the regulation, which may result in a regulation change no longer being necessary.

4. On December 29, 2008, the Arkansas Department of Environmental Quality ("ADEQ") filed comments with the Commission in opposition to Petitioner's Third Party Rulemaking Petition. In due consideration of those comments and due to the confused situation created by the remand of CAIR to EPA for promulgation consistent with the Court's decision, Petitioners' believe it is in the best interest of the parties to seek informal resolution of the regulatory deadline issues with ADEQ outside of the regulatory rulemaking process.

WHEREFORE, Petitioners respectfully request leave to withdraw their Petition for Third Party Rulemaking and request the Commission terminate this rulemaking proceeding.

Respectfully submitted,

QUATTLEBAUM, GROOMS,
TULL & BURROW PLLC



William A. Eckert

Attorneys for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of March, 2009, I served the foregoing Petitioners' Request to Withdraw Third Party Petition For Rulemaking and to Terminate Rulemaking Proceeding by depositing a true copy in the United State Mail, postage prepaid, addressed to the following:

Dawn Guthrie, Esq.
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317



William A. Eckert