September 19, 2013

Via Electronic Mail to: OW-Docket@epa.gov
Attn: Docket ID: EPA-HQ-OW-2009-0819

RE: Docket ID: EPA-HQ-OW-2009-0819
Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category – proposed rule
Comments of American Municipal Power, Inc.

This letter constitutes the comments of American Municipal Power, Inc., on behalf of the organization and its 129 member entities (collectively "AMP") for consideration and inclusion in the docket for U.S. Environmental Protection Agency's ("EPA") proposed rule for *Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category* ("Proposed ELG Rule"), issued for public notice and comment on June 7, 2013, at 78 Fed. Reg. 34432 (extension of comment period published on July 12, 2013, at 78 Fed. Reg. 41907).

I. Background

AMP is the non-profit wholesale power supplier and service provider for 129 locally regulated municipal electric entities, spanning seven states from Michigan to Delaware. AMP's members collectively serve more than 625,000 customers and have a system peak of more than 3,000 megawatts. AMP's core mission is to develop, manage and supply diverse, competitively priced, reliable wholesale energy to public power members through strategic partnerships, member-focused relationships and a diversified power resource mix. AMP's diverse energy portfolio makes the organization a national leader in the deployment of renewable and advanced power assets that include a variety of base load, intermediate and distributed peaking generation using hydro, wind, landfill gas, solar and fossil fuels, as well as a robust energy efficiency program. AMP's members are located in both the PJM and MISO regional transmission organization footprints, with the majority of AMP members located in PJM.

Because of AMP's structure as a non-profit power provider, AMP closely follows federal and state regulation that could impact its members' costs and reliability. To that end, AMP's comments on the Proposed ELG Rule reflect expected impacts of the proposed rule on AMP units, as well as potential impacts to other units in the region, from which AMP members expect to acquire varying proportions of their power supply through market purchases. AMP and member-owned facilities that are expected to be subject to the Proposed ELG Rule include a natural gas combined cycle (NGCC) generating plant and coal-fired electric generating units, as well as an existing but closed fly ash landfill. AMP's comments in this letter reflect expected impacts on those facilities plus impacts on regional electricity markets. AMP requests that EPA consider the following specific comments prior to finalizing any rulemaking.

II. General Applicability

AMP appreciates EPA's exemption of units 50MW or smaller, and notes that the agency's rejection of a 25 MW or smaller limit is appropriate because such a low limit will not result in significant additional benefits, but will impose considerable costs. AMP does question, however, whether a straight MW cut-off is appropriate for units that are slightly above the 50 MW cut-off point. In addition, AMP recommends that EPA clarify whether the 50 MW cut-off is for each steam electric unit, or for the facility as a whole. This clarification is particularly important for facilities that may exceed the 50 MW threshold, yet have several individual units under that threshold that discharge into the same collection, conduit, or treatment system. Finally, AMP requests that EPA consider raising the applicability threshold for a facility to 100 MW to accommodate these concerns.

EPA notes in its discussion of the scope / applicability of the Proposed ELG Rule that the age of a plant or unit "by itself does not in general affect the wastewater characteristics, the processes in place, or the ability to install the treatment technologies evaluated as part of this rulemaking" (78 Fed. Reg. 34446). EPA made similar claims about the location of a plant or unit (78 Fed. Reg. 34446). AMP notes, however, that the age of a plant or unit does significantly impact the cost-effectiveness of any new regulatory controls when measured over time, as well as the overarching decision of its owner as to whether to make the retrofit or close the facility instead. Plant / unit location also can present similar problems if plant-footprint space is constrained or if too many impacted plants / units are concentrated in a relatively small geographic area or an area with constrained transmission capacity. AMP is concerned that EPA's failure to establish subcategories (which could vary applicability based on unit age, geographic location, size, and fuel type) for this proposed rule could needlessly add to the long list of closed coal units and thus negatively impact regional electric reliability – particularly when measured against the anticipated impacts of other pending and final EPA rules.

Finally, AMP notes that separate comments on the Proposed ELG Rule are being filed by the Prairie State Generating Company (PSGC), which operates a 1,600 MW advanced coal facility, of which AMP owns 23.26%. AMP concurs with PSGC's comments concerning that facility.

III. NGCC Units – Separate Category or Exemption

AMP questions the need to apply the Proposed ELG Rule to NGCC units, as such waste streams are far different and far smaller by volume than those from coal-fired units. Further, there are no material-handling or air pollution control wastes at NGCC units. Because the operation of NGCC units do not generate flue gas desulfurization (FGD) wastewater, fly ash transport water, bottom ash transport water, combustion residual leachate, gasification wastewater, or flue gas mercury control (FGMC) wastewater, impacted effluent from NGCC units under the Proposed ELG Rule would be limited to non-chemical metal cleaning industrial waters (mostly pure water or steam), which are used only sporadically and in small quantities and are unlikely to result in leaching of metals (most metal cleaning at NGCC units is done with chemicals, which are already regulated and not subject to this proposed rule). Certainly the volume of these non-metal cleaning wastes at NGCC units is low.

As such, compliance with the Proposed ELG Rule's requirements to separate waste streams would be expected to result in burdensome requirements and significant costs to NGCC units without commensurate benefits. This is particularly true with the use of chemical and non-chemical metal cleaning wastes in the same part of the plant – segregating these waste streams, especially if the effluent limits are identical, makes no sense. In addition, it can prove very costly, as conveyances for these waste streams may not be easily accessible or modified. At a minimum, the anti-circumvention requirements in the Proposed ELG Rule for these waste streams should be left to the discretion of local permit writers.

AMP respectfully requests that EPA exempt NGCC units from the Proposed ELG Rule's requirements or provide a separate regulatory category for NGCC units that recognizes these operational conditions, including limiting regulation of non-metal cleaning wastes to that of a low-volume waste stream with limits applicable only to total suspended solids (TSS) and oil and grease (O&G).

IV. EPA's Preferred Options

AMP commends EPA for identifying a variety of options in the Proposed ELG Rule, including four options ''preferred" by the agency. Of these, AMP would prefer either Option 3a or Option 3b, which achieve the goal of environmental protection while requiring less

expensive and less extensive retrofits or modifications for compliance. While there is much similarity across the spectrum of impacted waste streams among EPA's four preferred options, AMP notes several important factors of concern, as described below:

> Biological treatment of FGD wastewater: AMP is concerned that this aspect of EPA's preferred Options 3 and 4a would, if adopted, present significant additional compliance costs and difficult maintenance issues, as biological treatment systems can prove temperamental under various operating conditions, which could impact electric generation.
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> Dry handling / close loop system for bottom ash transport water: AMP is concerned that this aspect of EPA's preferred Option 4a (and also of Options 4 and 5) would, if adopted, present difficult retrofit issues, particularly for older coal plants.

V. Impacts on Closed Landfills

As noted above, AMP owns a closed fly ash landfill that would be impacted under the Proposed ELG Rule. The landfill is currently under a state-approved post-closure plan, and AMP questions provisions in the Proposed ELG Rule that would appear to undermine the appropriate regulation of this facility by the state.

First, AMP sees no reason why a landfill that was closed prior to the publication of the Proposed ELG Rule (prior to June 7, 2013) and has an approved discharge permit would need to be subject to this rule. AMP requests that EPA grandfather such facilities at the current effluent limits applied at the outfall (as opposed to the internal discharge point) if legacy leachate water is indirectly discharged to either a publically owned treatment works (POTW) or an industrial wastewater treatment system.

Second, the proposed best management practices (BMPs) under the proposed rule would treat landfills – from which there is little evidence of danger to the public – in the same manner as wet or slurry impoundments. This treatment is exceedingly harsh and unnecessary given the low risks presented by landfills. AMP specifically objects to the proposed seven-day required inspection frequency under the proposed BMPs, as well as the imposition of Mine Safety and Health Administration (MSHA)-level regulations (which are designed to address the risks associated with slurry impoundments) on such landfills.

AMP requests clarification from EPA as to the applicability of the Proposed ELG Rule to stormwater that enters a *capped and closed* landfill, such as the one owned by AMP. We doubt EPA intended such a broad interpretation. AMP further requests guidance as to what would be considered "legacy" wastewater from a closed landfill.

Finally, AMP appreciates EPA's determination that landfills and other treatment effectively control for such pollutants as mercury and arsenic, which therefore do not need to have separate sampling parameters for combustion residual leachate.

VI. Compliance Date

AMP is generally supportive of the proposed compliance date for the Proposed ELG Rule of July 1, 2017. We do believe, however, that EPA should add flexibility to the compliance date to accommodate for any extenuating circumstances. We therefore request that EPA allow local permitting authorities to grant a one-year extension for compliance to units that need additional time to implement complicated process or physical plant changes needed to meet the final rule's requirements. This approach is consistent with EPA's extension provisions for other rules, including the Mercury and Air Toxics Standards (MATS) Rule.

VII. Conclusion

AMP appreciates this opportunity to provide these brief comments on the Proposed ELG Rule. If you have any questions or need additional information, please contact Julia Blankenship at 614/540-0840 or jblankenship@amppartners.org.