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Before the
Environmental Protection Agency
Washington, D.C. 20460

Comments of Kansas Municipal Utilities

National Emission Standards for Hazardous Air Pollutants
for Reciprocating Internal Combustion Engines

Docket ID No. EPA-HQ-OAR-2008-0708
75 Fed. Reg. 75,937 (Dec. 7, 2010)

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I. INTRODUCTION

Kansas Municipal Utilities ("KMU") appreciates the opportunity to submit these comments regarding the U.S. Environmental Protection Agency's ("EPA") proposed national emission standards for hazardous air pollutants ("NESHAP") for reciprocating internal combustion engines ("RICE") rule in this docket. On March 3, 2010, EPA published a final NESHAP rule for existing compression ignition stationary RICE. 75 Fed. Reg. 9648 (Mar. 3, 2010). On December 7, 2010, EPA reopened the NESHAP RICE rule to request additional comments on questions related to the operation of stationary engines for up to fifteen hours per year as part of emergency demand response programs. 75 Fed. Reg. 75,937 (Dec. 7, 2010). On January 13, 2011, EPA held a public hearing in Raleigh, North Carolina to collect comments on these questions. KMU, which represents 101 municipal electric utilities in Kansas, Kansas Power Pool ("KPP"), which operates a power pool and provides power supply services to municipal utilities in Kansas, and Kansas Municipal Energy Agency ("KMEA"), which offers wholesale electricity services to over seventy-five municipalities across Kansas, all participated in the public hearing. KMU now supplements those remarks with these written comments on behalf of its members (including members who also belong to KPP and KMEA) in response to EPA's December 7 invitation.

II. OVERVIEW OF COMMENTS

EPA has requested comment on allowing unretrofitted RICE units to participate in emergency demand response programs existing under the rules of a Regional Transmission Organization ("RTO") or other Balancing Authority (in regions that do not have RTOs). Unfortunately, limiting such emergency programs to those that are activated by a declaration of a grid-wide emergency alert by an RTO or other Balancing Authority is too restrictive, because it

will not encompass localized emergency situations, including the necessary use of behind-the-meter RICE generators to maintain voltage and keep the lights on in remote or rural areas. While the operation of these units may be legally required by an RTO or Balancing Authority as a condition of providing the local utility reliable transmission service to serve its customers, the details of implementing these requirements are left to local operators, and often do not entail the direct involvement of a grid operator when localized conditions trigger the pre-established need for the units to run. These RICE generators serve a critical reliability purpose of the type recognized by EPA, but operate to protect voltage in towns and rural communities that experience localized emergencies that do not usually trigger the need for an RTO to call a grid-wide alert. To maintain dependable and affordable electric service in remote rural areas across states such as Kansas, KMU urges EPA either to revise the scope and time limits applicable to emergency demand response programs, or alternatively to broaden the definition of emergency to recognize the need for voltage support in rural areas. KMU's member cities provide excellent examples of the need for these stationary RICE engines consistent with EPA's intent in permitting certain emergency operations: to maintain clean air but to do so without causing unnecessary disruptions in electric service for small communities ill-equipped to bear the costs of retrofitting these units.

III. BACKGROUND

Formed in 1928, KMU is a statewide trade association representing 171 municipal electric, natural gas, water, wastewater and telecommunications utilities throughout Kansas. There are 119 municipal electric utilities in the state of Kansas. In total, municipal utilities serve roughly seventeen percent of the state's electric consumers. These public power systems range in size from the largest, the Kansas City Board of Public Utilities in metropolitan Kansas City, which serves more than 65,000 meters, down to the state's smallest municipal electric utility, the

City of Radium, with just twenty-four consumers. The large majority of KMU's members are very small utilities. The average municipal electric utility in the state serves only 882 customers. All of KMU's members impacted by this rule qualify as units of local governments under the federal Unfunded Mandates Reform Act ("UMRA") and as small businesses or small utilities under the federal Small Business Regulatory Enforcement Fairness Act ("SBREFA").[1] In addition to being quite small, most of the municipal systems in Kansas are geographically isolated and located far from large metropolitan areas. KMU urges EPA to reassess the burden that the RICE regulations present to small communities and utilities under these statutes. Such consideration would also be consistent with the recent Executive Order No. 13563 entitled "Improving Regulation and Regulatory Review," which asks agencies to closely examine the burdens imposed by federal regulations.

As most people are aware, Kansas consists primarily of rural areas and small towns. However, many people are not aware of the implications this lack of population density carries for the provision of electric service. In simple terms, it means that there are many relatively small communities served by very long transmission lines. It is often economically infeasible to build larger lines to serve small populations, with the result that many small communities rely on small, local generation units, including RICE units, to maintain the transmission voltages necessary to provide reliable electric service. These financial constraints are exacerbated because the majority of KMU's members are experiencing population decline. The median rate of decline for the fifty-six KMU members with RICE units was 8.7 percent between the years 2000 and 2009, with some communities declining over twenty percent during that time. The remaining population includes high percentages of aging and low income groups. It is difficult

[1] The Kansas City Board of Public Utilities is the only member of KMU which is larger in size. However, Kansas City does not operate RICE engines.

for small communities with fixed- and low-income populations to finance expensive capital improvements such as retrofitting of small generators or upgrades of long transmission lines.

Sixty municipalities in Kansas own and operate generating facilities. Of these sixty municipalities, fifty-six rely on one or more RICE engines. In total, municipal electric utilities in Kansas operate 306 RICE engines strategically distributed across the state of Kansas. These engines are not a primary power source and typically operate only when necessary to ensure continuity of service to their local communities. Due to the small size of the units and their interconnection at low voltage transmission levels, none of the owners are registered with the North American Electric Reliability Corporation ("NERC") as generation owners with respect to these units. The units are very expensive to run and therefore are not considered a cost-effective means of generation except when they are the only units available to maintain service.[2] None of the KMU RICE units are located in non-attainment areas for any air pollutant.[3]

In Kansas, 246 of the 306 internal combustion units impacted by the RICE rule are "dual-fuel" engines, making them environmentally preferable relative to the primary alternative generation sources in the state—coal-fired units. Dual-fuel engines can be run on diesel fuel if necessary, but far more commonly are started up on diesel fuel and then operated using natural gas. In dual-fuel mode, diesel is used only as an ignition source while natural gas is the primary driver.

According to the experience of KMU's members, dual-fuel engines typically operate on one to ten percent diesel, with natural gas constituting ninety to ninety-nine percent of the fuel used. KMU members report that their older, "rich burn" units typically operate with ninety to ninety-five percent of the fuel source being natural gas, based on heat input. For newer "lean

[2] None of these RICE units are used in peak shaving arrangements for the purpose of economic arbitrage.
[3] In addition, the KMU RICE units impacted by this rule are not co-located with major sources of Hazardous Air Pollutants.

burn" dual-fuel engines, ninety-nine percent of the heat input to the unit is provided by natural gas and only one percent diesel is used for pilot ignition. The amount of diesel used is constant and does not vary with the size or number of customers being served. In other words, the amount of diesel fuel burned is the same whether the engine is serving one customer or many.

IV. COMMENTS

KMU recommends that EPA clarify the definition of "emergency" in the RICE rules to accommodate the need to use RICE units to prevent localized blackouts and maintain voltage in transmission-constrained areas such as the low-voltage transmission systems of KMU's members. Alternatively, EPA may determine that it is more feasible to accommodate this need by modifying the exception for emergency demand response programs.

KMU recognizes that EPA's main concern with this rule, as with any of its programs, is protection of the environment. However, as EnerNOC has demonstrated in its Petition for Reconsideration, negative environmental consequences can also flow from electric service disruptions, when customers turn on their own relatively unregulated emergency generators for the duration of the blackout, or when electric service to water treatment plants or other municipal functions is interrupted. It goes without saying that there can also be public health consequences for the elderly and others who rely on electric service for life-support equipment or similar functions.

In the rural areas and small towns of KMU's members, stationary RICE are the backbone of existing reliability. The cities turn them on when their customer demand exceeds the capacity of the transmission line providing electric service to the community, with the result that voltage drops too low, or when other interruptions in transmission service occur. Use of the units thus prevents local grid instability and blackouts.

EPA seeks comments on the following questions:[4]

> EPA specifically requests comment on whether emergency engines in emergency demand response programs should be limited to use during periods in which the regional transmission organization or equivalent balancing authority and transmission operator directs the implementation of operating procedures for voltage reductions of 5 percent of normal operating voltage requiring more than 10 minutes to implement, voluntary load curtailments by customers, or automatic or manual load-shedding, in response to, or to prevent the occurrence of, unusually low frequency, equipment overload, capacity or energy deficiency, unacceptable voltage levels, or other such emergency conditions. EPA also requests comment on whether the limitation on use should be for periods in which the regional transmission authority or equivalent balancing authority has declared an Energy Emergency Alert Level 2 (EEA Level 2) as defined in the North American Electric Reliability Corporation Reliability Standard EOP-002-3, Capacity and Energy Emergency.

The NERC standard EPA references requires direction at too high a level — from the RTO — to work for this purpose, but it is possible to fashion a standard that will limit the discretion of the unit owners while preserving their vital functions. KMU units in particular are so embedded in the plans for local reliability that its member communities cannot rely on uninterrupted service year-round without the units. For example, under the express terms of KPP's transmission service agreements with the RTO, the Southwest Power Pool ("SPP"), if a KPP member's RICE units are not operated when system conditions threaten to violate certain specified reliability criteria, then the affected municipal utility has no choice but to impose mandatory curtailments of service on its customers.[5] The operation of the units when voltage drops is a condition imposed by SPP on KPP and its members as part of the transmission service

[4] 75 Fed. Reg. at 75,940.
[5] *See, e.g.*, Service Agreement for Network Integration Transmission Service, Exhibit 1 to Compliance Filing, *Sw. Power Pool, Inc.*, Docket No. ER09-1397-002 (May 18, 2010), eLibrary No. 20100519-0201 (attached).

agreements and embodies SPP's recognition that it cannot provide reliable transmission service to the cities' electrical loads without them.[6]

However, these conditions differ from the EEA Level 2 concept referenced in NERC Standard EOP-002-3. That standard references an RTO declaration of a grid-wide or at least widespread emergency and an RTO call for a grid-wide response. KMU members serve their communities through low-voltage local transmission systems. The voltage drops that KMU communities experience when available transmission capacity is exceeded are localized in nature, as a result of the specific transmission constraints affecting each city and would not entail a grid-wide response. Voltage detection equipment located in each individual community detects voltage drops signaling imminent reliability criteria violations, as established by SPP in the studies it conducted to develop the conditions on its provision of transmission service. The voltage drops trigger a signal to start the relevant RICE units, often without the intervention of the RTO or even the transmission owner.

Nevertheless, the absence of specific RTO direction each time the units operate does not leave the operation of these RICE units to the discretion of the unit owner. In cases where the RTO or Balancing Authority establishes the conditions of transmission service by study, contractual terms dictate the technical conditions when the internal generation must be operated. For example, SPP established the capability of the transmission lines and the conditions under which the units would have to run in studies, and then embodied those requirements in a transmission contract with KPP.

Even where specific transmission service contracts are not involved, operation of generation for voltage support can be distinguished from operation of generation in the regular

[6] KPP opposed this condition before the Federal Energy Regulatory Commission, but SPP prevailed. *See Sw. Power Pool, Inc.*, 131 FERC ¶ 61,070, PP 10-25 (2010).

course of providing service. The American Public Power Association ("APPA") has summarized mandatory and voluntary industry standards, including IEEE 1250, ANSI C84.1 and NEC, which generally agree that a five percent voltage drop or "sag" triggers a need for intervention to prevent instability, disruption or curtailments on a distribution system.[7] Similarly, RTO transmission service studies establish conditions in conformity with relevant NERC standards.

It may be difficult for EPA to craft a definition of "emergency" that will capture all relevant circumstances. KMU supports APPA's recommendation of a carve-out for distribution systems predicated on the inability to import sufficient generation to serve local load. A specific carve-out would avoid the problem of trying to create a definition that is not at cross purposes with the use of the term elsewhere, or at odds with industry practices or other the usage at other agencies such as the Federal Energy Regulatory Commission. Should EPA wish to develop a comprehensive definition of emergency in the future, KMU suggests consultation with industry and a possible model of referencing consensus industry standards for the safe and reliable provision of electric service. Such a use of standards would be consistent with the National Technology Transfer and Advancement Act of 1995,[8] and could be cited by reference in the Federal Register pursuant to OMB Circular A-119 at 6(a)(1). However, to address the immediate circumstances, carving out an exception for low-voltage local systems that must rely on RICE in transmission-constrained circumstances would solve the immediate problem with less potential for unintended consequences.[9]

[7] APPA White Paper at 3 (submitted with APPA's comments in this docket). If necessary, devices to record voltage levels could be installed for verification purposes.
[8] Pub. L. No. 104-113, 110 Stat. 775 (1996).
[9] KMU supports APPA's suggestion that these conditions be documented.

So long as it is clear that any rules adopted do not require an RTO or Balancing Authority to declare each specific alert where the problems are local in nature, such a rule could work. KMU notes that Craig Glazer of the PJM Interconnection confirmed that PJM has no dispatch authority over distribution-level emergencies.[10]

KMU also supports the comments made by PJM at the January 13, 2011 public hearing to the effect that limits based on whether the emergency units receive some form of compensation are not the best way to distinguish among units serving similar functions.[11] Some emergency RICE units in constrained areas receive capacity credit and others do not. Some receive emergency or demand response compensation, and some receive no compensation at all through the grid operator. Because compensation policies vary among RTOs and other Balancing Authorities, attempting to distinguish among units on this basis may not reflect differences in use, and could work counterproductively with the economic incentives established by the grid operator to keep needed units in service. The need to receive capacity credit, in particular, can be determinative of whether a unit remains in service.

KMU recognizes that conditions in Kansas may differ from those in more populous areas. Unfortunately, the existing transmission system serving these small communities in Kansas was simply not designed or built to support reliable electric service to these communities absent reliance on small, local generation, including RICE engines, that can run when transmission interruptions occur or when the transmission lines reach capacity and voltage drops too low to maintain local grid stability.

[10] PJM January 13, 2011 Presentation, slide 6 (Attachment 7 to Summary of the January 13, 2011 Public Meeting on RICE NESHAP Reconsideration Regarding 15 Hours for Emergency Demand Response to Operation, Jan. 24, 2011, EPA-HQ-OAR-2008-0708-0699 ("Jan. 13 Public Meeting Memo")).
[11] *Id.* slide 7 and Jan. 13, 2011 Public Meeting Memo.

KMU's members would actually prefer to reduce their reliance on existing RICE units, given that these engines can be very costly to operate compared to almost any other power supply option. Because of this, KMU members have attempted to pursue other alternatives such as improved transmission service. However, the millions of dollars in upgrade costs that would be necessary to upgrade the transmission system to accommodate the full loads of KMU member cities are economically infeasible for KMU members and other rural communities with only a few thousand or a few hundred ratepayers from whom to collect those costs. A larger, centrally located power plant that could be shared by members to substitute for RICE generation is not a practical solution, because the same transmission constraints that require operation of local RICE units would preclude delivery of the energy from such a centrally located plant. And it certainly would be environmentally as well as economically inefficient to build a new baseload power plant in each individual municipality. Given the uncertainty as to whether and how often replacement units would run, it is difficult to finance them, because payback periods would be highly unpredictable. The same financial concerns would make it problematic to pay for the retrofit of some 306 units belonging to individual municipalities to meet the new RICE requirements.[12] In addition, KMU notes that neither the upgrade of the transmission system nor the construction of new baseload generation could be accomplished before the target date for implementation of the new RICE rules, even if those solutions were practically feasible. It is also unlikely that existing units could be retrofitted within that timeframe.

KMU member Iola, Kansas is an example of the difficult situation that forces Kansas communities to rely on local RICE units. Iola is located in Allen County, Kansas, with a municipal population of 5,500. Iola serves 3,709 metered customers. Iola has a historical

[12] APPA submitted comments in this docket regarding the costs of complying with the RICE rule by retrofitting units, particularly as they apply to units located in remote rural areas, where access to necessary expertise and vendors is limited and more expensive than that available in more populated areas.

maximum load of 24 MW, but it does not reach those levels every year. Voltage on the system generally begins to deteriorate when city load reaches 17 MW. Whenever energy flowing over the lines into the city reaches the maximum capacity, the city has no choice but to operate its RICE generators in order to keep serving its retail electric customers. Voltage support supplied by the City of Iola's RICE units benefits not only the customers of the municipality, but other wholesale customers in the region, such as Heartland Rural Electric Cooperative. A low voltage event in Iola would cause power disruptions in the city's immediate vicinity due to the lack of local generation serving other small, nearby distribution systems. Weather is a huge variable in how often the units must be run. For example, in 2008, weather was moderate and Iola had no need to operate its RICE for voltage support. In 2010, however, weather was extreme, and Iola operated its RICE for 413 hours for voltage support. This sort of usage is variable and difficult to predict.

KMU member Attica, Kansas provides a second example of how these RICE units are relied upon by Kansas communities. Attica is a town of 620 citizens located just north of the Oklahoma border in south-central Kansas. The city operates municipal electric, natural gas, water and sewer utilities. Attica's city superintendent and a crew of just four other city employees provide all of the municipal services in the town, including the four utilities, as well as the streets, parks, and animal control departments. The city's electric generation resources include four Fairbanks Morse RICE engines.

The operation of Attica's four RICE units is cost-prohibitive except under extreme conditions of transmission constraint or other emergency. City staff estimates that the cost of electricity generated by these RICE units is $200 per MWh. This compares to a power supply cost of approximately $50 per MWh when transmission is available. There have been no

circumstances in recent memory where the city has used its RICE units for economic peak shaving reasons; they are used only for reliability purposes.

In 2010, Attica generated for a total of twenty-nine hours using its RICE units, all for system reliability purposes. In early June 2010, the city was required to turn on its RICE units due to a maintenance outage at a nearby substation operated by the city's power supplier. While Attica does not normally receive its power through the substation that was down for maintenance, the substation typically used by Attica was overloaded due to the planned outage. As Attica was the only utility in the area with the generation resources needed to temporarily alleviate the overloading, Attica was required by its power supplier to turn on its RICE units. At no time did the voltage support issue for Attica involve intervention by the SPP. Nor was the situation part of any formal RTO Demand Response event.

The second and only other time that Attica turned on its RICE units in 2010 was due to a large thunderstorm that moved through south-central Kansas and knocked out power transmission to the city. As a consequence of this outage, the city was forced to operate its RICE units for four hours. For unknown reasons, the transmission tie to the city was lost again the following day, requiring the city to once again turn on its engines to avoid leaving the city in the dark.

Attica does receive a modest capacity payment for three of its four units. However, it is estimated that the payback to install oxidation catalysts on the engines would exceed twenty-one years using the entire capacity payment that the city receives. In 2010, total net income for Attica's electric utility was just $35,000. This figure does not compare favorably with the conservative estimate of $240,000 to retrofit three of the city's four engines, particularly given the high cost to run the units to begin with.

As noted above, the entire Kansas public power community has faced tremendous challenges of late. All but five of the fifty-six cities with RICE units are suffering from population decline. Given declining populations, a very difficult economic environment, and a largely aging and low-income citizenry, KMU remains quite concerned about the ability of its members to generate the capital necessary to make needed capital improvements. Furthermore, given existing population declines, there is less incentive for dramatic investments in larger transmission lines and more power plants. It is quite possible that if populations continue to decline, the demands on the transmission lines in rural areas such as Kansas will decrease in the future. We note that this also suggests that less RICE generation may be needed in the future to ensure reliability.

For all of the reasons described above, EPA should modify its rule to reflect the reality that RICE units are essential to maintaining reliability in areas like Kansas that are transmission constrained. The units are infrequently and only sporadically operated, and when they are operated, they are used for emergency reliability purposes. Moreover, the majority of the units are operated primarily using natural gas, not environmentally polluting diesel.

KMU recommends that EPA modify the language of the rule that defines emergency use to specify that it includes low-voltage local systems that must rely on RICE units when transmission capacity is insufficient to import electricity to serve local customers. This would be the most straightforward way to address KMU's situation, and would not impose limits on the number of hours the units could run when needed to keep the lights on. However, if EPA chooses not to make a specific exception, the use of small RICE units for critical voltage support in constrained areas can fit the concept of an emergency demand response program under the rule so long as an RTO declaration is not required.

If these types of operation are included as emergency demand response programs, KMU recommends that EPA not impose any annual hours limitations on such operation for voltage support, or at least ensure that any limits are sufficient to allow small rural communities to maintain reliable service. The need to maintain reliable service in sparsely populated areas of Kansas and other states should be reflected in any such limit. This would enable the small-scale emergency voltage support that is needed to maintain the reliability of electrical systems located in small communities.

KMU is supportive of EnerNOC's and APPA's recommendations that EPA increase the number of hours of operation for emergency demand response engines, in the sense that an upward revision is needed. However, KMU stresses that with the example of Iola and other cities' use of these units, a usage limit of no less than 400 annual hours would be necessary to ensure reliability.

Alternatively, KMU supports the proposal of the Iowa Association of Municipal Utilities to employ a three-year rolling average instead of a firm annual cap. A rolling average better represents the sporadic and unpredictable nature of the need to use these units. Depending on variables such as weather, a small community could need the RICE unit for many hours one year and not at all the next. The rolling average maximizes flexibility in the use of the units without changing the overall number. KMU suggests a limit of 200 hours based on a three-year rolling average.

Specifically, KMU recommends modifying the language in the rule published in the Federal Register on March 3, 2010 in one of two ways. First, the cleanest way to carry out the modification would be a change to Section 63.6675 such as the following one:[13]

[13] 75 Fed. Reg. at 9679.

> Emergency stationary RICE means any stationary internal combustion engine whose operation is limited to emergency situations and required testing and maintenance. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire or flood, *etc.* Stationary CI ICE used for peak shaving are not considered emergency stationary ICE. Stationary CI ICE used to supply power to an electric grid or that supply nonemergency power as part of a financial arrangement with another entity are not considered to be emergency engines, except when emergency power is required to provide low-voltage local service or voltage support at times when transmission capacity is insufficient to import power to serve load or as permitted under § 63.6640(f). Emergency stationary RICE with a site-rating of more than 500 brake HP located at a major source of HAP emissions that were installed prior to June 12, 2006, may be operated for the purpose of maintenance checks and readiness testing, provided that the tests are recommended by the manufacturer, the vendor, or the insurance company associated with the engine. Required testing of such units should be minimized, but there is no time limit on the use of emergency stationary RICE in emergency situations and for routine testing and maintenance. Emergency stationary RICE with a site-rating of more than 500 brake HP located at a major source of HAP emissions that were installed prior to June 12, 2006, may also operate an additional 50 hours per year in non-emergency situations. All other emergency stationary RICE must comply with the requirements specified in § 63.6640(f).

Alternatively, a change to Section 63.6640(f) to include voltage support for transmission-constrained systems as a form of emergency demand response and to increase the number of hours is warranted. In that case, KMU requests in the alternative no limit for such uses, a limit of 400 hours per year, or a limit of 200 hours per year based on a three-year rolling average.

V. CONCLUSION

Thank you for providing KMU with an opportunity to comment on the proposed NESHAP rule for RICE. Please do not hesitate to contact us with any questions that you may have.

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