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Federal Clean Air Act Section 185 Fees  
Informal Comments of Entergy Texas  
June 24, 2009

Entergy Texas is a regulated electric utility operating in the non-ERCOT portion of Southeast and Central Texas. Entergy owns and operates generation, transmission and distribution facilities in this area. Specifically, Entergy Texas owns and operates a fossil-fuel fired steam-electric generating plant in Montgomery County, and Montgomery County is included in the Houston/Galveston/Brazoria ozone non-attainment area. It is our understanding that the Section 185 Fees would be directly applicable to emissions from that generating plant.

Plentiful and affordable electric energy is vitally important for the wellbeing of the citizens of Texas as well as for economic growth and development of our State. Electric energy can not be stored in appreciable quantities and must be manufactured instantaneously coinciding with user demand. Therefore our production operations, hence emissions, are cyclical and vary significantly with time.

We have reviewed the EPA "Guidance on Establishing Emissions Baselines under Section 185 of the CAA for Severe and Extreme Ozone Nonattainment Areas that Fail to Attain the 1-hour Ozone NAAQS by their Attainment Date" dated March 21, 2008, and concur with the concept of computing the "baseline amount" for a period of more than one year for sources having variable emissions.

Paraphrasing that guidance, in the context of Prevention of Significant Deterioration (PSD) EPA has determined that it is fair and reasonable for a source to use a 10-year look back period for calculating "baseline actual emissions" because it allows for consideration of a full business cycle in setting a baseline emission rate that represents normal operation of the source. For utilities, the PSD rules require use of a 24-consecutive month period within the past 5 years, or a different 5 year historical period if the State determines that it is more representative of operations for a particular source.

Sections 101.100 (4) and 101.120 (a) and (b) generally track the guidance and Entergy Texas encourages TCEQ to adopt regulations containing such provisions.

While not currently attaining the 1-hr ozone standard, the Houston/Galveston/Brazoria area is moving steadily toward attainment. Therefore even as the Section 185 Fee rules are being drafted, they need to look forward to a clear end-point for the program, at least in so far as the 1-hr standard is concerned. We note that Section 101.160 addresses this concern and encourage TCEQ to adopt regulations containing such provisions.

Entergy Texas appreciates this opportunity to provide informal comments on the draft Section 185 Fee rule language. Please feel free to contact me if you have any questions about our comments. We will continue to

monitor the rulemaking process and reserve all rights to participate in the process including commenting on future drafts and on the formal rule proposal, in accordance with TCEQ regulations for rule adoption. Thank you,

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