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Mr. Robert Perciasepe
Deputy Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue
Washington, DC 20406

Dear Administrator Perciasepe:

Thank you for the letter you sent yesterday. While we appreciate the significant attention that you, Administrator Jackson, and senior staff at EPA have given to this issue in recent weeks, we are disappointed that despite this effort EPA is unwilling to take reasonable but necessary action that would realize substantial emission reductions at Luminant facilities while at the same time avoiding the loss of hundreds of jobs and the risk to reliable generation in Texas in the near term. We take seriously the invitation to continue working with EPA on these issues and commit to explore with you every possible option; however, EPA's self-imposed January 1, 2012 compliance deadline and the Agency's apparent unwillingness to grant a stay while discussions are ongoing necessitates that Luminant take all possible action to protect these jobs and necessary generation in the interim.

We recognize the efforts of the last few weeks, but are disappointed and frustrated with how EPA has treated Texas and Luminant generating facilities—both in the lack of due process afforded to Texas and its stakeholders and in the drastic and unwarranted reductions EPA has mandated on an impossibly short timetable. We find particularly frustrating EPA's failure to provide specific options that would permit us to avoid the facility shut downs and job losses we must implement in response to EPA's Cross States Air Pollution Rule despite the Agency's recognition that CSAPR includes significant mistakes and faulty assumptions directly impacting Luminant.

We should be clear about Luminant's view of events thus far. One year ago, EPA issued its proposed CSAPR. In its draft rule, EPA correctly concluded that Texas should not be included in the rule for annual emissions, as your agency's own data showed that Texas did not contribute to downwind emissions issues. A

little more than two months ago, and even though nothing had changed other than EPA's modeling methodology, EPA reversed course and included Texas in the rule. Worse, EPA decided to include the state without allowing Luminant, other stakeholders, and Texas the basic prerogative to comment on EPA's decision to include Texas in CSAPR. To this day—and despite repeated requests from my company, Texas, virtually every Texas member of Congress, both Democrat and Republican, and dozens of concerned citizens and organizations, including unions, minority and disadvantaged groups that will be disproportionately impacted by lost jobs and higher energy costs, and trade associations—EPA has failed to offer an explanation for its decision to deny us and others this most fundamental due process.

The substance of the agency's regulatory edict to Texas and Luminant is equally inexplicable. Having concluded a year ago that the data required no annual reductions from Texas generators, EPA now mandates that Texas slash its SO_2 emissions by half and greatly reduce NO_X emissions in less than five months—an unprecedented and legally impermissible compliance requirement. EPA mandates that within a few months Luminant reduce its SO_2 emissions by an astounding 64%, its annual NO_X emissions by 22%, and its seasonal NO_X emissions by 19%– amounts that EPA well knows are impossible to achieve without devastating operational changes. Remarkably, EPA imposes these requirements based on its new-found and erroneous prediction that a tiny contribution from Texas—along with 10 other states—to the air quality at a single monitor located nearly five hundred miles away in Illinois could threaten to interfere with attainment at that monitor in 2012, ignoring the agency's own finding that the monitor and the county it resides in are in attainment today and that Texas emissions are projected to decrease in 2012 even without CSAPR. EPA's rule further ignores the legal mandate that EPA tailor its required reductions to the downwind effects Texas allegedly causes, and no more. In the case of Texas, EPA readily concedes that whatever downwind impact Texas might cause is small and barely meets the statutory threshold, while at the same time the agency imposes massive reductions on the state—reductions that unavoidably result in facility shut downs and layoffs.

You also intimate in your letter that Texas has not made strides in emissions reductions. On the contrary, since 1995 Texas has reduced its NO_X emissions by over 60% and its SO_2 emissions by almost 30%. Luminant likewise has made tremendous strides, including voluntary measures to significantly reduce emissions. Indeed, today Texas's emissions rates are significantly better than the average for the nation.

Perhaps most disheartening is your unsubstantiated and repeated assertion that options exist that would permit Luminant to comply without curtailing

generation, switching away from use of native Texas lignite coal, or costing jobs. Yet EPA has failed to identify a single specific compliance option that would permit these units and mines to remain open. As we have described in detail, company officials at all levels have spent almost every available waking hour of the past few months exploring every conceivable option to comply while minimizing the threat to electric reliability in Texas and the impact on jobs—jobs we agree the nation can ill-afford to lose based on the "nation's difficult economic situation," as you describe it. Luminant surely has more incentive than any other party to maintain this generation and protect these jobs, as demonstrated by our efforts with you and the litigation course that we reluctantly must pursue. Unfortunately, however, Luminant has not identified any option to comply with CSAPR on the current timetable that does not involve substantial job losses and significant amounts of curtailed generation. Tellingly, EPA has offered none.

In fact, EPA's own data and modeling reflects the elimination of over a thousand lignite mine jobs in Texas based on the agency's assumption that Luminant would cease lignite use at its Martin Lake, Monticello, and Big Brown units. Despite our requests, you have not provided us with data on a unit-by-unit basis that does not include fuel switching at these units. Not surprisingly, then, we have been unable to replicate EPA's system-wide lignite sensitivity analysis that you imply somehow allows lignite to remain in use at current levels. Still, we stand ready and look forward to your suggestions of reductions that would allow us to avoid these actions, including your offer to share data that illustrate how Texas and Luminant can comply with CSAPR cost-effectively while keeping lignite coal use at current levels.

As for the trading markets you contend will emerge and enable Luminant to avoid facility shut downs, the reality belies the theoretical for the reasons we have described in detail. Speculating that a vast amount of surplus credits will somehow immediately appear under a regulatory scheme that is designed to prevent precisely such a scenario in any one state is a reckless strategy that risks making Texas's power shortages far worse. By design, the variability limits and assurance levels restrict the potential scope of trading as a compliance option. In effect, you urge a strategy that, if wrong, will result in the ERCOT market confronting a reduction of over 5000MW in generation by next summer, as opposed to the 1300MW Luminant's compliance plan envisions. EPA would place this entire risk on Luminant and ERCOT based on the agency's speculation that a sufficient credits market will emerge in circumstances that are unlikely, or at best uncertain, to produce one.

On an encouraging note, you indicate in your letter EPA's willingness to make "technical adjustments, based on technical information [Luminant] has

recently provided." It is true that in only a few short weeks we already have pointed out fundamental errors in the modeling data EPA has published since the rule was issued. Of course, EPA could have avoided these and other errors in the first instance had it provided notice and comment opportunity to Texas and Luminant, as it has with every other state implicated in CSAPR. That said, we appreciate your willingness to acknowledge and correct some of these issues through a reconsideration process, and we look forward to further dialogue with you to ensure the agency does not proceed with further erroneous or incomplete information and assumptions. As we have described, and among others, EPA's fundamental errors include its assumption of scrubbers in operation that are not yet installed, higher scrubber efficiencies than the equipment can achieve, and fuel delivery assumptions that go well beyond current constraints. However, until the agency undertakes the process of correcting and finalizing these and other issues in its modeling, Luminant must prepare to comply with the rule as it stands. Again, we therefore urge you to stay the rule, initiate a reconsideration proceeding, and make these adjustments as promptly as possible. You also may be assured that Luminant will continue to work with EPA to complete this process as swiftly as possible to enable the correction of faulty emissions standards.

More than perhaps any other element of the current situation, we regret that EPA has shown no flexibility on its impossibly short compliance timetable—flexibility that would enable a fighting chance to protect much-needed generation and jobs. Whatever flexibility you contend is inherent in the Clean Air Act, the agency has failed to demonstrate that flexibility to ensure Luminant and Texas generators might timely comply without layoffs and generation curtailment. And although the agency acknowledges errors in both process and modeling—errors that require agency reconsideration of CSAPR as it applies to Texas—EPA refuses to even modestly adjust the compliance timetable to correct for these errors and to avoid these job losses and threats to electric reliability in Texas by January 1. There should be no uncertainty, then: The responsibility for these potential job losses and the threat to Texas reliability rests with the EPA's Cross State Air Pollution Rule.

The last thing Luminant wants is to close facilities and let go valuable and long-standing employees— people who, with their families, are critical to the viability of the rural communities in which they make their homes. But unless EPA gives us more time and establishes more reasonable limits that reflect actual monitored conditions—authority EPA plainly possesses, if not mandated by EPA's admission of significant errors—we must comply with the rule as EPA has promulgated it. Your agency's mandate that Luminant slash its emissions by 64% in a matter of a few months forces us to reluctantly make these heart-wrenching decisions. No amount of assertions to the contrary changes the reality of the

mandates the rule imposes and that we confront.

We look forward to continued discussions in the coming days and weeks. Like you, we hope EPA is equally committed to avoiding these consequences, as your agency holds the fate of hundreds of employees and electric reliability in Texas in its hands.

Sincerely yours,

David A. Campbell