

Testimony of David Campbell, Luminant CEO
Before House State Affairs Committee
Thursday, September 22, 2011

Good morning. My name is David Campbell, and I am the CEO of Luminant. I am honored to be here representing Luminant's 4,400 employees in Texas. We are all proud of our long history of providing safe, reliable, and affordable electric generation to Texas.

At the outset, I'd like to emphasize that we support continued efforts to improve air quality across the state and nation. We've put our money and actions behind efforts to do that.

- Since 2005, Luminant has achieved a 21 percent reduction in SO₂ emissions and a 9% decrease in NO_x emissions. At the same time, we've invested billions in new plants, increasing our generation by 16 percent. We also added nearly 700 new jobs, all in Texas.
- And the Texas power sector's emissions rates are significantly better than the U.S. average - 24 percent better for SO₂, and 42 percent better for NO_x.

I am here to explain the requirements of the EPA'S Cross-State Air Pollution Rule, known as CSAPR. Unless there are changes made to the rule, CSAPR's drastic requirements and unrealistic timeline will force us to take steps that will result in job losses and reduced generation. Specifically, we plan to

- Cease operations at three lignite mines in East Texas; and
- Idle two electric generating units in East Texas, called Monticello Units 1 and 2.

Those actions will result in the elimination of between 400 and 450 full-time jobs by early 2012, and the eventual elimination of more than 500 jobs.

- Our employees are dedicated, capable, and good people. Many have worked for the company for decades. And these jobs are typically among the highest paying and most sought-after, stable jobs in their communities.
- During these difficult economic times, job opportunities for these workers may be extremely limited, particularly in the rural communities in which our facilities are located.
- Unfortunately, the burden of CSAPR's aggressive timeline and mandates will fall on the same employees who worked tirelessly through the hot summer to keep the lights on.

And that is why we are working so hard to get this rule changed. We are fighting to preserve hundreds of jobs for our employees, to keep open facilities that are important to the local communities, and to preserve reliability of the Texas electric system.

We are not alone in our concern about this rule, and its effects on Texas. Many elected officials from both sides of the aisle, community leaders, and consumer advocates have taken action to express their serious concerns. In these partisan times, this is one topic that has generated widespread agreement among Texas leaders.

We are working hard on two fronts to get this rule changed – we are continuing our discussions with EPA and we’re also seeking judicial action to stay the rule. No one would be happier than Luminant if changes are made to CSAPR that allow us to keep our mines open, our plants online, and our people employed. It would be a great day if I could appear before this panel, later this fall, and describe exactly that outcome. We will work around the clock and keep our door open to EPA to continue our efforts to make that happen.

Today, I’ll describe three aspects of the CSAPR rule and its effect on Texas:

- First, the magnitude of the challenge that we face.
- Second, some of the fundamental flaws in the process that created the CSAPR mandates for Texas.
- Third, the unfortunate impacts that the rule as it currently stands will have on jobs and reliability.

First, as finalized by the EPA, this rule imposes severe limits on Texas power plants, and requires compliance in an unprecedented timeframe of less than six months.

- CSAPR requires that Texas reduce its SO₂ emissions by 47 percent. Luminant faces a 64 percent reduction.
- CSAPR further requires that Texas reduce its NO_x emissions by 8 percent. Luminant faces a 22 percent reduction
- Some, including the EPA, would like to imply that these reductions would be simple to achieve. The reality is that there are no easy paths to reducing emissions by 64 percent this fast. New environmental control equipment takes years to put in place. Reducing emissions this much, this soon, will require significant operational changes. There is no way around it.
- Despite what the EPA has been saying about 2013, the rule takes effect on January 1, 2012. The limits apply to actual emissions in the 2012 calendar year. March 1, 2013 is the date that power generators will have to report their 2012 emissions for the annual NO_x and SO₂ programs – it’s like April 15 for last year’s taxes.
- The installation of controls cannot be done by January 2012, because the timeline to design, permit, construct and install new emissions control equipment is typically 3 or more years. We can’t be sure what allowances will be available in a trading market – and the CSAPR places significant restrictions on trading as a compliance tool. In this context, we must take immediate steps to comply during

calendar year 2012 and meet that reporting deadline. If the 2012 emissions are not immediately and drastically reduced, and we cannot buy enough credits in the trading market, then the rule imposes massive penalties.

- There are those who will also say that we should have known this was coming. My answer is simple. EPA's own draft rule, issued in 2010, did not include Texas in the annual SO₂ and NO_x programs. Texas was not included because EPA's own modeling did not support it. A year later, EPA suddenly switched course. It decided not only to include Texas, but to require massive reductions in less than six months. That is the opposite of a stable and predictable regulatory framework

My second point summarizes the fundamental flaws in the process and inputs that were used to develop CSAPR.

- The development of CSAPR involved serious process flaws. Since Texas was not in the draft rule, this meant there was no meaningful opportunity for notice and comment on annual reduction requirements. In fact, never before has a state been included in a major EPA rule when no budget for the state was included for comment in the draft rule.
- There are also serious questions about whether Texas should be in the annual program, and if so, whether the required reductions are in any proportion to the modeled downwind impacts. There were good reasons why EPA concluded in the draft rule that Texas had no need to be in CSAPR's annual programs.
- Finally, there are fundamental data errors as well. The easiest example to point out is that EPA's modeling assumes the use of three scrubbers in Texas that do not, in fact, exist. But that's just one example of many. This is what happens when you don't go through a notice and comment process.
- We've started a dialogue with EPA about these flaws and errors. We're pleased that we've made some initial progress, and we greatly appreciate the engagement of EPA leadership on the topic. As of yet, there have been no changes to CSAPR's requirements or deadline, though we certainly hope those will be forthcoming. We'll continue that dialogue with EPA and hope that it can lead to corrections, and changes, to the rule, allowing us to keep facilities open and all our people on the job.
- Ultimately, we will comply with the rule, as we comply with all rules that govern our industry. We have no choice but to make plans to meet CSAPR's current requirements. We are obligated to notify ERCOT, employees, suppliers, and others of those plans. If the rule is changed, as we hope, we'll be equally forthcoming about how we can alter our implementation plan.

My third, and final, point relates to how we will achieve the CSAPR mandates.

In our evaluation process, we explored all options. These include switching fuel sources, reducing power generation, purchasing emissions allowances, installing new equipment, upgrading existing equipment, implementing new emission reduction

technology such as dry sorbent injection, and many other options.

The bottom line is that all these alternatives have significant near-term limitations, given CSAPR's imminent deadline.

- **Installing additional emissions controls is not a solution.** The minimum standard timeline for permitting, constructing and installing new controls is 3 or more years, and we were given less than 6 months.
- **Purchasing additional emissions allowances is not a complete solution.** In the near term, there will be far more demand than there is supply for emissions credits. Betting on a trading market is as risky as it sounds. Plus, by design, CSAPR sets limits on the use of trading as a compliance option.
- **Fuel switching is a solution that would result in increased job losses** – simply put, switching from lignite coal to PRB coal means the elimination of hundreds of Texas jobs. And switching to natural gas is not possible – we cannot run natural gas in the existing facilities. Permitting and building new gas units will take years.
- **Increasing scrubber utilization is not a complete solution** - existing scrubbers alone cannot achieve the required reductions. On this point, it's worth noting that even the widely-cited Bernstein report, which assumes scrubber efficiency levels that can't be achieved with current equipment, still assumes extensive fuel switching to comply with CSAPR. In other words, the Bernstein report assumes major job losses.

The compliance plan that we will implement includes investing close to \$300 million by the end of next year to help reduce emissions as much as we can in this short time frame. Unfortunately, it won't be enough. Closing mines and idling plants are the last steps that we want to take. But without changes to the rule and its timeline, they are steps that we will have to take.

While Luminant supports continued efforts to improve air quality, we cannot support CSAPR's timing, process, or methodology. While we are preparing to comply with the rule as it stands, we are also pursuing administrative steps with EPA, and a legal challenge, to protect our facilities and employees.

We have more incentive than anyone to figure out how to comply with this rule while keeping our plants open and our people at work. Unfortunately, such an option simply isn't there, unless changes are made to the rule. We will work around the clock to pursue changes to the rule, and we will keep our door open to EPA to continue our efforts to make that happen.

I'd be happy to take questions.