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Via electronic mail: Guy.Lester@Arkansas.gov
Guy Lester, P.E.
Arkansas Department of Energy and Environment
Division of Environmental Quality, Office of Water Quality
NPDES Permits Section
5301 Northshore Drive
North Little Rock, AR 72118

Re: Entergy Arkansas, LLC – Independence Plant – AR0037451, AFIN 32-00042

Dear Mr. Lester:

This letter serves as clarification on the impact of recent federal rulemakings as it relates to Entergy Arkansas, LLC's ("Entergy" or "EAL") pending NPDES permit renewal request for the Independence facility. The current NPDES Permit AR0037451 for the Independence facility was issued on November 1, 2020, and subsequently modified on January 27, 2022 and December 1, 2023. Entergy submitted its Permit Renewal Application in April of 2025. Since that time, the United States Environmental Protection Agency ("USEPA") has promulgated revised Effluent Limitation Guidelines ("ELGs") for coal plants and revised regulations for the management of Coal Combustion Residuals ("CCR"). By this letter, the Company seeks to provide specific feedback on how those rulemakings could impact this pending permit application.

Entergy's Independence plant became subject to requirements to cease the combustion of coal no later than December 31, 2030. Entergy is requesting your review and consideration of the facility's implementation of the newly-introduced requirements for Combustion Residual Leachate (CRL) ELGs.

As we have discussed, under the 2024 ELG Rule 40 C.F.R. § 423.13(l)(2)(i)(A), the Division of Environmental Quality (the Division) has the discretion to determine the facility-specific implementation date for the discharge limits applicable to CRL at facilities ceasing coal combustion prior to 2034. The Final Rule requires this date to be "as soon as possible beginning 120 days after the facility permanently ceases coal combustion, but no later than April 30, 2035." *Id.*

The USEPA created the 2034 CRL category in part because it recognized the heavy lift for facilities nearing permanent cessation of coal combustion to quickly design and implement compliance technology.[1] Independence has elected this category by submitting its Notice of Planned Participation ("NOPP") for CRL under 40 C.F.R. § 423.19(h), although it will be ceasing coal combustion at the end of 2030. Entergy is still evaluating the technologies and options for potential treatment of CRL after cessation of coal combustion.

On December 31, 2025, the USEPA published a final rule extending certain deadlines under the Part 423 ELGs (the 2025 Deadline Extension).[2] In the preamble, the USEPA noted that it had "identified additional information that makes it clear that, due to supply chain logistical challenges as well as the unique characteristics of each facility's operational needs, the deadlines to comply with the 2024 rule are infeasible and impractical on a nationwide basis."[3]

While the deadline extensions under the 2025 rule are not applicable to facilities operating under a NOPP, the USEPA specifically explained how circumstances had changed, necessitating additional time for facilities to comply with discharge requirements. In other words, while Independence must still meet its CRL discharge limits "no later than" April 30, 2035, the USEPA's support for the 2025 Deadline Extension also describes why the "as soon as possible" date for facilities with NOPPs is likely significantly later than the USEPA originally anticipated. For example, under the 2024 ELG Rule, facilities operating beyond 2034 were required to meet zero discharge of Bottom Ash Transport Water ("BATW") and CRL "no later than" December 31, 2029. The 2025 Deadline Extension moved this "no later than" date to December 31, 2034, noting that the original 2029 deadline:

> [N]o longer is "available" for all facilities under the current circumstances due to constraints in the ability to procure and install the control technologies or their component parts, including as a result of supply-chain disruptions, as well as competition for skilled labor.[4]

The USEPA noted that there is a limited number of qualified vendors and contractors to install these types of compliance technologies, so industrywide compliance would not be achievable by the 2029 deadline.[5]

Entergy anticipates that it will encounter these same issues described by USEPA and that they will create significant obstacles for Independence to achieve compliance with its CRL requirements by April 30, 2031, which is 120 days after it is required to cease burning coal.

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[1] Preamble to the 2024 Final Rule, 89 FR 40243.

[2] 90 FR 61328, https://www.federalregister.gov/documents/2025/12/31/2025-24102/effluent-limitations-guidelines-and-standards-for-the-steam-electric-power-generating-point-source.

[3] *Id*., at 61329.

[4] *Id*., at 61341.

[5] *Id*., at 61342.

In the preamble to the 2025 Deadline Extension, the EPA also supported the extensions by acknowledging that there is an adverse impact on customer rates resulting from the cumulative costs of complying with multiple rules in short succession.[6] In recent years, Independence has made several compliance investments to comply with the CCR Rule and the ELG Rule. Additionally, it will soon be installing and monitoring additional groundwater wells across the site to monitor CCR Management Units in accordance with the 2024 Legacy CCR Rule. Entergy has rolled out these necessary compliance investments as economically as possible and sees the importance of the USEPA's observation that "longer implementation timeframes can moderate impacts to electricity consumers."[7]

At this time, Independence anticipates that it will need the full time allowed under the regulation to design and implement its CRL compliance system. Entergy will need time to design, procure, and install compliance equipment that will work for the Independence site after its retirement. Additionally, Entergy will not know the status of the supply chain and labor shortages discussed by the USEPA until Entergy has been able to design its compliance systems and is nearing the time to install them.

Entergy remains dedicated to full compliance with all applicable ELG requirements, including discharge limitations on CRL which are expected to continue past the retirement of the coal units. As such, Entergy is proposing to include a Schedule of Compliance in its NPDES permit to implement applicable CRL limits:

> *Within three years of the Effective Date, Permittee will submit a Compliance Plan to the Permits Section of the Office of Water Quality to address the implementation of applicable effluent limitations under 40 C.F.R. § 423.13 for CRL wastewater.*

Entergy is confident that this course of action balances the USEPA's intention to allow a flexible implementation date for CRL limits at retiring plants with the Division's desire to address CRL compliance in Independence's pending NPDES permit renewal. This course of action will also allow Entergy and stakeholders time to determine post-retirement site plans and conduct studies regarding treatment options for CRL at the Independence site. This will in turn allow Entergy to provide the Division with the most accurate data regarding compliance options and site conditions that will exist after Independence ceases the combustion of coal.

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[6] 90 FR 61328, at 61344.

[7] *Id.*

Thank you for your consideration of these items. As always, Entergy and its representatives stand ready to continue our productive discussions toward a mutually agreeable end. My contact information is Sarah@PPGMRLaw.com or (501) 993-0026.

Sincerely,

PPGMR Law, PLLC

Sarah Page Tacker

Sarah Page Tacker

ST/JHF/cea