Dear Administrator Pruitt,

In recent months, your office has expressed a general desire to work together with states to meet Clean Air Act program requirements. TCEQ greatly appreciates this approach which we believe best reflects the cooperative federalism envisioned by Congress in developing air quality implementation plans. As you are aware, EPA's action on Texas' 2009 Regional Haze State Implementation Plan (SIP) revision was delayed for many years and has still not been completely finalized.

To address the outstanding Regional Haze program requirement to address Best Available Retrofit Technology (BART) for Texas EGUs, the previous administration published in the *Federal Register* a proposed BART Federal Implementation Plan (FIP) for Texas on January 4, 2017 (82 *Fed. Reg*. 912). This proposal was submitted under a consent decree deadline, which also requires that the final action by EPA on Texas BART must be signed by September 9, 2017. On May 5, 2017, TCEQ and the Texas Public Utility Commission (PUC) submitted comments on EPA's proposed BART FIP for Texas. In those comments, our agencies commented that EPA could address BART requirements for Texas EGUs through a source- or system-cap alternative trading program and that this program could achieve greater reasonable progress than source-specific BART. This letter is to clarify our comment and to encourage EPA to finalize a BART FIP for EGUs with a trading program alternative as allowed under the Regional Haze Rule (40 C.F.R. 51.308).

Texas was originally included in the Clean Air Interstate Rule (CAIR) and Cross State Air Pollution Rule (CSAPR) trading programs for the 1997 Ozone and $PM_{2.5}$ standards, although EPA has published in the Federal Register on November 10, 2016, a proposal to withdraw Texas from CSAPR to comply with the D.C. Circuit Court order remanding the CSAPR annual NO_X and SO_2 emission budgets in {insert case citation}. Texas' 2009 Regional Haze SIP revision originally relied on reductions from those programs. To address the obligation for SO_2 BART, a trading program alternative could be implemented relatively quickly and could provide a mechanism to address reliability issues as well as continue to assure SO_2 emission reductions that were realized under the CAIR and the CSAPR from EGUs. I have included an attachment that provides information about a potential SO_2 intrastate trading program to address SO_2 BART. Texas is currently included in the CSAPR update for the 2008 Ozone NAAQS and has an emission budget requirement for ozone season NO_X. I understand from your proposed FIP that EPA intends to rely on its determination that CSAPR is better-than-BART to fulfill NO_X BART.

If EPA were to finalize such a trading program in its FIP, I would submit to the commission for their consideration as soon as practicable a revision to the Texas SIP that would implement and enforce a trading program for EGUs to address BART in place of a FIP trading program to minimize the federal resource burden from implementing such a FIP. Of course, any such SIP revision would be processed in accordance with public notice and comment requirements and be subject to EPA's approval. Rulemaking to develop a proposed intrastate trading program to address SO_2 BART would necessarily rely on a FIP from EPA establishing that such a BART

alternative is appropriate. TCEQ rulemaking requirements, including public notice and comment to meet both state and federal requirements, generally requires approximately 18 to 24 months to complete for submittal to EPA as a SIP revision.

Lastly, I am including an attachment that provides additional information regarding Texas electric grid reliability and EGU remaining useful life information to further support our comments on these issues.

Richard Hyde, P.E.
Executive Director

DRAFT