



Jeff Landry  
Attorney General

March 31, 2016

**State of Louisiana**  
DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL  
P.O. BOX 94005  
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Dr. Chuck Carr Brown

Secretary, LDEQ

Post Office Box 4301

Baton Rouge, LA 70821-4301

Dear Secretary Brown,

As you know, on February 9, 2016, the United States Supreme Court issued an order staying the Environmental Protection Agency's (EPA) so-called "Clean Power Plan"<sup>1</sup> pending the conclusion of judicial review.<sup>2</sup> You are also aware that our office is representing the State of Louisiana as a party plaintiff in the pending litigation before the D.C. Circuit Court challenging the proposed regulations under §111(d) of the Clean Air Act. Your agency has argued that the proposed rule "unequivocally exceeds the authority provided to the EPA...jeopardizes the reliability of the electrical grid, unfairly imposes vastly different requirements on states, overestimates purported health benefits, attempts to supplant the sovereign authority of Louisiana by establishing a *de facto* renewable portfolio standard, and contains numerous other deficiencies."<sup>3</sup>

The result of the Supreme Court's stay is clear: the Power Plan has no legal effect whatsoever during the pendency of the ongoing judicial review process. I agree with my counterparts and co-Plaintiffs across the country that the Court's decision to grant the stay means the states, their agencies, and EPA should "put their pencils down." Committing Louisiana taxpayers' dollars during the judicial review process is unnecessary and risks further increasing the costs of power generation on ratepayers.

Previously, you have publicly expressed concern about being "caught flat footed" by future mandatory EPA requirements. The reality is that if a state plan is ever required, the deadlines for such a plan will be adjusted according to the termination of judicial review so this concern is unfounded. Indeed, LDEQ has recognized this reality in its Public Notice regarding this listening session.<sup>4</sup> As the Chief Legal Office of the State of Louisiana who was involved

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<sup>1</sup> Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, 80 Fed. Reg. 64,662 (Oct. 23, 2015).

<sup>2</sup> Order No. 15A773, *et al.* (U.S. Feb. 9, 2016).

<sup>3</sup> Comment from Peggy Hatch, Secretary LDEQ, regarding: Docket ID No. EPA-HQ-OAR-2013-0602 (Dec. 1, 2014).

<sup>4</sup> "When is Louisiana's plan due? According to the final rule, state plans must be submitted to EPA by September 6, 2016, though a 2-year extension can be requested. However, in light of the aforementioned stay, the date by which state plans will be due will likely be re-established based on the timing and outcome of the ongoing litigation."

in obtaining the stay – I want to ensure that you understand there is no legal obligation and, in my opinion, it is ill-advised to spend taxpayer funds in the midst of an unprecedented budget crisis on compliance efforts for this unlawful proposed rule that has been stayed by the federal courts. In the unlikely event that the courts uphold the Power Plan, there will be ample time to restart compliance efforts.

Although we believe – and have argued strongly – that the regulation of the Louisiana power grid rests in the hands of state government, any continued efforts to comply with the misguided Power Plan are not mandatory and run contrary to the State’s current challenges to the EPA’s proposed rule.

For Louisiana,

A handwritten signature in blue ink, appearing to read "Jeff Landry", with a long horizontal flourish extending to the right.

Jeff Landry

Attorney General