



Dustin Kilcrease, P.E.

MANAGER, ENVIRONMENTAL SERVICES DEPARTMENT

December 31, 2025

VIA E-MAIL

Mr. Scott Jackson
Chief, Industrial Section
Industrial / Municipal Branch
Water Division
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, AL 36130-1463

Re: Notice of Planned Participation in the “Permanent Cessation of Coal Combustion by December 31, 2034” Compliance Subcategory for the Lowman Energy Center (NPDES Permit No. AL0003671)

Dear Mr. Jackson:

Please accept this as PowerSouth Energy Cooperative’s (“PowerSouth”) Notice of Planned Participation (“NOPP”) for the Lowman Energy Center (“Lowman”). All coal-fired units at Lowman have been retired and demolished; a new natural gas-fired combined cycle unit is the only operating unit at the facility. This NOPP is provided, in accordance with 40 C.F.R. § 423.19(h), to opt into the permanent cessation of coal combustion by December 31, 2034 (hereinafter “2034 PCCC”) compliance subcategory so that any CRL discharges that may be generated at the facility are subject to the arsenic and mercury effluent limits set out in 40 C.F.R. § 423.13(l)(2)(i)(A).

I. Relevant Background

On May 9, 2024, EPA published the *Supplemental Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category Rule* (the “2024 ELG Rule”).¹ Relevant here, the 2024 ELG Rule established new, zero liquid discharge (“ZLD”) BAT effluent limitations for CRL.² The 2024 ELG Rule also established the 2034 PCCC compliance subcategory, which includes the mercury and arsenic BAT effluent limitations for CRL referenced above. Participants in the 2034 PCCC compliance subcategory are required

¹ 89 Fed. Reg. 40,198 (May 9, 2024) (40 C.F.R. Part 423).

² See 40 C.F.R. § 423.13(l)(1)(i).

to comply with the CRL effluent limits “as soon as possible beginning 120 days after the facility permanently ceases coal combustion, but no later than April 30, 2035.”³

EPA has instructed that 2034 PCCC NOPPs should be submitted for CRL discharges originating from any unit that has opted into the 2028 PCCC compliance subcategory.⁴ PowerSouth did not submit a 2028 PCCC NOPP for Lowman. Nevertheless, EPA’s reasoning on this issue presumably applies to facilities like Lowman, even though this issue is not squarely addressed in the 2024 ELG Rule or in other EPA materials.

In light of regulatory uncertainty and the current NOPP deadline,⁵ PowerSouth has out of an abundance of caution elected to submit this NOPP to notify ADEM that PowerSouth has selected the 2034 PCCC compliance subcategory to avail Lowman of the above-referenced mercury and arsenic BAT effluent limitations with respect to any future CRL discharges.⁶

II. NOPP for the “Permanent Cessation of Coal Combustion by December 31, 2034” Subcategory for CRL

In accordance with the 2024 ELG Rule, a 2034 PCCC NOPP must be submitted to the relevant permitting authority by “no later than December 31, 2025”⁷ and must:

- (1) “[I]dentify the electric generating units intended to achieve the permanent cessation of coal combustion[;];”

³ *Id.* at § 423.13(l)(2)(i)(A).

⁴ See, e.g., *2024 Supplemental Steam Electric Effluent Limitations Guidelines and Standards Implementation Briefings*, Env’t Prot. Agency 31 (2024), <https://www.epa.gov/system/files/documents/2024-08/2024-steam-electric-implementation-briefing.pdf>; see also, e.g., 89 Fed. Reg. at 40,233-35 (evaluating whether the 2024 ELG Rule applies to units/facilities that permanently ceased coal operations before the effective date).

⁵ The current deadline to file this 2034 PCCC NOPP is December 31, 2025. On December 23, 2025, EPA issued a prepublication draft of its “Deadline Extensions Rule,” the proposal of which was published for public notice and comment on October 2, 2025. See 90 Fed. Reg. 47,693 (Oct. 2, 2025). The effective date of this new final rule is 60 days after it is published in the Federal Register. PowerSouth’s review of this new rule is ongoing and the company will update ADEM, as needed, if the rule impacts this NOPP filing or the compliance path for Lowman.

⁶ CRL may never be generated at Lowman. Nevertheless, PowerSouth reserves its right later to file a “justification” letter explaining why the mercury and arsenic BAT effluent limitations should not become applicable at Lowman until some future date (but no later than April 30, 2035), based on the “as soon as possible” factors delineated in 40 C.F.R. § 423.11(t).

⁷ 40 C.F.R. § 423.19(h)(1).

- (2) “[I]nclude the expected date that each electric generating unit is projected to achieve permanent cessation of coal combustion[;];”
- (3) State “whether each [permanent cessation] date represents a retirement or a fuel conversion[;];”
- (4) State “whether each retirement or fuel conversion has been approved by a regulatory body, and what the relevant regulatory body is[;];”
- (5) Provide “a copy of the most recent integrated resource plan for which the applicable state agency approved the retirement or repowering of the unit subject to the ELGs, or other documentation supporting that the electric generating unit will permanently cease the combustion of coal by December 31, 2034[;];” and
- (6) “[I]nclude, for each such electric generating unit, a timeline to achieve the permanent cessation of coal combustion [which] shall include interim milestones and the projected dates of completion.”⁸

PowerSouth provides the following information to address each of these requirements.

a. Identification of Units, Dates, and Whether each Unit will Retire or Convert its Fuel Source (Requirements (1) – (3))

This NOPP is applicable to Lowman Units 1-3, which were the only units that previously existed at the facility. These units were officially retired on October 31, 2020.

b. Identification of Regulatory Body and whether Retirement or Fuel Conversion has been Approved (Requirement (4))

As an electric cooperative, PowerSouth is not subject to the regulatory oversight of the Alabama Public Service Commission.⁹ Alabama law does not otherwise oblige PowerSouth to provide formal notice to or seek formal authorization from any regulatory body to move forward

⁸ *Id.* § 423.19(h)(2). This regulatory provision also requires a NOPP submitter to certify the flue gas desulfurization (“FGD”) wastewater and bottom ash transport water (“BATW”) compliance options with which each applicable electric generating unit is complying. See *id.* PowerSouth believes this requirement is inapplicable given this NOPP relates solely to CRL discharges. Nevertheless, these requirements are satisfied insofar as Lowman at all relevant times has not generated or discharged FGD wastewater and/or BATW.

⁹ Ala. Code § 37-6-27.

with the sort of unit decisions described in Part II.a. above. Even so, PowerSouth has made ADEM aware of its retirement of coal-fired units at Lowman as of 2020.¹⁰

c. Additional Support that the Units will Permanently Cease Coal Combustion (Requirement (5))

Concerning “other documentation supporting that the electric generating unit[s] will permanently cease the combustion of coal by December 31, 2034[,]” PowerSouth has publicly disclosed the retirement of all coal-fired units at Lowman on its website.¹¹ The letter referenced in footnote 9 also corroborates that the units are retired. Furthermore, this NOPP concludes with a customary NPDES certification statement, signed by a responsible officer of PowerSouth, which provides further support as to the veracity of the statements made herein.

d. Unit-Specific Compliance Timelines with Interim Milestones (Requirement (6))

None. PowerSouth completed the retirement of all coal-fired units in 2020, so there are no remaining interim milestones to be achieved for the permanent cessation of coal combustion.

III. Annual Progress Report Requirement

The 2034 PCCC compliance subcategory also includes an “Annual Progress Report” submittal requirement, obligating participants to describe “the completion of any interim milestones listed in the [NOPP] since the previous progress report, provide a narrative discussion of any completed, missed, or delayed milestones, and provide updated milestones.”¹² Annual Progress Reports must also include one of the following:

- “A copy of the official suspension filing (or equivalent filing) made to the facility's reliability authority detailing the conversion to a fuel source other than coal;”
- “A copy of the official retirement filing (or equivalent filing) made to the facility's reliability authority which must include a waiver of recission rights;” or

¹⁰ See, e.g., Letter from Keith Stephens, Manager, Env't Servs. Dep't, PowerSouth Energy Cooperative to Tyler Phillips, Air Div., Ala. Dep't Env't Mgmt., *Lowman Power Plant Units 1, 2 and 3 Retired Units Exemption Forms* (Nov. 4, 2020), <https://lf.adem.alabama.gov/WebLink/DocView.aspx?id=104481763&dbid=0>.

¹¹ See, e.g., *Media & News*, PowerSouth (Feb. 3, 2025), <https://www.powersouth.com/2025-whats-ahead/>.

¹² 40 C.F.R. § 423.19(h)(4).

- “An initial certification, or recertification for subsequent annual progress reports, containing a statement that the facility will make” one of the above-referenced filings.¹³

Further, 40 C.F.R. § 423.19(h)(4)(iv) provides that a facility’s final Annual Progress Report prior to permanently ceasing coal combustion cannot include the certification or recertification referenced in the last bullet point above. Instead, it must include the filing referenced in the first or second bullet.

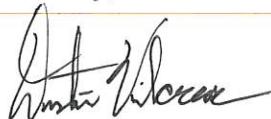
Given all coal-fired units at Lowman have already permanently ceased coal combustion and have been demolished, the above-referenced Annual Progress Reports are or will not be required. Additionally, PowerSouth does not have a reliability authority for which the “official suspension” or “official retirement” filings are required. Accordingly, no additional action was or is required.

IV. Conclusion

PowerSouth appreciates ADEM’s attention to this matter. If ADEM requires any additional information, or if PowerSouth can assist in any other manner, please do not hesitate to contact us at your convenience.

This correspondence is provided in reliance on existing regulatory frameworks and interpretations and shall not be construed as a waiver of any rights. PowerSouth expressly reserves the right to revise its positions and/or compliance decisions in light of any changes in circumstance, subsequent factual developments, or changes in law, regulation, or regulatory guidance.

Sincerely,



Dustin Kilcrease

I certify under penalty of law that this document and all enclosures were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true,

¹³ *Id.* § 423.19(h)(4)(i)-(iii).

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accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.



Art Brunson, Vice President of Legal and Corporate Affairs
