

## Dynegy Midwest Generation, LLC

Dynegy Midwest Generation, LLC  
Baldwin Power Plant  
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March 31, 2025

**Submitted via email to [airaction@epa.gov](mailto:airaction@epa.gov)**

President Donald J. Trump  
c/o Administrator Lee M. Zeldin  
Office of the Administrator (1101A)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

**Re: Presidential Exemption: *National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units Review of the Residual Risk and Technology Review*, 89 Fed. Reg. 38,508 (May 7, 2024): Baldwin Power Plant Units 1 & 2.**

Dear President Trump:

Please accept this letter on behalf of Dynegy Midwest Generation, LLC requesting a Presidential exemption under Section 112(i)(4) of the Clean Air Act (“CAA”) from compliance with the filterable particulate matter (“fPM”) surrogate emission standard for non-mercury metal hazardous air pollutants (“HAP”) and the requirement to install continuous emissions monitoring systems (“CEMS” or “PM CEMS”) under the above-referenced rule (the “MATS RTR” or the “Rule”) for Baldwin Power Plant Units 1 and 2 (“Baldwin”). Dynegy Midwest Generation, LLC is requesting a two-year exemption, beginning July 6, 2027, from these requirements for the Baldwin facility.

The MATS RTR amended 40 C.F.R. Part 63 Subpart UUUUU and became effective on July 8, 2024. Under the Rule, Baldwin’s electric generating units (“EGUs”) are required to reduce fPM emissions from 0.030 lb/MMBtu to 0.010 lb/MMBtu. Compliance is based on a continuous, 30-day rolling limit. In addition, the Rule requires all coal-fired EGUs to install costly CEMS to implement the revised fPM standard, rather than allowing EGUs to continue to use stack testing to demonstrate compliance. The compliance deadline for meeting the revised fPM standard and for installing and using fPM CEMS is July 6, 2027, but work to design, purchase, install, and/or test any necessary controls or changes to operating procedures, as well as install new CEMS would need to begin much sooner.

Under Section 112(i)(4) of the Clean Air Act, the President may issue exemptions “from compliance with any standard or limitation under this section for a period of not more than 2 years if the President determines that the technology to implement such standard is not available and that it is in the national security interests of the United States to do so.” 42 U.S.C. § 7412(i)(4). Accordingly, the President is authorized to exercise his discretion to exempt Baldwin Units 1 & 2 from complying with the MATS RTR where (1) the technology required “to implement” the standard is not available and (2) where it is in the interest of national security. In light of this authority, and in light of the burden imposed on

electric generating facilities by the MATS RTR, EPA has announced the potential availability of such exemptions and asked that requests for exemptions be submitted by March 31. *See* <https://www.epa.gov/stationary-sources-air-pollution/clean-air-act-section-112-presidential-exemption-information>. Consistent with that announcement, and for the reasons set forth below, Dynegy Midwest Generation, LLC requests a 2-year exemption for Baldwin Units 1 & 2 from the fPM standard and from the requirement to install and use PM CEMS.

Importantly, EPA has been very clear that the fPM standard and the CEMS requirement are completely integrated, such that any exemption must cover both requirements in the Rule. Specifically, EPA explained “that a fPM standard of 0.010 lb/MMBtu . . . is the lowest fPM emission limit possible at this time with use of PM CEMS.” 89 Fed. Reg. at 38,534. And EPA identified the revised fPM standard and the PM CEMS requirement as a combined “two-pronged approach,” stating that “requiring PM CEMS in addition to a lower fPM limit . . . is the most stringent option that balances the benefits of using PM CEMS with the emission reductions associated with the tightened fPM emission standard.” *Id.* at 38,530. In other words, EPA’s effort “to implement” its revised standard depends equally on both the more stringent numeric standard for fPM and on the obligation to install new monitoring equipment.

Section I explains that the technology required to implement the Rule’s revised fPM standard is “not available” on a continuous basis, and Section II explains that CEMS are likewise unavailable. Given the interdependence of these requirements, however, the unavailability of technology as to either component makes “implementation” of the standard likewise unavailable for the other. Section III concludes that it is in the national security interest to issue an exemption from compliance with the MATS RTR.

#### **I. The Particulate Control Technology Required to Implement the Rule’s fPM Standard is Not Available**

Baldwin currently utilizes an electrostatic precipitator (“ESP”) and baghouse for particulate control. Despite these controls, there are technological and operational limits at Baldwin that make it difficult and expensive to meet the more stringent fPM standard on a continuous basis under all operating conditions. EPA based its decision to lower the fPM standard on data from only a select few units. *See* Pet’rs’ Brief at 65-68, *North Dakota v. EPA*, No. 24-1119, Doc. 2077742 (Oct. 1, 2024). In doing so, EPA did not take into consideration the operational challenges associated with meeting this low limit on a continuous basis. During peak conditions, it is difficult to push ESPs to perform at levels beyond their original design or performance guarantees while trying to maintain grid reliability. The units may be unable to perform off-power rapping or maintenance and cleaning during those times. Operational factors such as cleaning frequency, operational duration, and maintenance frequency may also impact the performance of ESPs. Even with a baghouse—which can provide additional PM control—the more stringent limitation will be challenging because baghouses are not designed to vary control rates.

Ash content of the coal being fired may impact the ability of units to comply with the fPM limit, regardless of the effectiveness of the control technologies in place. Other operational factors such as cleaning frequency, operational duration, and filter change-out frequency may impact the performance of the baghouse and a facility’s ability to comply with the revised limit under all operating conditions. These concerns are exacerbated by the companion requirement to measure compliance using monitors that have not been demonstrated to be reliable.

## II. CEMS Technology is Not Available

The MATS RTR requires coal-fired units to implement the revised fPM standard using CEMS, rather than periodic stack testing. As explained above, this requirement is an integral part of the numeric limit itself. Unit 1 does not have a PM CEMS, and while Unit 2 is equipped with a PM CEMS it has not been calibrated and certified for measuring the revised, much lower limit. Historically, Unit 1 has conducted PM stack testing to meet the PM limit for Low Emitting EGU (LEE) status and demonstrate compliance with the standard for non-hg metals. Due to technological limitations, as well as cost and market limitations, installing a new CEMS on Unit 1 and upgrading the existing PM CEMS on Unit 2 is “not available” by July 2027.

PM CEMS does not provide direct measurements; it uses correlation curves to calculate emissions levels. However, the low fPM standard in the Rule makes developing this correlation curve “virtually impossible.” *PGEN Comments on EPA’s Proposed Rule: NESIAP Coal- and Oil-Fired Electric Utility Steam Generating Units Review of the Residual Risk and Technology Review*, Docket No. EPA-HQ-OAR-2018-0794-5994, at 22 (June 28, 2023) [hereinafter “PGEN Comments”] (citing and attaching Ralph L. Roberson, *Technical Comments on EPA’s Proposed Rule: Mercury and Air Toxics Standards Risk and Technology Review*, at 3 (2023) [hereinafter “PM CEMS Technical Memo”]). Similarly, the QA/QC criterion for CEMS are extremely difficult to meet at such low levels. *See Comments of the Class of ’85 Regulatory Response Group on the Proposal on National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units Review of the Residual Risk and Technology Review*, Docket No. EPA-HQ-OAR-2018-0794-5989, at 16 (June 28, 2024) [hereinafter “Class of ’85 Comments”]. In fact, at the time of the proposed MATS RTR, no commercially available PM CEMS would have been able to meet the tight confidence and tolerance intervals associated with the low proposed fPM standard. *PGEN Comments* at 23 (citing *PM CEMS Technical Memo* at 5). EPA was, thus, forced to address these issues in the final MATS RTR by loosening the QA criterion and correlation procedures. *See* 89 Fed. Reg. at 38,528-29. However, it has not yet been shown that these changes are enough to address the fundamental issue that PM CEMS has difficulty reliably measuring such low fPM levels due to the error rates of the instrument. *See* *PGEN Comments* at 23 (finding insurmountable the “uncertainties inherent the in the measurement device” and the “problems associated with relative size of the uncertainty to the limited data range of fPM concentrations and the confidence levels and tolerances”); *see also* *Class of ’85 Comments* at 18. And, in reality, units would need to target emissions below 0.010 lb/MMbtu in order to ensure continuous compliance. *See* *Pet’rs’ Brief* at 72. Therefore, the CEMS technology to demonstrate compliance with the revised fPM standard is unavailable.

Second, there are significant costs and market limitations associated with PM CEMS, which make it “not available.” Installing and operating CEMS is more costly than stack testing. *See* *PGEN Comments* at 25-26. Costs include purchasing and installation of CEMS, as well as potential modifications to the units to accommodate CEMS, extended correlation testing, and annual operational costs. *See id.* at 26; *see also* *Class of ’85 Comments* at 18 (estimating \$180,000 to \$400,000 for “site preparation and engineering analysis, analyzer equipment and installation costs, and initial PS-11 correlation testing”). This does not include the costs of maintaining a full-time employee to operate PM CEMS and the costs of lost generation during testing events for CEMS. *Luminant Comments* at 16-17. There are also market factors which limit the availability of installing and operating CEMS by the compliance deadline. There are a limited number of vendors for CEMS, as well as a limited number of professionals certified to install and test CEMS. Currently, two-thirds of facilities utilize stack testing and would need to install CEMS by July 2027, which would overwhelm the current supply of CEMS and the availability of professionals certified to inspect and test the newly installed systems. *See* *Class of ’85 Comments* at 16.

### III. It is in the Interest of National Security to Issue an Exemption for the Rule

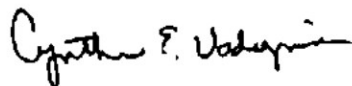
The requested exemptions from the MATS RTR are in the national security interests of the United States. The Rule adversely affects the nation's energy generation capacity and threatens grid stability and the supply of affordable, reliable energy. The Rule's stringent limits and the high costs associated with compliance, particularly in combination with other rulemakings impacting coal-fired EGUs, place a considerable burden on the operation of the Baldwin Units. And MATS rules have historically resulted in the loss of generation capabilities—the 2012 MATS rule resulted in the retirement of approximately 60,000 MW of coal-fired capacity. Pet'rs' Brief at 23. As explained in Luminant's Comments, coal plants "continue to be of paramount importance for grid reliability during the transition to renewables." *Id.* at 29.

The President has identified energy generation and grid reliability to be issues of national security and it is, therefore, in the interest of the nation to exempt these units from compliance with the MATS RTR. As set forth in President Trump's Executive Order ("E.O.") 14156, *Declaring a National Energy Emergency*, the "generation capacity of the United States [is] . . . far too inadequate to meet our Nation's needs" and "a reliable, diversified, and affordable supply of energy" is necessary to ensure "military preparedness." 90 Fed. Reg. 8,433, 8,433 (Jan. 29, 2025). The E.O. continues, "integrity . . . of our Nation's energy infrastructure from coast to coast is an immediate and pressing priority for the protection of the United States' national and economic security," while "insufficient energy production . . . constitutes an unusual and extraordinary threat to our Nation's economy, national security, and foreign policy." *Id.* at 8,433-34. As explained above, the MATS RTR is one of the "policies" that the President has indicated will contribute to the "inadequate and intermittent energy supply" and "increasingly unreliable grid." *Id.* at 8,433.

Similarly, in E.O. 14154, *Unleashing American Energy*, President Trump acknowledged that prior regulations—which include this Rule—have "limited the generation of reliable and affordable electricity" and, in turn, "weaken[ed] our national security." 90 Fed. Reg. 8,353, 8,353 (Jan. 29, 2025). This E.O. plainly states it is in "the national interest to unleash America's affordable and reliable energy" and that ensuring "an abundant supply of reliable energy" will help "protect the United States's economic and national security and military preparedness." *Id.* Providing the requested exemptions will achieve these goals of ensuring national security through the supply of reliable energy. Moreover, E.O. 14154 specifically calls for the review and potential rescission of rules like this one, which "impose an unburden on the . . . use of domestic energy resources." *Id.* at 8,354.

Thus, in order to ensure a sufficient and reliable supply of energy, President Trump should use his lawful authority under Section 112(i)(4) of the CAA to grant the requested exemptions from compliance with the standards set forth in the MATS RTR. If you have any questions regarding this submittal, please contact Jim Ross at [Jim.Ross@vistracorp.com](mailto:Jim.Ross@vistracorp.com).

Sincerely,



Cynthia Vodopivec  
Senior Vice President, Environmental Health and Safety