Berkshire Hathaway Energy
Pending Issues involving Environmental Protection Agency Rules and Actions

Berkshire Hathaway Energy's U.S. operating companies support scientifically -based environmental regulations that are appropriately and consistently applied and consider costs and benefits. Our regulated electricity generating companies serve approximately 4.7 million end users in 18 states utilizing geothermal, hydroelectric, wind, solar, natural gas, coal and nuclear resources. These operating companies include MidAmerican Energy Company, an Iowa -based utility providing regulated electric and natural gas service in Iowa, Illinois, Nebraska and South Dakota; PacifiCorp, which provides regulated electric service in California, Idaho, Oregon, Utah, Washington and Wyoming; and NV Energy Inc., which provides regulated electric and natural gas service in Nevada. In addition, BHE Renewables, LLC, operates as an independent power producer and is the owner of natural gas, wind, geothermal, solar and hydro projects in New York, Arizona, Texas, California, Illinois , Kansas, Nebraska, and Hawaii . We also own and operate interstate gas pipelines – Kern River and Northern Natural Gas – that serve customers in Iowa, Illinois, Michigan, Minnesota, Nebraska, South Dakota and Wisconsin.

Regulatory certainty is key to advance our objectives in maintaining safe, reliable and affordable electric service for our customers. We have identified the issues below as important for Berkshire Hathaway Energy and EPA to work together to achieve a greater degree of certainty that achieves these objectives , as well as to appropriate safeguard the country's environme nt. One important theme is the need to recognize and respect the key role of states relative to delegated authorities and other state prerogatives. We work closely with the states we operate within and believe that the EPA should provide substantial respect for their processes and outcomes.

Regional Haze

- Utah Regional Haze Federal Implementation Plan (FIP) (PacifiCorp) – After many years of discussion and EPA's rejection of the Utah regional haze state implementation plan (SIP), Utah submitted an amended SIP which proposed a Best Available Retrofit Technology (BART) alternative, after consideration of the appropriate factors, including cost. Ultimately, EPA, weighing only one element of visibility improvement, rejected the SIP and issued a FIP whic h would impose an additional $700 million in control costs for virtually no visibility improvement. The FIP has been appealed in the 10th Circuit Court of Appeals (Utah, et al. v. EPA) where a judicial stay has been requested and merits briefing is underway. In addition, multiple petitions for reconsideration and request for administrative stay were submitted to EPA in September 2016; howev er, EPA has taken no action on the petitions. We encourage EPA to grant the petitions for reconsideration and take action to hold the ongoing judicial appeal in abeyance pending EPA's action on the reconsideration petitions, as well as to issue an administ rative stay and consent to the court issuing a judicial stay pending, at a minimum, further resolution of the administrative petitions.

- Wyoming Regional Haze FIP (PacifiCorp) – Portions of the Wyoming regional haze FIP are being appealed before the 10th Circuit Court of Appeals (Wyoming, et al. v. EPA), which granted a judicial stay of the FIP's requirements. The case has been fully briefed

but oral argument has not yet been scheduled. Requests for reconsideration and administrative stay were filed in Mar ch 2014, and EPA has yet to take any action on those requests. We encourage EPA to take action on the request(s) for reconsideration and continue to support the judicial stay.

- Regional Haze Rule Amendments (MidAmerican Energy Company, NV Energy Inc. and PacifiCorp) – On January 10, 2017, the final amendments to the regional haze rule were published in the Federal Register, which, among other things, allows states to delay their regional haze SIPs for the next planning period from July 31, 2018 to July 31, 2021. The final regional haze rule amendments were appealed in the D.C. Circuit Court of Appeals. Under the final rule, the planning period remained the same – 2018 to 2028, to advance reasonable further progress in improving visibility. In cases wher e EPA has rejected a SIP and issued a FIP and litigation is ongoing, EPA should accept the state's definition of BART and resolve the need for any additional controls as part of the long -term strategy in the second planning period from 2018 to 2028. Doing so would resolve outstanding litigation, free up EPA and DOJ resources, and lift the burden from states to submit new SIPs without knowing whether their appeals are successful. EPA has previously determined that many western Class I areas experience only slight improvement in visibility despite the installation of costly controls at stationary sources. During the second planning period, EPA should, as required, assess non-stationary sources and other drivers that have a greater impact on visibility in Class I areas.

Management of Coal Combustion Residuals (MidAmerican Energy Company, NV Energy Inc. and PacifiCorp) – The regulation of coal combustion residuals (CCR) has the potential of imposing significant costs on both operating as well as retired or retiring coal-fueled units based on EPA's implementation of the program, resolution of outstanding litigation, and an upcoming rulemaking. EPA's review of the following specific items will be key in obtaining the desired degree of certainty to implement the rule cost effectively.

- Implementation of the WIIN Act 's CCR Provisions – On December 26, 2016, President Obama signed into law the Water Infrastructure Improvement for the Nation Act ("WIIN Act"). A section of the WIIN Act established proce dures for EPA to authorize the states to implement the CCR rule through state permit programs. If the states do not seek permit program approval, EPA is directed to implement the CCR rule through a federal permit program, provided Congress provides specifi c funding for EPA to do so. Absent state or federal CCR rules, facilities face primary implementation through citizens' suits. It is important to Berkshire Hathaway Energy's operating companies that EPA express strong support for Congressional funding of the WIIN Act. Adequate funding would allow EPA to implement the CCR rule for states that do not choose to adopt their own permit program. We also request that EPA expeditiously approve state CCR permit programs, including those with risk-based management controls.

Risk-Based Management Options – When the CCR rule was adopted, EPA did not have authority to implement the rule via a fed eral or state permitting program . Congressional passage of the WIIN Act changed this. As a result, the basis for EPA's previous concern regarding utilization of risk-based flexibility under a self-implementing rule no longer exists.

Therefore, EPA should amend the rule to incorporate risk -based management options contained in state and other EPA solid waste programs to eliminate the one-size-fits-all requirements and allow for assessment of risk in decision making for all facets of the rule, including groundwater monitoring. We understand EPA is positioned to issue guidance on state permitting programs in April 2017 and finalize the guidance in June 2017 and look forward to reviewing and providing comment on such guidance.

Steam Electric Effluent Limitation Guidelines (MidAmerican Energy Company, NV Energy Inc. and PacifiCorp) – Distinct from the CCR requirements, the Steam Electric Effluent Limitation Guidelines (ELGs) create additional impacts on coal, gas, nuclear and oil -fueled power plant operators related to the ability to discharge process-related wastes. A case in the 5th Circuit Court of Appeals (Southwestern Electric Power Co., et al. v. EPA), along with petitions for reconsideration, are pending. We encourage EPA to grant reconsideration, conduct a review of the guidelines, and implement action as appropriate.

Air Quality Standards and Regulations

- Western Interstate Ozone Transport (PacifiCorp) – EPA has relied on its modeling utilized in the eastern U.S. under the Cross State Air Pollution Rule to dispute modeling methodologies and results submitted by western states, including Utah and Wyoming, with respect to interstate transport of emissions, and particularly modeled impacts on the Denver, Colorado, metropolitan area. The states and other parties have raised concerns about EPA's modeling and analysis of interstate transport of emissions. In fact, Wyoming specifically requested more time to analyze the complex interstate transport issues that it felt EPA had failed to adequately address; however, the request was denied by EPA due to the alleged impact on a consent decree. In order to ensure reasonable and appropriate regulation based on scientifically supportable conclusions, EPA should allow states a reasonable period of time to conduct modeling that is more representative of western terrain.

- One Hour SO2 Standard in the Western U.S. (PacifiCorp) – The one-hour SO_2 standard requires that the states demonstrate compliance with the standard through modeling and/or monitoring. Complex terrain in the western U.S. makes the use of EPA's standards relating to predictive models and modeling protocol difficult, producing results that may not be scientifically supportable. EPA should examine its modeling protocols and required models and ensure that approved models take into consideration steep and complex terrain and restricted access when requiring modeling to be conducted.

- Title V Permit Reviews (BHE Renewables LLC, MidAmerican Energy Company, NV Energy Inc. and PacifiCorp) – We encourage EPA to take prompt action on Title V operating permit reviews. For example, PacifiCorp's Hunter plant Title V permit renewal was issued by the state of Utah under its delegated authority. As part of the approval process, the Utah Department of Environmental Quality submitted the permit to EPA for review; EPA failed to conduct a timely review, resulting in the Sierra Club filing of a petition with EPA to object to the permit. EPA did not respond to the petition and, ultimately, the Sierra Club filed a lawsuit against EPA for failing to take timely action on the permit. EPA agreed in a court-approved stipulation to respond to the Petition for

Objection to the Hunter Title V permit no later than August 31, 2017. EPA should take action to approve the Title V permit and deny Sierra Club's petition for objection in advance of the August 31, 2017, deadline.

Water Quality Regulations (BHE Renewables LLC, MidAmerican Energy Company, NV Energy Inc. and PacifiCorp)

- Waters of the U. S Rule – Even as EPA works to rewrite the waters of the U.S. rule consistent with the February 28, 2017, Executive Order and the March 1, 2017, Federal Register notice, it is of critical importance for EPA to maintain the cooperative process with the states for state water quality certifications under Clean Water Act Se ction 401 so that the nationwide permit program and related permit programs proceed without interruption. The Berkshire Hathaway Energy operating companies routinely rely on nationwide permits for construction and maintenance activities for numerous projec t-related actions, such as renewable energy development, and other activities critical to maintaining safe, reliable electricity supplies to our customers.

- Clean Water Act Section 401 – States have certification authority under Clean Water Act section 40 1 to impose a broad range of conditions on Federal Energy Regulatory Commission (FERC) hydroelectric project licenses. While intended to protect water quality, states often impose conditions unrelated to water quality. EPA has little or no legal ability to limit the scope of state water quality certifications and FERC also has little authority to reject state certification conditions even when a federal agency believes that the state has exceeded its authority. We encourage EPA to explore the potential of adopting regulations more narrowly defining the scope of statutory terms such as "water quality standards" and "appropriate requirement of state law".

- State Designations Under the Clean Water Act – By disapproving (or threatening to disapprove) state water quality standards and state Clean Water Act designations, EPA has leveraged the Clean Water Act to force states to adopt more aggressive water quality standards. For example, i n the Pacific Northwest , this has resulted in states adopt ing water quality standards for temperature that are more stringent than natural stream conditions. These decisions make it difficult for states to issue discharge permits and 401 certifications with reasonable conditions . EPA should defer to states to implement reasonable water quality standards under section 303(d).

Superfund (MidAmerican Energy Company, NV Energy Inc. and PacifiCorp)

- Portland Harbor Superfund Site – We encourage EPA to address superfund sites in a manner that logically addresses the site and party dynamics and encourages cooperation among the potentially responsible parties. The Portland Harbor Superfund Site covers a large area and involves hundreds of potentially responsible parties. F or remediati on to effectively advance at sites such as this , it is critical that EPA entertain the idea of breaking up the site into smaller more workable pieces for remed ial design and remedial action. The current mega -site approach taken by EPA is unwieldy and breed s expensive litigation; EPA should focus on smaller more tar geted and manageable approaches . Further, EPA has failed to acknowledge the likelihood , given the site features, that recontamination will occur and established an extremely low cleanup standard .

Reasonable long -term performance standards should be established to reflect the likelihood of recontamination.

EPA's Consultative Role (BHE Renewables LLC, MidAmerican Energy Company, NV Energy Inc. and PacifiCorp)

- EPA Endangered Species Act Consultation on State Water Quality Standards – EPA (as well as the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS)) takes the position that it must consult with NMFS and the USFWS when it proposes to approve state w ater quality standards that are intended to protect designated uses that include Endangered Species Act (ESA) -listed species. Because of the large number of ESA -listed fish in the Pacific Northwest, this means that all state water quality standards intende d to protect aquatic life must not only be approved by EPA, but they must also effectively be approved by NMFS and the USFWS and because the missions of NMFS and USFWS are narrowly focused on the protection of listed species, this results in extraordinaril y stringent standards and substantial delays. In recent federal litigation in the state of Washington, EPA's position on consultation appears to have played an important role in the federal district court's decision to require EPA to consult. This issue is ultimately a question of statutory interpretation but EPA's position (as well as NMFS' and USFWS') will continue to carry substantial weight in future litigation on this issue. EPA should consider taking a position that it is not required to consult with NMFS and USFWS, under the ESA, when it proposes to approve state water quality standards.

EPA Regional Offices (BHE Renewables LLC, MidAmerican Energy Company, NV Energy Inc., PacifiCorp)

- Regional Office Staffing – As EPA considers potentially significant budget reductions, it is important to ensure that activities performed by regional offices are not stalled as a result of regional office consolidation or delegation of actions from EPA headquarters . There are a number of compliance programs th at are maintained by the regional offices because the states have chosen not to accept delegation from EPA to administer those programs. For example, in Iowa, EPA Region 7 maintains the hazardous waste progr am as well as program oversight of manufactured g as plant activities and implementation of the Mercury and Air Toxics program.