



To: Environmental Quality Board

Subject: Proposed Rulemaking, Environmental Quality Board [25 PA. CODE CHS. 121, 127 and 139], Air Quality Fee Schedules, [39 Pa.B. 6049] [Saturday, October 17, 2009]

Following are the comments of RRI Energy (formerly Reliant Energy) to the subject Proposed Rulemaking. RRI Energy, Inc., (NYSE:RRI) based in Houston, is one of the largest independent power producers in the nation with more than 14,000 megawatts of power generation capacity across the United States. These strategically located generating assets use natural gas, fuel oil and coal. In Pennsylvania, the company owns and/or operates 18 power plants with approximately 8,800 net megawatts of generation capacity. The Eastern Regional Office is located in Canonsburg, PA.

RRI recognizes the need for the Department to increase the fees which were previously established and have not been increased for almost 15 years. If these increases result in more Department resources to conduct and finalize necessary activities it will be money well spent. However, there are some new proposed fees for Title V facilities which should already be addressed by the proposed operating permit fee increases in Chapter 127 rather than through the establishment of a new separate fee schedule in Chapter 139.

As identified on page 31 of the August, 1993, *RESOURCE NEEDS AND FINANCIAL PLAN, COMMONWEALTH OF PENNSYLVANIA AIR QUALITY PROGRAM* report prepared by Apogee Research, Inc.:

"The CAAA (Clean Air Act Amendments of 1990) and the Operating Permit Rule (40 CFR Part 70) require that Title V operating permit fees recover 100 percent of the costs of certain program activities. This category includes all permit issuance, source testing, compliance monitoring, inspections, enforcement and program development activities associated with Title V sources."

Consequently, RRI believes that some of the new proposed fees, while applicable and appropriate for applicants and non-Title V facilities, should not be applicable to Title V facilities as they have already been paid through the annual Title V emission fee and other operating permit fees included in Chapter 127. Importantly, the emission fee has increased each year by the change to the percentage of the Consumer Price Index for the most recent year. In this proposal the fee is increased from the current projected 2010 fee of approximately \$56 per ton to \$70 per ton, a 25% increase. Simply stated, Title V facilities should either pay the proposed increased emission fee and other proposed operating permit fee increases or the emission fee should remain at the \$37 per ton adjusted by the Consumer Price Index with Title V facilities being subject to the new proposed testing, auditing and monitoring fees. To require the proposed operating permit fee increases and the proposed testing, auditing and monitoring fees is extracting payment twice from the Title V facilities.