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**VIA FIRST CLASS MAIL AND
EMAIL**

Ms. Angela King
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**Comments on MANE-VU Draft Reports:
2018 Modeling Draft Report and BenMAP Draft Report**

Dear Ms. King:

These comments are submitted on behalf of the Utility Air Regulatory Group (“UARG”)¹ in response to a December 12, 2007 invitation from the Mid-Atlantic/Northeast Visibility Union (“MANE-VU”), asking stakeholders to comment on two reports: “MANE-VU Modeling for Reasonable Progress Goals” (dated December 10, 2007, and hereinafter referred to as the “Draft RPG Modeling Report”) and “Public Health Benefits of Reducing Ground-level Ozone and Fine Particle Matter in the Northeast U.S.: A Benefits Mapping and Analysis Program (BenMAP) Study” (dated November 14, 2007, and hereinafter the “Draft BenMAP Report”). These two reports purport to evaluate how best to “satisfy[] a number of compliance goals under the Haze State Implementation Plan” (Draft RPG Modeling Report at viii); and how to quantify the “public health and monetary benefits” of both the Regional Haze Rule and other Clean Air Act-related regulatory programs (*see* Draft BenMAP Report at viii).

MANE-VU certainly is entitled to evaluate how best to meet the requirements of the Clean Air Act’s Regional Haze Rule and to conduct whatever regulatory program cost/benefit

¹ UARG is an unincorporated association of individual electric utility companies and trade associations. UARG participates in federal and precedential state proceedings arising under the federal Clean Air Act and having an impact on UARG members. In particular, UARG has participated in the planning processes of Regional Planning Organizations (“RPOs”) as they guide states in the preparation of regional haze plans to be submitted to EPA.

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assessments it wishes to do. We are concerned, though, with statements in the reports that mis-characterize applicable regulatory requirements and that appear -- very late in the regional haze state implementation plan ("SIP") development process -- to be asking non-MANE-VU entities to implement more measures than they are currently required to implement just because MANE-VU claims it would be "reasonable" to do so.

A quick overview of the applicable legal requirements can put UARG's concerns into context. Under Clean Air Act sections 169A and 169B and implementing regulations, in order to prevent future, and remedy existing, impairment of visibility in mandatory class I federal areas which impairment results from manmade air pollution, states have been required to develop and to submit by December 17, 2007, "SIPs" that address measures to make "reasonable progress" toward that visibility improvement goal. In particular, as explained in greater detail in EPA's June 1, 2007 "Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program," (hereinafter "June 2007 Guidance") states "must establish [reasonable progress goals ("RPGs")], measured in deciviews (dv), for each Class I area for the purpose of improving visibility on the haziest days and ensuring no degradation in visibility on the clearest days over the period of each implementation plan." June 2007 Guidance at 1-2.

The regional haze program's overall visibility protection goal is intended to be achieved by 2064, with incremental progress being made in each of several planning periods along the way (e.g., the first planning period runs from 2004 until 2018). EPA's regional haze rule also establishes an analytical requirement for states in the process of establishing RPGs for each planning period. "This analytical requirement requires States to determine the rate of improvement in visibility needed to reach natural conditions by 2064, and to set each RPG taking this 'glidepath' into account." *Id.* at 1-3. Although the June 2007 Guidance then sets out a process for determining the glidepath, or uniform rate of progress ("URP"), to be achieved in the first planning period, that Guidance plainly states that the glidepath "is not a presumptive target, and States may establish a RPG that provides for greater, lesser, or equivalent visibility improvement as that described by the glidepath." *Id.* The description of the RPG-setting process in the June 2007 Guidance is consistent with EPA's regional haze rules. See 40 C.F.R. § 51.308(d)(1), (2); 64 *Fed. Reg.* 35730-34 (July 1, 1999).

The June 2007 Guidance also recognizes that for some sources that are determined to be subject to best available retrofit technology ("BART") requirements, states "will already have completed a BART analysis. Since the BART analysis is based, in part, on an assessment of many of the same factors that must be addressed in establishing the RPG, it is reasonable to conclude that any control requirements imposed in the BART determination also satisfy the

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RPG-related requirements for source review in the first RPG planning period. Hence, [a state] may conclude that no additional emissions controls are necessary for those sources in the first planning period.” *Id.* at 4-2 to 4-3.

EPA’s Guidance also notes that although the “[d]evelopment of the RPG for each Class I area should be a collaborative process among State, local, and Tribal authorities, [RPOs], and FLMs,” (*id.* at 2-1), “States may not always agree on what measures would be reasonable or on the appropriateness of a RPG.” *Id.* at 2-4. Thus, although EPA encourages states to work together to try to resolve any issues, EPA makes it clear that an individual state is to have “wide latitude” in determining any control requirements it believes need to be applied to sources in that state to meet the applicable RPGs. *Id.* at 4-2.

VISTAS, CENRAP and MRPO have been working for years to develop comprehensive emission inventories and modeling platforms for evaluating combinations of emission reduction scenarios that might achieve the regulatory visibility improvement goals. After considerable effort and at great cost, these RPOs determined in the summer and early fall of 2007 that the programs that are currently on the books -- and are in the midst of being implemented -- will in virtually all cases result in sufficient emission reductions to achieve the required visibility protection goals for the first planning period. In particular, VISTAS oversaw the development of a prototype modeling/emissions reduction analysis platform and made that platform available to each of its states early last summer. Individual states in VISTAS have in fact used that platform to develop their own regional haze SIPs. Although most of the VISTAS states were unable to meet the December 17, 2007 SIP submittal deadline, each has been able to make substantial progress towards finalizing comprehensive SIPs that are likely to be submitted to EPA for review in the first quarter of 2008. The CENRAP and Midwest RPO states have made similar progress in SIP development.

In the wake of such comprehensive efforts to develop compliant regional haze SIPs, on December 12, 2007 -- just five days before the official deadline for states to submit regional haze SIPs to EPA -- MANE-VU made available and asked for comment on its two recent draft reports addressing, among other things, potential control measures that MANE-VU would like non-MANE-VU states to adopt in the first planning period. Although acknowledging that measures now on the books and to be implemented by 2018 will be sufficient in the first planning period to achieve levels of visibility improvement well beyond the URP in all MANE-VU Class I areas, MANE-VU nonetheless asks that states in VISTAS, CENRAP and MRPO consider imposing on certain sources control measures that are more stringent than those included in these other states’ regional haze SIPs as currently drafted.

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For the reasons set out above, it is not necessary or appropriate for MANE-VU to ask other states to change course now to include additional control measures in their regional haze SIPs. Existing measures and other measures included in the state plans that have been drafted or proposed for comment are adequate (and, in many cases, more than adequate) to achieve visibility improvements approaching or going beyond the URP for their own and other states' Class I areas. In these circumstances, neither the Clean Air Act nor EPA's rules and guidance would require states to include additional control measures in their regional haze SIPs. The fact that MANE-VU claims that additional "measures are reasonable to implement" (Draft RPG Modeling Report at 6-1) does not change anything: no EPA rules or guidance requires other RPOs at this late date to revise their draft or final regional haze plans to address or incorporate the wish-list of additional control measures included in the draft MANE-VU reports.

Once the MANE-VU states have completed and submitted their own regional haze SIPs,² they can certainly continue their consultations with states in the other RPOs. All such discussions, however, should take into account the numerous other initiatives now being undertaken by EPA that will involve determinations regarding possible additional emission controls to achieve other Clean Air Act requirements.

UARG appreciates this opportunity to comment on the draft MANE-VU reports and looks forward to participating as appropriate in other proceedings by RPOs to address implementation of the Clean Air Act's visibility improvement requirements.

Very truly yours,



Andrea Bear Field

cc: John E. Hornback
Jeffrey Peltola
Michael Koerber

² It is our understanding that none of the MANE-VU states submitted its regional haze SIP to EPA by the December 17, 2007 deadline.