Congress of the United States

Washington, DC 20515

September 23, 2026

Mr. Lee McIntire
Chief Executive Officer
Fermi Inc.
620 S. Taylor Street, Suite 301
Amarillo, TX 79101

Dear Mr. McIntire

We write to express our concern regarding the Environmental Protection Agency (EPA)'s admission[1] that its misguided and costly decision to exempt "islanded" fossil fuel-fired power plants from the acid rain program (ARP) came at the behest of data center companies like yours. EPA bills its new guidance as a means to facilitate data center development, but it is in fact a needless handout to wealthy and powerful companies at the expense of Americans' health. The emissions that drive acid rain do not care whether the source is connected to the grid. Your emissions will cause harm, connected or not.

The ARP was established via statute as part of the bipartisan Clean Air Act amendments of 1990, signed into law by President George H.W. Bush. The ARP requires emissions reductions of sulfur dioxide (SO2) and nitrogen oxides (NOx) from the power sector, including through a national cap-and-trade program which sets a cap on emissions of sulfur dioxide (SO2). SO2 and NOx are both health-harming pollutants: they damage the respiratory system and can worsen heart disease,[2] and they are associated with adverse pregnancy and birth outcomes, kidney damage, autoimmune disorders, and cancer.[3] And SO2 and NOx are the primary causes of acid rain,[4] which in the years before the ARP was established poisoned rivers, lakes, and streams;

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[1] United States Environmental Protection Agency [EPA], "EPA Issues Permitting Guidance to Further President Trump's Agenda Promoting Data Centers and Safeguarding Communities" (July 27, 2026), https://www.epa.gov/newsreleases/epa-issues-permitting-guidance-further-president-trumps-agenda-promoting-data-centers.

[2] National Park Service, "Sulfur Dioxide Effects on Health" (Oct. 25, 2024), https://www.nps.gov/subjects/air/humanhealth-sulfur.htm; American Lung Association, "What Is Nitrogen Dioxide?" (Oct. 26, 2023), https://www.lung.org/clean-air/outdoors/what-makes-air-unhealthy/nitrogen-dioxide.

[3] American Lung Association, "What Is Nitrogen Dioxide?".

[4] EPA, "What is Acid Rain?" (Feb. 13, 2026), https://www.epa.gov/acidrain/what-acid-rain.

damaged forests; killed and sickened aquatic animals; and corroded buildings, monuments, and statues[5] across the Midwest and the eastern United States.[6]

Under the ARP, sources have the flexibility to select the most cost-effective approach to reduce emissions—whether that be selecting the emissions control technology or practice that works best for them or purchasing emissions credits from better-performing sources.[7] Using a market-based system to reduce emissions has been enormously successful: the ARP has driven SO2 and NOx emissions down farther and faster than required, and more cheaply than expected.[8] And the benefits speak for themselves: EPA found in 2010, two decades after the ARP's inception, that the annual public health benefits of the program were worth more than $120 billion; at least 40 times the annual cost.[9] That math does not even account for the reduction in acid rain itself, which is also significant: recent data showed an 81% reduction in the number of monitored streams and lakes that experienced harmful acid levels.[10] As of this year the ARP—together with more recent clean air programs including the cross-state air pollution rule (CSAPR)—has delivered annual reductions in NOx and SO2 of over 89% and 95%, respectively.[11]

Fossil fuel combustion is the largest source of both NOx and SO2 pollution nationwide.[12] Under EPA's new guidance, massive new gas-fired power plants large enough to power cities would be exempt from NOx and SO2 caps under the ARP only as long as they do not serve the public electricity grid and instead exclusively power your privately-owned data centers.

This outcome is perverse, and it is contrary to Congress's design for the Clean Air Act, which sets aside specific and comprehensive regulatory requirements for significant pollution sources like these. Many Clean Air Act programs divide regulations by new and existing pollution sources—requiring stricter standards for "new" sources that can implement appropriate standards as part of their original build, rather than retrofitting them later onto an aging source. This is a cost-conscious measure meant to account for developing technology while allowing aging and near-retirement sources to avoid unmanageable costs where appropriate. This consideration could not apply less in this case. Here, EPA is specifically exempting massive, highly-polluting new sources owned by companies such as your own with near unlimited capital from any obligation to adopt basic, long-established control standards.

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[5] EPA, "What is Acid Rain?"; United States Geological Survey, "Acid Rain and Water" (Aug. 2, 2019), https://www.usgs.gov/water-science-school/science/acid-rain-and-water; Adirondack Council, "What is Acid Rain?" (2025), https://www.adirondackcouncil.org/adirondack-conservation-and-advocacy/clean-water/acid-rain/; Cary Institute of Ecosystem Studies, "Guide to acid rain: Causes, effects, and ongoing solutions" (2026), https://www.caryinstitute.org/news-insights/2-minute-science/guide-acid-rain-causes-effects-and-ongoing-solutions.

[6] EPA, "Acid Rain Program Results" (Feb. 19, 2026), https://www.epa.gov/acidrain/acid-rain-program-results.

[7] Clean Air Act Title IV – Subchapter A: Acid Deposition Control, 42 USC § 7651-7651o.

[8] The White House, "Acid Rain Program Benefiting Environment, Human Health" (Jan. 19, 2012), https://obamawhitehouse.archives.gov/blog/2012/01/19/acid-rain-program-benefiting-environment-human-health.

[9] EPA, "EPA Delivers 15 Years of Acid Rain Reductions" (Dec. 20, 2010), https://www.epa.gov/archive/epapages/newsroom_archive/newsreleases/964ff006fec32134852577ff0068637b.html.

[10] EPA, "Acid Rain Program Results", https://www.epa.gov/acidrain/acid-rain-program-results.

[11] *Id.*

[12] EPA, "Sulfur Dioxide Basics" (Jan. 2, 2026), https://www.epa.gov/so2-pollution/sulfur-dioxide-basics; EPA, "Basic Information about NO2" (June 24, 2026), https://www.epa.gov/no2-pollution/basic-information-about-no2#What%20is%20NO2.

With all of the above in mind, we request your response to the following questions by October 7, 2026:

1. Did your company contact the EPA requesting clarity on the applicability of the ARP to "islanded" power generation facilities? If so, did your company lobby to have "islanded" power plants excluded from the ARP?

2. Do you plan to install (or require installation of) any control technologies to address NOx and SOx emissions at any "islanded" power plants that serve data centers owned, operated, or utilized by your company? If so, what technologies?

3. Please provide the names, locations, nameplate generation capacities, fuel source(s), and expected SO2 and NOx emissions from all "islanded" power plants that currently or are expected to in the next 10 years power data centers owned, operated, or utilized by your company.

Sincerely,

Sheldon Whitehouse
United States Senator
Ranking Member
Committee on Environment
and Public Works

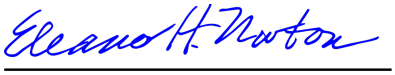
Alexandria Ocasio-Cortez
Member of Congress

Pramila Jayapal
Member of Congress

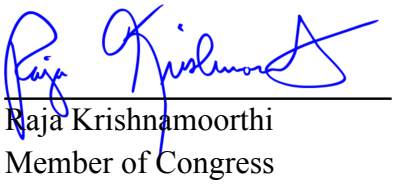
Edward J. Markey
United States Senator

Chris Van Hollen
United States Senator

Mark Kelly
United States Senator



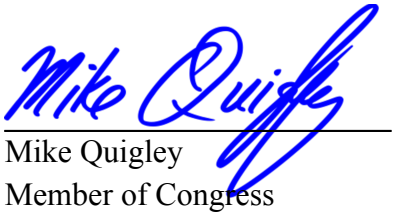
Eleanor Holmes Norton
Member of Congress



Raja Krishnamoorthi
Member of Congress



Steve Cohen
Member of Congress



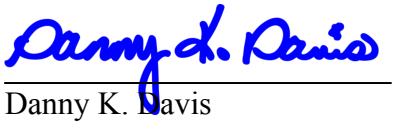
Mike Quigley
Member of Congress



Jared Huffman
Member of Congress



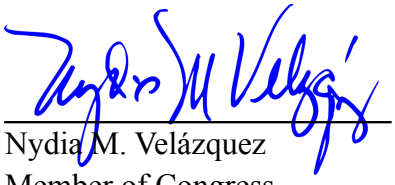
Veronica Escobar
Member of Congress



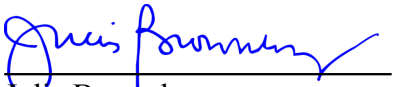
Danny K. Davis
Member of Congress



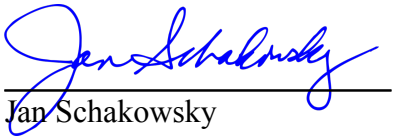
Seth Magaziner
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Nydia M. Velázquez
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Julia Brownley
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Jan Schakowsky
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