



**Statement
Of the
AMERICAN PUBLIC POWER ASSOCIATION
Submitted to the
HOUSE ENERGY AND COMMERCE COMMITTEE'S SUBCOMMITTEE ON ENERGY AND
POWER
For the July 29, 2014, Hearing on
“FERC Perspectives: Questions Concerning EPA’s Proposed Clean Power Plan and other Grid
Reliability Challenges”**

(Submitted July 29, 2014)

The American Public Power Association (APPA) appreciates the opportunity to submit this statement for the record in relation to the House Energy and Commerce Committee’s Energy and Power Subcommittee hearing on “FERC Perspectives: Questions Concerning EPA’s Proposed Clean Power Plan and other Grid Reliability Challenges.”

APPA is the national service organization representing the interests of over 2,000 municipal and other state- and locally-owned, not-for-profit electric utilities throughout the United States (all but Hawaii). Collectively, public power utilities deliver electricity to one of every seven electricity consumers (approximately 47 million people), serving some of the nation’s largest cities. However, the vast majority of APPA’s members serve communities with populations of 10,000 people or less.

Overall, public power utilities’ primary purpose is to provide reliable, efficient service to local customers at the lowest possible cost, consistent with good environmental stewardship. Public power utilities are locally and state-created governmental institutions that address a basic community need: they operate on a not-for-profit basis to provide an essential public service, reliably and efficiently, at a reasonable price.

APPA commends the Subcommittee for holding this hearing on the Federal Energy Regulatory Commission’s (FERC) perspectives concerning the Environmental Protection Agency’s (EPA) proposed Clean Power Plan and other grid reliability challenges. The country faces numerous challenges to the reliable and affordable provision of electricity, including retirements of coal and nuclear power plants; substantial increases in variable renewable energy resources and the integration challenges they present; an increasing reliance on natural gas; and the slate of proposed environmental regulations from the EPA, especially the existing source performance

standards (ESPS) for electric utilities. All of these issues are of concern to APPA and its members.

APPA believes EPA's proposed ESPS rule for electric utilities goes beyond what is permissible under Section 111(d) of the Clean Air Act (CAA), and is very concerned about its potential impacts on public power utilities and their customers. APPA is disappointed that EPA has decided to set binding state emissions goals rather than leave it to the states to set individual limits that are achievable at the affected source—the electric generating unit (EGU). Goals for some states are unachievable and would require the early retirement of existing coal- and natural gas-fired power plants, which could result in stranded costs for utilities as well as local reliability impacts.

APPA is also very concerned that the EPA's emission reduction targets in their proposed 111(d) rule are “front loaded,” requiring most of the emission reductions by 2020 for many states. Moreover, electric utilities appear to get little or no credit for early actions they have taken to reduce emissions prior to 2012, such as investments in renewable, nuclear, and hydropower resources or energy efficiency upgrades at EGUs. Also of concern is the assumption EPA makes that most existing natural gas plants can operate at a 70 percent capacity factor. For example, state air permits limit many natural gas units from operating at such levels in order to comply with other CAA regulations. In Regional Transmission Organizations (RTO) markets, neither states nor electric utilities control the dispatch of units. Rather RTOs, in their role as the administrators of the regional energy markets, perform this function. It is also not clear that sufficient pipeline capacity exists to provide the natural gas needed to run all of the existing units at such a high rate. All of these issues can have reliability impacts. The EPA should have consulted with the FERC on these issues, as FERC has more expertise in these matters.

APPA finds it troubling that there appears to have been little communication between the FERC and the EPA on this proposed rule, especially regarding electric reliability. EPA consistently claims that its slate of proposed rules on the electric utility industry will not hurt electric reliability. APPA wonders how EPA came to this conclusion, unless discussions with FERC that have not been made public took place. Some FERC Commissioners, along with most of the electric utility industry, have raised these concerns publicly with the EPA, but they appear to have been ignored. EPA has no expertise in electric utility operations, and seems not to have given appropriate deference to the experts, including FERC Commissioners and staff, who oversee the reliability of the bulk power system.

APPA commends FERC's efforts to address issues that are likely otherwise to adversely impact the reliability of electricity service in the near future. These efforts include technical conferences in September 2013, on the RTO-operated mandatory capacity markets, and in April of this year on the operations and pricing problems that occurred during this past winter's polar vortex, and efforts to improve the coordination of electricity and natural gas markets. Moreover, in various forums, individual Commissioners have voiced concerns and drawn attention to the difficulties created by the projected retirements of nuclear and coal units, some of which are caused by EPA's proposed rules. As Allen Mosher, APPA's Vice President of Policy Analysis, stated in his written comments for FERC's June 10, 2014, technical conference on the reliability of the bulk-power system, FERC's attention to reliability concerns has effectively required that FERC

become involved in issues that may be outside of the Commission's jurisdiction, including broad considerations of energy and environmental policy. But such a broad focus is needed for the Commission to meet its many statutory mandates, including ensuring just and reasonable wholesale rates and approval and enforcement of reliability standards.

Despite the commendable efforts of the FERC regarding its attempt to highlight the impacts of the proposed EPA rules, including the ESPS, APPA is not aware that the agency was consulted in any comprehensive way by the EPA. In addition, FERC's interest in the reliability issue suffers from a major shortcoming – the Commission's lack of any apparent will to reform the problematic features of mandatory capacity markets operated by the RTOs in three regions of the country – the Northeast, parts of New York, and the Mid-Atlantic/Mid-West. APPA and many others have concluded that the basic mandatory capacity procurement construct is not a "market" in any meaningful sense of the word. It is instead a centralized procurement, based on a heavily administered pricing structure, governed by thousands of pages of complex rules, that generally does not produce needed new resources. Although implementation of EPA's proposed new rule will entail the construction of new low- or non-carbon dioxide emitting resources, such as nuclear and natural gas plants, a recent study by Christensen Associates commissioned by the Electric Markets Research Foundation concluded that the RTO markets "do not and cannot address long-term capacity needs." The study also found that "the RTO markets include some design elements that impede long-term investments and long-term bilateral contracts."

The failure to recognize this reality has not only kept FERC from adopting fundamental reforms, but to instead agree to rule changes, such as administratively imposed floor prices on new natural gas or even renewable generation, that further increase costs and impede needed new resource development. These capacity markets therefore will exacerbate the reliability and economic costs of the proposed Clean Power Plant rule. As Cliff Hamal of Navigant Economics concluded in a recent paper: "The need to address CO₂ emissions only strengthens the case for rethinking the capacity auction approach and adopting a more practical and lower cost alternative."

Thank you again for the opportunity to submit a statement for the record for this timely and worthwhile hearing.

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