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August 13, 2014

The Honorable Tony Clark
Commissioner
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Dear Commissioner Clark:

Thank you for appearing before the Subcommittee on Energy and Power on Tuesday, July 29, 2014, to testify at the hearing entitled "FERC Perspectives: Questions Concerning EPA's Proposed Clean Power Plan and other Grid Reliability Challenges."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on Wednesday, August 27, 2014. Your responses should be mailed to Nick Abraham, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed to Nick.Abraham@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Ed Whitfield
Chairman
Subcommittee on Energy and Power

cc: The Honorable Bobby L. Rush, Ranking Member, Subcommittee on Energy and Power

Attachment

Additional Questions for the Record

The Honorable Ed Whitfield

1. How many times did you or your staff meet with EPA to discuss the Clean Power Plan proposal?
2. Do you view EPA's proposed Clean Power Plan as an "energy plan" or a "pollution control" rule? Please explain your response.
3. Would you agree that the proposed Clean Power Plan gives EPA a certain amount of control over State decisions regarding the generation, supply and consumption of power, particularly if State renewable energy and energy efficiency programs are included in an EPA-approved State Implementation Plan?
4. As the D.C. Circuit Court recently held, FERC lacks authority to dictate how States plan and operate their energy systems. Are you aware of any statutory authority that permits EPA to mandate that States restructure their electric systems and subject State energy decisions to federal oversight and control?
5. To what extent does FERC have authority over State utility and resource planning? Are you aware of any statutory authority giving EPA greater authority in this area than FERC?
6. EPA projects nearly 180 gigawatts of generation capacity will retire between 2010 and 2020 in response to the Clean Power Plan and other factors, such as EPA's previously finalized Mercury and Air Toxics (MATS) rule. What do you view as the potential reliability impacts resulting from the loss of 180 gigawatts of generation over the next 6 years?
7. Would you be supportive of EPA including in its final Clean Power Plan a "reliability safety valve" that provides FERC greater authority to prevent the retirement of reliability critical generating units? What might such a safety valve look like?
8. Has EPA advised you about how the Clean Power Plan would work in states with multiple Regional Transmission Organizations (RTOs) or states with RTO members and non-RTO members or states with no RTO members? If yes, how would the plan work according to EPA?
9. EPA analyzed a set of compliance scenarios referred to as "Regional" scenarios. The regional scenarios allow emission rate averaging across affected sources within six multi-state regions, informed by North American Electric Reliability Corporation (NERC) regions and Regional Transmission Organizations (RTOs). What role does FERC see for itself in overseeing such regional compliance efforts?
10. EPA's proposal specifically encourages States to consider the following strategies to reduce GHG emissions: demand-side energy efficiency programs; renewable energy standards; efficiency improvements at plants; dispatch changes; co-firing or switching to natural gas; construction of new Natural Gas Combined-Cycle plants; transmission efficiency improvements; energy storage technology; retirements; expanding renewables like wind and solar; expanding nuclear; market-based trading programs; and energy conservation programs.
 - a. Would you agree the above items relate more to energy planning than to environmental protection?
 - b. Do you believe EPA has the expertise to be in the energy planning business?

- c. Is there anything on this list that would be within the jurisdiction of States?
 - d. Is there anything on this list that may directly or indirectly impact FERC jurisdiction?
11. In July, the National Association of Regulatory Utility Commissioners (NARUC) approved a resolution seeking to:

preserve States' authority to decide the type, amount and timing of new or existing generation facilities that will be constructed or maintained within the State to achieve legitimate State policy objectives; . . . to safeguard and guarantee States' continued right to operate programs to procure new generation or maintain existing generation for reliability, affordability and environmental purposes . . .; and to ensure that nothing in the Federal Power Act be deemed to preempt or prohibit such activity by the States.

Do you view EPA's Clean Power Plan as impacting any of these areas which NARUC has expressly resolved to preserve? How so?

12. EPA estimates that its existing power plant carbon standards "will not raise significant concerns over regional resource adequacy or raise the potential for interregional grid problems." Yet, the L.A. Times, in an article entitled "U.S. electricity prices may be going up for good," recently concluded that EPA's power plant retirement projections for its Mercury and Air Toxics (MATS) rule "turned out wrong almost immediately." Do you believe EPA could be again underestimating the reliability impact of its regulations?
13. EPA says that "central" to its proposed rule is "[t]he fact that generation at one EGU can be substituted for generation at another." EPA seems to suggest that a megawatt generated in Illinois can substitute for a megawatt generated in New York. This seems like a simplified understanding of how the grid functions. Would you agree?
14. In order to offset reductions in actual capacity, EPA appears to assume that there will be a significant reduction in load through energy efficiency programs sufficient to offset any resource adequacy issues that may result from such retirements. Given that EPA cannot mandate that individual citizens reduce their energy consumption, do you think EPA can reasonably rely on such reductions to ensure reliability?

The Honorable David B. McKinley

1. This January, during the "Polar Vortex", electricity customers in the PJM region experienced significant abrupt increases in their electricity costs, with bills rising to several times their normal levels. These price spikes were caused, in part, by significant generation outages during January, despite these generation resources receiving billions of dollars a year in advanced payments in exchange for their being available to provide energy during peak periods, whether in the extreme heat of the summer or the extreme cold of the winter. I am concerned that the causes of this situation have not been understood well enough to prevent it from happening again. Do you think you fully understand what happened and can assure us it isn't going to happen again? Has the Commission conducted a comprehensive root cause investigation and analysis of the situation, or directed PJM or the PJM Independent Market Monitor ("IMM") to do so?
- a. If yes, have those results been released publicly?
 - b. If no, why not?

2. What efforts has the Commission undertaken, or directed PJM and the IMM to undertake, to identify potential solutions to the generation performance problems that occurred during January 2014 in the PJM region?
3. Has the Commission determined whether any generation outages were reflective of attempts to manipulate market-clearing prices?
4. We understand that the delivered price of natural gas rose to historic highs in the PJM region during January 2014, and that these unprecedented delivered prices for natural gas were primarily the result of extraordinarily high prices for capacity on interstate natural gas pipelines in the PJM region. Has the Commission conducted a comprehensive root cause investigation and analysis, or directed PJM or the PJM Independent Market Monitor ("IMM") to conduct a comprehensive root cause investigation and analysis, of the unprecedented natural gas prices that surfaced in the PJM region during January 2014?
 - a. If yes, have those results been released publicly?
 - b. If no, why not?
5. What efforts has the Commission undertaken, or directed PJM and the IMM to undertake, or directed interstate natural gas pipeline operators to undertake, to identify potential solutions to the natural gas deliverability problems that occurred during January 2014 in the PJM region, either by better optimizing the use of existing assets or by constructing new assets or both?
6. Has the Commission determined whether any natural gas deliverability problems were reflective of attempts to manipulate natural gas prices or electricity market clearing prices?
7. Price increases for natural gas and electricity in the PJM region, and elsewhere, are very concerning to me. My constituents in the PJM region have asked me to ensure that markets have been, and are, functioning properly and that prices have not been increased by speculation or manipulation. It is now July, can you assure me that FERC intends to have answers to these questions about natural gas and electricity pricing BEFORE next winter?
8. In the Clean Power Plant proposed rule's Regulatory Impact Analysis, EPA notes that the Integrated Planning Model (IPM) was used to project the impact of the rule on electricity prices. The documentation for the IPM on EPA's web site explains that the model assumes both perfect competition and perfect foresight. The former means that "IPM does not explicitly capture any market imperfections such as market power, transaction costs, informational asymmetry or uncertainty." The latter "implies that agents know precisely the nature and timing of conditions in future years that affect the ultimate costs of decisions along the way." Does FERC agree that such a model can accurately capture how the proposed rule will impact prices? What are some likely differences in the actual implementation of the rule and this model?
9. Achieving compliance with the proposed rule will require a replacement of higher carbon dioxide emitting resources with new lower or zero-emitting units. Yet 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 "[b]ilateral forward contracting remains key under any market design for locking in revenues and facilitating financing of new resources. Contrary to this key necessity, however, the RTO markets include some design elements that impede long-term investments and long-term bilateral contracts." What steps does FERC intend to take to ensure that RTO markets do not impede bilateral contracting needed for new resource development that will be required for state compliance with the rule?

10. Within the retail access states, most of the generation is no longer owned by vertically-integrated utilities and instead is under merchant ownership. There is no state or local jurisdiction over these merchant generation owners regarding whether to continue to operate or close a plant or what types of generation technology should be built. Does FERC see any difficulties in implementation of the proposed rule in states with large amounts of merchant generation?

The Honorable Gene Green

Mr. Clark, EPA's rule seems to assume our transmission grid will not require much, if any, changes as a result of retirements, decreased margins, or renewable sources whether they be large scale or residential.

1. Commissioner Clark, in different regions of the country, what entities are responsible for building and maintaining new and existing transmission? What challenges to they face?
2. Is EPA's assumption reasonable given existing challenges?
3. Are there potential reliability issues that EPA could have missed in their transmission assumptions?