

Opening Statement of the Honorable Fred Upton
Subcommittee on Energy and Power
Hearing on “FERC Perspectives: Questions Concerning EPA’s Proposed Clean
Power Plan and Other Grid Reliability Challenges”
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(As Prepared for Delivery)

Several weeks ago, EPA’s Acting Assistant Administrator Janet McCabe told this subcommittee that the agency’s proposed rule for existing electricity generation is not an energy plan, but rather is a pollution control rule. Then, last week, Administrator Gina McCarthy made the exact opposite argument during testimony before the Senate – that this proposal is not about pollution control but is about energy and spurring investments in the EPA’s preferred energy choices.

This comparison of exchanges by the two top officials at EPA demonstrates the agency’s current dilemma. After failing to push comprehensive cap-and-trade legislation through a Democratic Senate because of legitimate fears that it would hamstring our economy and make energy more expensive, the administration is now pursuing a Plan B approach by stretching the Clean Air Act to accomplish the exact same goals. Assistant Administrator McCabe’s answer is the one the agency will likely stick to when this rule gets challenged in court, as EPA has no explicit energy policy-setting authority under the law, but Administrator McCarthy had the more candid response, as this rule clearly is an effort by EPA to assert control and new regulatory authorities over states’ electricity decision-making.

EPA’s Clean Power Plan requires states to submit for approval individual or regional energy plans to achieve the agency’s carbon dioxide emissions targets. EPA is systematically federalizing under the Clean Air Act what was once in the clear purview of the states or the markets. If states are truly the “laboratories of democracy,” then why assert the federal government over their energy planning? FERC is the agency charged by Congress with regulating electricity in interstate commerce, which is why it is so important to gain FERC’s perspective today. Even this agency, with explicit authority over electricity matters, does not have the expansive reach envisioned by EPA’s Clean Power Plan.

I am particularly concerned about the Clean Power Plan’s impact on energy diversity. Maintaining a diverse energy portfolio is a core component of this committee’s vision for America’s energy future – a vision we call the Architecture of Abundance. Consumers and businesses are best served by an electricity supply that can be generated from a variety of sources – coal, nuclear, natural gas, as well as renewables – and in the proportion that each state deems best to suit its unique circumstances.

Maintaining diversity – both diversity in our electricity generation portfolio as well as a diversity of strategies for meeting a state’s electricity needs – is critical to affordable and reliable energy. But EPA’s top-down Clean Power Plan will give us less of both kinds of diversity.

I thank the FERC Commissioners for their testimony today, and welcome Mr. Bay for his first appearance before us. We look forward to a continued dialogue as we conduct oversight of the Clean Power Plan.

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