

Opening Statement of the Honorable Ed Whitfield
Subcommittee on Energy and Power
Hearing on “FERC Perspectives: Questions Concerning EPA’s Proposed Clean Power
Plan and Other Grid Reliability Challenges”
July 29, 2014

(As Prepared for Delivery)

This morning we will be conducting our second hearing on EPA’s proposed Clean Power Plan targeting each state’s carbon dioxide emissions from electricity generation and use. Our first hearing focused on EPA itself, and I must say that our discussion with Assistant Administrator Janet McCabe left us with more questions than answers. Today, we solicit the Federal Energy Regulatory Commission’s expertise and perspective, and I welcome all five Commissioners to this subcommittee.

As I have noted before, I find much reason for concern with this proposed rule. For one thing, EPA’s unprecedented use of the Clean Air Act is on very questionable legal ground. I see nothing in the law that empowers EPA to commandeer state decision-making authority over how it produces, delivers, and uses electricity. But aside from the legal questions of whether EPA can do this to the states, there is the equally important question of whether the agency should do it. I have serious doubts whether this scheme is advisable or even workable.

Ironically, EPA is embarking on this comprehensive effort to federalize energy planning even though the agency has absolutely no energy policy-setting authority or expertise. That is why it is important to hear from a federal body that actually does have such authority and expertise, although I might add that the top down, command-and-control efforts of EPA go far beyond even FERC’s jurisdiction. As a preliminary matter, I would like to better understand FERC’s level of participation in this proposed rule – is FERC an equal partner with EPA, a junior partner, or hardly a partner at all in promulgating this rule? And what would be FERC’s role in implementing it?

I am also interested in tapping into FERC’s considerable expertise on electric reliability, as I anticipate many reliability concerns with this proposed rule that have not been considered by EPA. As it is, the agency has already promulgated a number of rules that have contributed to coal-fired power plant shutdowns. This proposed rule would lead to more of the same and indeed is seen by some as the nail in the coffin for coal. I am very interested in learning from FERC whether it believes coal-using states can abruptly move away from this base load source without raising significant reliability concerns.

I am also worried by many of the assumptions EPA makes as to how states can meet electricity demand while complying with the rule. For example, the agency suggests that states can easily ramp up natural gas-fired generation to help meet their targets. But we know from the experience of last winter that several regions of the country have natural gas pipeline capacity constraints. I look forward to hearing the Commissioners’ thoughts on the achievability of EPA’s assumptions about natural gas-fired generation.

I also have similar questions about EPA’s very optimistic assumptions regarding the ability of renewables to help fill the void, especially given the many challenges that come with integrating intermittent resources into the grid. And the limitations of renewables will be exacerbated if affordable and reliable base load supplies like coal and nuclear face a constrained future as they do under the Obama administration.

Overall, I see great risks in allowing EPA to overrule each state’s choices as to the best electricity mix, as well as risks in constraining a state’s ability to change its generation portfolio as circumstances warrant.

I also find EPA’s proposed efforts dictating electricity usage to be troubling. This is an area where the reach of the federal government has been limited, and for good reason since these local resource decisions are best left to states.

Most of all, I am very concerned what this proposed rule would do to electricity costs for consumers and for job-creating businesses. In my view, EPA has not been taking these concerns into account, which is another reason why I believe this hearing is important.

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