

FEDERAL ENERGY REGULATORY COMMISSION

Office of The Commissioner

January 12, 2015

The Honorable Lisa Murkowski
Chairman
Committee on Energy & Natural Resources
U.S. Senate
Washington, D.C. 20510

The Honorable Fred Upton
Chairman
Energy & Commerce Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Ed Whitfield
Chairman
Subcommittee on Energy & Power
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Murkowski, Chairman Upton, Chairman Whitfield:

Thank you for your letter of December 22, 2014 regarding coordination between the Commission and EPA over the development of EPA's Clean Power Plan. Here are my responses to your questions:

1. EPA officials have asserted that staff at FERC actively participated in the development of the Clean Power Plan proposal. Are you aware of, or have you or your staff personally participated in, any meetings or conversations that would support EPA's view of FERC's participation?

Answer: I have not participated in the development of the Clean Power Plan proposal nor has any of my staff. As previously disclosed, one of my advisors, Robert Ivanauskas, attended one private meeting prior to release of the rule which included Joe Goffman, Janet McCabe, and Chairman Cheryl LaFleur. Although EPA brought some documents to that meeting, EPA decided not to allow FERC to look at those documents. Both Mr. Ivanauskas and I received a very short oral briefing on the plan from Michael Bardee on Monday, April 28, 2014. Again, these were not meetings where any concepts were developed, nor was any feedback elicited from me regarding the proposal.

2. Given the December 3 correspondence and the attachments, what, if anything, can you tell us about the nature and subject matter of any or all of the listed meetings?

Answer: As I was not invited to participate in any of these meetings, and since I therefore did not attend any of these meetings, I can only speculate on the nature and subject matter involved.

3. Based on the December 3 correspondence, what conclusions, if any, do you draw concerning the quality and impact of FERC's interaction with EPA as it relates to ensuring that EPA rules do not unduly burden electric reliability?

Answer: My ongoing concern is that, despite its expertise as an environmental regulatory agency, EPA lacks sufficient understanding and expertise to fully consider the reliability impacts of their proposed rules on the nation's electric and natural gas sectors. In addition, EPA appears to lack an appreciation for the complexity of energy markets, and lacks an appreciation of the challenges in financing and siting new natural gas pipelines, electric generation, and electric transmission. Without recognition and at least partial resolution of these challenges, I believe the CPP will threaten reliability given the extent to which requirements are front-loaded to 2020. Hence, FERC interaction with EPA on this subject should be more frequent and extensive.

4. To your knowledge, was FERC staff permitted access to EPA documents and proposals or otherwise afforded an opportunity for considered interaction on the substance of the Clean Power Plan proposal?

Answer: I was told by Mr. Bardee that he was allowed to view a version of the proposal, but was not allowed to have a copy or even write notes at the time that he viewed it. I believe this meeting was held in April 2014. It is not clear to me the extent to which EPA requested FERC staff perspectives on the proposal, but it's difficult to imagine that any suggestions from FERC staff were incorporated into the proposal. My overwhelming concern is that there are examples where the CPP includes incorrect assumptions about existing conditions within the energy network and how the CPP would affect various states. For example, representatives of the Salt River Project provided great detail on how the CPP includes inaccurate assumptions about power flow dynamics in Arizona and surrounding states, with severe implications for the reliability of the Southwest region. Any inaccurate assumptions are particularly problematic for a state like Arizona, which faces a final goal of a 52% reduction in CO2 emissions from a 2012 level of 1,453 lbs/MWh to 702 lbs/MWh by 2030.

5. Other than through the announced technical conferences, do you yourself presently anticipate future involvement with EPA before the Clean Power Plan rule or any other pending major EPA rulemaking that in your judgment is likely to bear on electric reliability is made final?

Answer: I will continue to provide written comments when appropriate, and would welcome a more formal role for this Commission as it deals with the reliability implications and economic ramifications of the CPP.

6. At this time are you aware of any established or forthcoming plan by EPA or the FERC staff to include you or your staff in substantive inter-agency interactions on these matters?

Answer: No, and I think that is unfortunate. My motivation has been to raise substantive questions and focus on the engineering aspects of the existing grid and how the grid could change under the CPP. I would hope EPA wants its rule to actually work to accomplish a defined objective at the lowest possible cost and without endangering reliability. I do not believe the proposed rule would pass this test. I continue to advocate for a more formal role for FERC, and if I am involved I will work to make such an effort productive, open, and transparent.

7. Based upon your personal knowledge, in its interactions with EPA concerning proposed or final major EPA rules that bear on electric reliability, has FERC acted adequately to protect electric reliability? If your answer is yes, please identify the facts that support your view.

Answer: From my perspective, FERC has been relatively passive in its interactions with EPA. It seems there is deep concern that voicing reasonable questions about the effectiveness of the CPP will have negative consequences for anyone who dares.

It's worth reiterating that these are EPA rules, not FERC rules, so the onus is on EPA to include FERC in this effort. The technical conferences are a good start for FERC to more fully analyze the CPP. Hopefully these conferences will allow the final rule to be improved.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip Moeller". The signature is fluid and cursive, with the first name "Philip" and last name "Moeller" clearly distinguishable.

Philip Moeller