

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426



Office of Commissioner Philip D. Moeller

September 30, 2011

The Honorable Lisa A. Murkowski
United States Senate
Washington, DC 20510

Dear Senator Murkowski:

Thank you for your continuing interest in our work at the Federal Energy Regulatory Commission (FERC), and for providing me with an opportunity to express my views on the subject of how actions by the Environmental Protection Agency (EPA) could impact the reliability of our nation's electric system.

Enclosed is my response to your questions for the Commission. As always, I am available to meet with you to discuss this or any other matter concerning the work of the Commission.

Sincerely,

A handwritten signature in dark ink, which appears to read "Philip D. Moeller". The signature is fluid and cursive, with the first name "Philip" and last name "Moeller" being clearly legible.

Philip D. Moeller

Questions and Responses

Question 1. Will EPA's rulemaking agenda, as described in my previous correspondence, degrade reliability in any region, sub-region or electric control area of the United States? In addition to answering this question, please state or explain:

- a. the basis for this determination;
- b. your degree of confidence in this determination;
- c. the regions, sub-regions, or electric control areas that will be affected, with a particular focus on transmission "pockets" and cities where generating capacity is at risk;
- d. the impacts on system stability or system recovery in the aftermath of wide scale forced outages (e.g ., the recent regional outage in Arizona, Southern California, and Northern Mexico);
- e. the impact on reliability of any change in the balance among different types of generation, particularly during and in the aftermath of forced outages and periods of peak demand; and
- f. the actions that the Commission is undertaking to understand and address these effects?

Answer: I don't know the extent that reliability might be reduced if EPA's rulemaking agenda is enacted as currently proposed, as any reduction in reliability depends on the ability of the owners of the power grid to meet the deadlines imposed by the EPA, and the extent that the public pays for the cost of installing new assets to replace retired assets. While you have seen the study performed by our staff which attempts to quantify some of the obstacles to maintaining reliability, that study has not been updated for some time, so I don't have the latest assessment of our staff on this problem.

Question 2. In your view, what is the extent of the Commission's responsibility to ensure the reliability and security of the nation's bulk power system? In this regard, please describe that responsibility and what actions by the Commission it may entail.

Answer: The Commission's efforts to ensure reliability can have an immediate impact on providing this nation with the ability to transition toward cleaner and more efficient sources of power, while maintaining the levels of reliability and security that we depend on.

Staff's work on the proposed EPA regulations was in many respects no different from the work it does regarding other contemplated actions of the federal government. For example, our staff has recently submitted several comments on proposals made by the CFTC as that agency works to implement the Dodd-Frank Act. Plus, several Commissioners have made statements on the regulatory barriers imposed by other federal agencies in the siting of transmission lines,

especially with regard to a well-publicized transmission line between Pennsylvania and New Jersey known as the Susquehanna-Roseland line.

And with respect to reliability, our staff works hard both on issues involving the reliability standards and on matters that may not involve a specific reliability standard, but which are of a more general concern. For example, our reliability staff has developed significant expertise on issues of cyber-security, even if those issues do not directly relate to a standard adopted by NERC. On that point, Joseph McClelland, Director of FERC's Office of Electric Reliability testified with respect to cyber-security issues before the Committee on Energy and Natural Resources, United States Senate, May 5, 2011.

Our reliability staff also has expertise to undertake studies and reports related to reliability, even on topics not directly related to a reliability standard. As you may recall, our staff recently issued a report on the "frequency response" of the power grid. This report, which was initiated and funded by FERC's Office of Electric Reliability, helps the public understand how renewable power sources like wind and solar can be integrated into the power grid at the same time that coal and older fuel sources are retired. As stated in a press release issued by FERC on January 20, 2011, "[t]his study is valuable in that it gives us the tools to help determine how to manage operation and expansion of the grid, regardless of which resources the electric industry uses to generate power." Similar to staff's work on EPA rulemakings, the "frequency" study was not related to a pending dispute before the Commission.

The Commission is also responsible for advising members of Congress when asked. In that regard, I believe that Congress should immediately consider whether to adopt legislation clarifying the legal responsibilities in case an entity needs to choose between violating clean air regulations and electric reliability standards.

Question 3. What process will the Commission undertake to assess the impact on reliability of EPA's rulemaking agenda? With respect to this process, please describe:

- a. the scope of the process;
- b. the projected timeline for any contemplated activities;
- c. the division of responsibility between the Commission, NERC, and any other entity;
- d. any contemplated studies or projections; and
- e. the agencies and officials participating.

Answer: I do not know the further process, if any, that the Commission or its staff will undertake.

Question 4. As a matter of public policy, do you believe that federal regulations should be generally applicable?

Answer: Yes.

Question 5. Do you intend to involve the Commission in the EPA's rulemaking process sufficiently to ensure that EPA's rules, in fact, can be generally applicable without a threat to reliability?

Answer: I believe that the Commission should be involved in the rulemaking process of a federal agency if such involvement helps reduce threats to reliability.

Question 6. If, de facto, EPA's rules are less than generally applicable because they require significant exceptions and waivers to meet reliability requirements, please explain the process you believe should apply. Please describe any proposals for such a waiver or exception process that that might serve as a "safety valve" that you may have under review, or that you believe may be under review by EPA or any other Executive Agency, for permitting certain power plants to operate under the EPA rules until mitigation measures are put in place to safeguard reliability considerations. Please detail the elements of such a process for providing flexibility or targeted and discrete exceptions or waivers. If such a process would include the use of consent decrees entered in judicial proceedings, please explain how such a process might operate.

Answer: I do not know what exemption process would work best for administering what may become a complex task of determining which set of power plants will need to operate for reliability purposes. Complicating this further, the ability to retire individual power plants sometimes depends on whether other power plants decide to retire. Thus, arriving at a final listing of power plants that are destined for retirement and a final listing of the plants that can remain open may be difficult given these inter-dependencies.

Question 7. Please provide any estimate that you or any Commissioner or Commission employee may have developed with respect to the number of generating units that could qualify for such flexibility or targeted and discrete exceptions or waivers.

Answer: I don't have such an estimate, and I cannot develop one given the limited resources I have.

Question 8. If you expect that completing a reliability assessment of the cumulative impact of EPA's rulemaking agenda in general- or of the Utility MACT or Cross State Air Pollution rules in particular - will require more than six months, please explain in detail the objectives of the assessment, its methodology, and the time necessary to complete each step. In addition, please explain why it would be infeasible to release an assessment within six months' time.

Answer: The time needed for a reliability assessment depends on the thoroughness of the assessment. The initial assessment of Commission staff seems to have been completed within six months, but a more thorough assessment could require more time.

Question 9. If the Commission is not undertaking such a process, and has no plans to do so, please either:

- affirm that EPA's rulemaking agenda will not materially degrade reliability in any location within the United States; or,
- explain how the Commission will carry out its statutory obligations with respect to reliability and security in the absence of information regarding expected material degradations to reliability.

Answer: I can't affirm that EPA actions will not materially degrade reliability, nor can I speak for the entire Commission and how it will carry out its statutory obligations. Speaking for myself, I intend to carry out my obligations by using whatever authority that I have to remain aware of issues that could have a material impact on reliability, and when given the opportunity to act, I intend to act in a manner that assures reliability.