

Senate Standing Committee on Utilities

February 17, 2015

Proponent Testimony

Senate Bill 151

Room 548-S

By Commissioner Pat Apple
Kansas Corporation Commission

Chairman Olson, Vice Chairman Petersen, Ranking Minority Francisco and members of the committee, thank you for the opportunity to appear here today in support of Senate Bill 151.

In June 2014, the Environmental Protection Agency issued its proposed rule for “Carbon Pollution Guidelines for Existing Stationary Sources; Electric Generating Units” (EGU’s). The final rule under Section 111(d) of the Clean Air Act is due mid to late summer of 2015.

Upon issuance of the final rule, each state will have one year, in most cases, to develop its own compliance plan. Attached to this testimony is the letter from the Commission to the EPA regarding the proposed rule that accompanied staff’s comments.

Each state will be required to submit its compliance plan to the EPA in the form of an agreement and, if accepted, the agreement will be enforceable as if it were a State Implementation Plan (SIP). Each state will be bound by the agreement and the agreement will be federally enforceable.

The proposed rule will require a 35% reduction in CO2 emissions in Kansas by 2030 with 75% of the goal to be met by 2020.

Investments in environmental improvements made prior to 2012 will not be considered in the plan. Thus possibly leaving major investment stranded with the ratepayers paying for facilities that are not being used or not used to their fullest potential.

The KCC estimates the EPA 111(d) proposed rule will cost Kansas rate payers \$8.75 billion and possibly up to \$15 billion over 13 years. It is estimated the direct cost of 111(d) rule will increase electric rates up to 30%. This increase does not include: costs for natural gas pipeline investment that will be required with the increased demand of natural gas for EGU's that transition from coal; inflation; or the increased cost of natural gas because of the new demand.

The Southwest Power Pool warns of 'cascading outages' if the EPA's CO2 proposal is implemented.

Senate Bill 151 provides for a clear regulatory path forward as we begin to understand the effects of the proposed rule on cost and reliability of our electrical system. These costs will eventually be passed on to the ratepayer. Well established traditional regulatory structure has been decimated under the proposed rule. It will take cooperation from the industry and state regulatory agencies to develop a solution that will provide the lowest cost viable option and keep a reliable electrical system.

The consequences of your decision, either good or bad, will affect each and every ratepayer of our state.

Thank you and I ask that you give this legislation your utmost consideration.

Very truly yours,

Pat Apple



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Shari Feist Albrecht, Chair
Jay Scott Emler, Commissioner
Pat Apple, Commissioner

Sam Brownback, Governor

October 29, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

**Re: Comments in Response to EPA's Proposed Carbon Pollution Emission
Guidelines for Existing Stationary Sources: Electric Utility Generating Units
Docket ID No. EPA-HQ-OAR-2013-0602**

Dear Administrator McCarthy:

Please find attached the comments of the staff of the Kansas Corporation Commission (KCC) in response to the Environmental Protection Agency's (EPA) proposed Clean Power Plan. The Commission's technical staff has extensive expertise in the subject matter EPA seeks to regulate in this proposed rule. Therefore, we request EPA carefully consider these comments of the Commission's technical staff, which the Commission has reviewed and authorized to be filed.

The KCC is the state agency in Kansas tasked with ensuring sufficient and efficient electric service provided at just and reasonable rates. The Commission's technical staff has extensive expertise in the areas of accounting, economics, and engineering, with a focus on electric utility ratemaking, reliability, and the energy sector.

The KCC Commissioners have reviewed the staff's comments and we embrace the concerns KCC staff raises in these comments.¹ Of particular concern is the extent of the EPA's proposed regulatory reach into Kansas' mix of energy resources. The KCC-regulated electric utilities in Kansas are vertically integrated investor-owned public utilities subject to traditional rate of return economic regulation under which the KCC carefully balances the interests of the public utility against those of the public the utility serves. In its proposed Clean Power Plan, the EPA has inserted itself into a regulatory field occupied by the states for decades in which the states have proven expertise in public utility ratemaking and in understanding the complexity of the electric grid and

¹ The Commission emphasizes that the attached comments are those of its staff. While the Commission agrees with many of its staff's concerns, the comments should not be interpreted as an establishment of agency policy or binding against the Commission in future proceedings.

electric reliability. The proposed rule will disrupt the carefully balanced, cost-effective delivery of electricity in Kansas and will lead to detrimental economic effects, both within the Kansas economy and within the states with which Kansas does business.

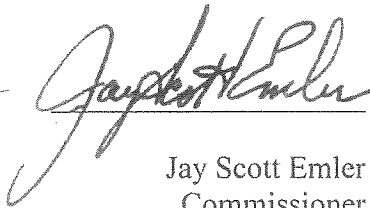
Should the EPA proceed with the proposed Clean Power Plan, this Commission fully expects that Kansas ratepayers will face a future of exorbitantly high electricity costs and unreliable electric service. We believe it is our legal duty and obligation to look out for the energy future of Kansans and the Kansas economy. The proposed rule, as currently drafted, will create a bleak energy future for Kansas. We must, therefore, urge you to withdraw the proposed rule from consideration.

Respectfully,

The Kansas Corporation Commission



Shari Feist Albrecht
Chair



Jay Scott Emler
Commissioner



Pat Apple
Commissioner