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February 9, 2015

To: Senate Committee on Utilities

From: Natalie Nelson, Research Analyst

Re: Federal Energy Regulatory Commission Presentation to the House Committee on Energy and Environment: Questions and Answers, February 6, 2015

Federal Energy Regulatory Commissioner Tony Clark presented to the House Committee on Energy and Environment on February 6, 2015. What follows is a list of questions asked by House Committee members throughout the presentation and the corresponding answers given by Commissioner Clark.

Q. What is the agency's role in dealing with market manipulation?

The Energy Policy Act of 2005 gave FERC more regulatory power, which has proven to decrease manipulations over the last five to ten years and has greatly improved transparency of energy markets.

Q. Is there a price point on natural gas before it becomes non-competitive?

It depends on the market, but in an average market such as Kansas, it might be less competitive than other fossil fuels. However, in the Northeast, natural gas is competitive because coal is \$.25 per kilowatt hour.

Q. What options do states have if they do not want to implement the Clean Power Plan (CPP)?

It would basically be considered a "just say no" plan, that is, the state would say it will not comply with implementation so the Environmental Protection Agency (EPA) would then implement a plan for the state without state input, much like the state health exchanges in the Affordable Care Act. The EPA has not released its Federal Implementation Plan for the CPP, but is expected to do so in the summer of 2015.

Q. Could the CPP just disappear in January 2017 when a new President takes office?

Generally, when the EPA implements a rule it is very difficult to pull back in subsequent presidential administrations because of a multitude of legal

issues. However, the CPP would not be difficult to pull back because it is regulating completely new territory and would not run into nearly as many legal issues as regulations that have been established for several years.

Q. How has the day-ahead market been working?

It has been working well because consumers benefit with this system. This sort of regulatory environment works very well with vertically-integrated companies, which comprise most of the companies included in the Southwest Power Pool (SPP).

Q. How soon can one gather data to analyze the economic savings of the day-ahead market?

FERC does publish these reports but the Commissioner cannot recall when the next one will be released.

Q. Where do states' rights play in and where do they not in regulation of energy?

There is a really long answer to that question because there is a lot of gray area. The first place to look for guidance is in the *U.S. Constitution* and then the Federal Power Act. While the federal government generally regulates the wholesale energy market and state governments generally regulate the retail energy market, the line between those two markets is becoming thinner. An emerging legal conflict between state and federal regulation involves the Commerce Clause of the *U.S. Constitution*. An example of this conflict would be the federal government attempting to force a state to create wind power within the state when the resources are not there and it would cost more than just purchasing wind power from another state.

Q. Are FERC and SPP involved in cost allocation?

SPP is regulated by FERC, so both are involved to an extent – FERC approves the SPP's proposed costs.

I hope this information proves useful to you. Please note a copy of Commissioner Clark's PowerPoint slide presentation to the House Committee is enclosed. If you would prefer an electronic version of these documents or if you require any further information, please contact me at Natalie.Nelson@kird.ks.gov or (785) 296-4418.

NN/rc

Enclosure