Approved 6-24-15

MINUTES
SENATE AND HOUSE INTERIM COMMITTEES ON INSURANCE AND COMMERCE
Committee Room MAC B, Little Rock, Arkansas
Tuesday, August 12, 2014

The Senate and House Interim Committees on Insurance and Commerce met jointly Tuesday, August 12, 2014, at 10:30 a.m. in Committee Room MAC B in Little Rock, Arkansas.

Committee members present: Senators Jason Rapert, Chair; and John Cooper. Representatives Tommy Wren, Chair; Robert Dale, Vice Chair; Les "Skip" Carnine, Harold Copenhaver, Joe Farrer, Mark Perry, Terry Rice, and John Vines.

Non-Voting members present: Representatives David Branscum, Jeremy Gillam, Douglas House, Kelley Linck, and James Ratliff.

Other legislators present: Representatives Scott Baltz, Kim Hammer, Joe Jett, Josh Miller, John Payton, and Walls McCrary.

Representative Wren called the meeting to order.

CONSIDERATION TO APPROVE JUNE 19, 2014, AND JULY 8, 2014, MEETING MINUTES [Exhibits C1 and C2]

Representative Carnine made a motion to approve the June 19, 2014, and July 8, 2014, meeting minutes. The motion was seconded by Senator Cooper, and without objection, the motion carried.

IMPACT OF THE ENVIRONMENTAL PROTECTION AGENCY'S CLEAN POWER PLAN PROPOSED RULE (Issued 6/2/14) ON ARKANSAS'S ELECTRIC RATES

Senator Rapert stated the Environmental Protection Agency's (EPA) proposed rule has the potential to affect consumers of electricity in the state, whether individuals, small business owners or large companies. Approximately ten state attorney generals have filed lawsuits opposing this rule.

Mr. John Bethel, Director, Arkansas Public Service Commission (PSC), was recognized and stated under Section 111(d) of the Clean Air Act the EPA has issued a proposed rule that addresses CO_2 emissions from electric generating facilities and sets targets for the states to comply. The PSC and the Arkansas Department of Environmental Quality (ADEQ) have convened a stakeholder group with the purpose of trying to assess the potential impact and issues with the regulation and how to comply with the requirements.

The stakeholder group consists of Entergy, Southwestern Electric Power Company (SWEPCO), Oklahoma Gas & Electric (OG&E), Electric Cooperatives, Plum Point, Union Power Partners – Entegra, North Little Rock Electric, Midcontinent Independent System Operator (MISO), Southwest Power Pool (SPP), CenterPoint Energy, Arkansas Advanced Energy Association (AAEA), Arkansas Electric Energy Consumers (AEEC), State Chamber of Commerce, Arkansas Environmental Federation (AEF), Sierra Club, Audubon Arkansas, Arkansas Department of Health (ADH), Attorney General of Arkansas, Arkansas Energy Office (AEO), Municipal League, and the Arkansas Public Policy Panel.

The next stakeholder meeting is August 28, 2014 at 9:00 a.m. [10:00 a.m.] at the ADEQ's office. The meeting's focus will be economic impact. There is information on previous meetings as well as future meetings on the PSC's webpage as well as ADEQ's, and these two webpages are linked. The meetings are open to the public.

Senator Rapert requested members of the committee receive an email notification of the meetings.

Mr. Bethel stated the regulation sets an overall national goal, and each state has its target goals to meet based on criteria the EPA developed. The EPA provided guidelines to the states on how to meet those requirements and develop plans. He stated the overall national target is a 26% reduction below the 2005 level by 2020, and a 30% reduction in those levels by 2030.

EPA has identified four building blocks as ways to meet target reductions:

- Improved efficiency at coal-fired plants
- Increased usage of existing natural gas-fired plants
- Increasing zero emissions generating sources such as renewable and nuclear
- Increased energy efficiency and demand response measures

The proposed Arkansas target is:

- 2012 emissions were 1,634 lbs / MWH
- The goal for 2020-2029 is 968 lbs / MWH (a 41% reduction) (666 lbs / MWH)
- The goal for 2030 is 910 lbs / MWH (a 44% reduction) (724 lbs / MWH)
- Only 5 other states have a higher percentage reduction goal
- Increase coal plant efficiency by 6% (5% emissions rate reduction and 11% of Arkansas goal) (80 lbs / MWH)
- Run natural gas plants at 70% capacity (30% emissions rate reduction and 68.5% of Arkansas goal) (496 lbs / MWH)
- Add renewable energy & nuclear (4% emissions rate reduction and 8.6% of Arkansas goal) (62 lbs / MWH)
- Add energy efficiency (5% emissions rate reduction and 11.9% of Arkansas goal) (86 lbs / MWH)
- EPA calculation increases gas generation by 18 million MWH from 16 million MWH (32% capacity) to 34 million MWH (70% capacity)
- EPA calculation reduces coal generation by 18 million MWH from 28 million MWH to 10 MWH

Mr. Bethel stated Ms. Colette Honorable, Chair, PSC, attended a meeting in her dual capacity as PSC Chair and also President of the National Association of Regulatory Utility Commissioners with a panel of regulators and industry leaders speaking on this proposed rule. Senator Rapert requested a copy of her remarks.

Mr. Bethel stated Ms. Honorable was not speaking for or against the rule because the PSC does not have enough information to make an informed recommendation to the EPA.

Senator Rapert asked Mr. Bethel is he was aware Entergy Arkansas did not receive the highest rating compared to other companies, specifically due to the state's regulatory environment. Other pieces of Entergy's network received an increase in their bond rating, except for Arkansas Entergy.

Mr. Bethel stated he is aware of the situation and this is being addressed in Entergy's request for rehearing in its most recent rate case before the commission.

Senator Rapert requested Mr. Bethel keep both he and Representative Wren informed on this.

Ms. Teresa Marks, Director, ADEQ, was recognized and stated this is a very difficult [**PwrPoint Presentation #1]** and complicated proposed rule. If this rule takes affect it will be implemented through the ADEQ under the Clean Air Act.

She stated the EPA assigned an interim emissions goal and a final emissions goal to each state for their existing power plants. States meet their interim goals through an adjusted average emissions rate, and this goal must be met by 2020. Each state must meet its final goal on a three-calendar year rolling average starting January 1, 2030. The ADEQ's technical division is currently reviewing the rule and developing comments in conjunction with the PSC.

Concerning the EPA's four building blocks referred to earlier in Mr. Bethel's comments, Ms. Marks noted the interim and final state emission goals were developed based on its definition of the "best system of emissions reduction" (BSER) for CO_2 emissions from existing power plants. EPA calculated the goals by taking into account four categories of potential emission reductions, or "building blocks," which taken together represent the BSER.

Ms. Marks stated in 2012 Arkansas's electricity generation was produced by coal (43%), natural gas (26.3%), nuclear (23.8%), and renewables (5.9%).

She stated according to EPA, use of the building blocks is designed to promote flexibility in reaching each states' target. A state can develop a plan that achieves more or less reductions from each of the four building blocks (or none of them at all, i.e., an alternative plan), as long as the state ultimately reaches its final CO_2 emission rate reduction goal for its combined affected electric generating units.

The ADEQ thinks the EPA has been too stringent in their request of Arkansas and has not sufficiently considered the following:

- Arkansas has one of the most efficient coal plants in the nation with the Turk Power Plant.
- Arkansas is an exporter of coal energy.
- Arkansas should be given credit for imported wind generation.
- Issues with transmission of electricity for natural gas.

Ms. Marks stated the EPA is proposing a two-phase submittal process for individual state plans:

- Required components submitted on June 30, 2016.
- Complete plan submitted by June 30, 2017.

If a state develops a plan that includes a multi-state approach, it would have until June 30, 2018, to submit a complete plan. States participating in a multi-state plan may submit a single joint plan on behalf of all the participating states.

Ms. Marks stated she has not spoken for or against the proposed rule. ADEQ's position is they are trying to make sure they have the knowledge needed to adequately comment on the rule and to make sure they have the concerns of the industry and others expressed adequately in any comments made and will take all those concerns into account in preparing the plan.

Senator Rapert stated twelve states are opposing this rule based on the issue Section 111 (d) of the Clean Air Act has no authority.

Ms. Marks stated personally she does not think she would support bringing any type of lawsuit on the proposed rule. She thinks it would be premature before AEDQ sees the final rule. She also stated the EPA has been given a lot of latitude from the Supreme Court, and she is not convinced they are in conflict with the Clean Air Act. She stated she believes this rule is a little aggressive for the state, and AEDQ's goal is to make sure this rule does not have a huge detrimental effect.

Ms. Marks will provide EPA's economic impact statement to Representative Hammer for review. Also she stated at the August 28 stakeholder meeting, there will be six presentations discussing the economic impact of the EPA rule. Generally there is no legislative presence in stakeholder groups, but if a legislative member would like to be added to the group, she noted it could be done.

Senator Cooper stated Arkansas contributes 1% nationwide to CO_2 emissions, and the United States contributes 17% worldwide to CO_2 emissions. Looking at the worldwide emissions, the U.S. probably contributes relatively small amounts compared to what is going on in China and the rest of the world. The EPA is asking the state to reduce its emissions by 44% when its overall contribution is only 1%.

At Ms. Mark's conclusion, Representative Wren thanked her for her good work and extended best wishes to her on her upcoming retirement.

Mr. Duane Highley, President and CEO, Arkansas Electric Cooperative Corporation, [Handouts 1, 2 and 3] stated in order for the state to meet the 44% reduction, the state has to be in full compliance by 2021. The state will have to be at 44% reduction to average out the rest of the nine years, and this is not enough time to make good plans for future generations. It takes a long time to invest in power infrastructure; it can take ten years to get a power line built from beginning to end.

Mr. Highley stated he believes this rule is very likely to result in a closure of the White Bluff Electric Power Plant at Redfield and the Independence Steam Electric Station in Newark. Closing plants will have significant economic impact to their regions.

He stated the need to coordinate with other reliability organizations in the country, because if efforts are combined across multiple states, compliance can be accomplished at a lower cost. He explained this may be a very complex result to achieve, because the power plants in the state are not controlled by utilities in the state; they are controlled by the Regional Transmission Organizations (RTO). Southwest Power Pool (SWPP) and Midcontinent Independent System Operator (MISO) are RTOs. These two entities control the power generation in Arkansas and the flow across the transmission grid. They are like the air traffic controllers of the grid. So when talking about making CO_2 reductions by shifting generation from coal to more expensive natural gas, this has to be done by these reliability organizations. SWPP controls the flow across nine states, and MISO controls the flow across fifteen states. In each state there has to be discussions about how the state is going to craft its compliance plan with the EPA rule, and how they are going to coordinate with other states.

Representative Hammer saw a problem with a page in Handout 2, "What is the Economic Impact of the White Bluff Electric Power Plant," page 11, table 16 (Delta Region County 2013 Persons Without Health Coverage - % Population), and asked to speak with the person who prepared it.

Mr. Paul Means, Manager, Government Affairs, Entergy Arkansas, Incorporated was recognized and stated although this is a proposed rule, it still costs the utilities and their customers because utilities will have to start early trying to comply, which will cost money.

He stated the utility industry is interconnected, citing 40% of Conway's electric generation comes from coal units and 60% of the electricity generated by Entergy comes from nuclear power plants, which have zero green house emissions. Entergy has voluntarily stabilized its CO_2 emissions at 20% below 2000 levels. The EPA has not given the state credit for what has already been done.

He stated even if the rule passes there will be little impact at all on what's going on worldwide, but it will be a huge investment for little return. It is our view that we are mortgaging our future with a bunch of ineffective regulations with very little benefits.

Ms. Venita McCellon-Allen, President and Chief Operating Office, American Electric Power Southwestern Electric Power Company (SWEPCO) **[PwrPt Presentation #2]** was recognized and stated SWEPCO is a multi-jurisdictional utility, meaning they operate in three states (AR, LA and TX) under the regulation of three state regulatory commissions. This also creates environmental obligations in all three states. They have been operating in this format since 1912. SWEPCO has about 525,000 customers of which 115,000 are in Arkansas. They also serve municipal customers in Prescott, Hope, and Bentonville. About 60% of their generation uses coal. Reliable coal capacity has kept rates low for SWEPCO customers for decades. Flint Creek was the first coal plant built by SWEPCO in 1978 and has continued to serve Arkansans and other states quite reliably.

SWEPCO's recommendations concerning the EPA's proposed rule are:

- Extend timeframe for comments
- Aggressive comments on behalf of consumers
    - Practical and technical flaws in the proposal
- Examine legal protections
- Legislation to protect reliability and current investment
- Adjust regulation for life after Clean Power Plan

Senator Rapert stated the issue of bond rating should be added to the list of potential negative impacts for this proposed rule.

Representative Hammer asked if the state is required to honor the tax benefits given to an industry when the plant is shut down.

Ms. McCellon-Allen stated she will research the issue and provide an answer. She also stated that SWEPCO units do not take a tax advantage status for locating in Arkansas, but that could be true for other units.

Representative Hammer recommended the committee have a meeting which focuses on modeling and intended and unintended consequences. Senator Rapert agreed with the recommendations and asked that it be noted.

Mr. Randy Zook, President, CEO, Arkansas State Chamber of Commerce, [Handouts 4, 5, 6, and 7] stated many of the comments that proceeded him are relevant to the point he wanted to express. Among America's top states for business, Arkansas ranks 32nd. in the nation. One of the most advantageous points the state has going in economic development efforts is its competitive cost of electricity. This is a major cost factor in the business models of many of the state's most important manufacturers and significant employers. The state has lost thousands of manufacturing jobs, noting in the last several weeks, northwest Arkansas has lost 750 jobs (500 in the Superior Wheel Plant in Rogers and 250 at APEX Tool Plant in Springdale). He also stated this proposed rule is a major threat to the steel industry's business model.

Senator Rapert read an interim resolution resolving that the Senate Committee on Insurance and Commerce and the House Committee on Insurance and Commerce oppose the adoption and implementation of the U.S. Environmental Protection Agency's proposed rule for performance standards for reducing carbon dioxide (CO_2) emissions from existing power plants under the Clean Air Act, Section 111(D).

Representatives Jett and Hammer requested their names be included on the resolution.

Representative Vines made a motion to have Representatives Jett and Hammer included on the resolution. Without objection, the motion carried.

Representative Dale made a motion to adopt the resolution. The motion was seconded by Representative Vines, and without objection, the motion carried.

There being no further business, the meeting adjourned at 12:34 p.m.

Note: Adopted resolution is IR 2013-007.