

Testimony of Commissioner Philip Moeller
House Energy & Commerce Subcommittee on Energy & Power
July 29, 2014

Thank you Chairman Whitfield, Ranking Member Rush and members of the committee. I'm Phil Moeller; I've been on the Commission since 2006. Thank you for holding this hearing on a very important subject, the EPA's Clean Power Plan.

As its name indicates, this is essentially power or electricity policy so it is very relevant that we are here talking about it because we have the job, under section 215 of the Federal Power Act, to assure the reliability of the nation's bulk power grid. Reliability should not be, and I don't think it is, a partisan issue. But it has to be our Job #1, so we have to look skeptically at these kinds of proposals to make sure that we can keep the lights, and more importantly, the heating and the cooling on when consumers need it.

The biggest challenge, I think, in this rule is that it treats states individually in terms of compliance. But electricity markets are fundamentally interstate in nature, and that just creates some challenges that may not be insurmountable but need to be looked at very closely.

In my written testimony I've noted a few examples of states that certainly have concerns about how they will be treated. Idaho, for instance, consumes coal power but doesn't generate it. So what does that mean for its baseline now and going forward? We have states like Wisconsin and New Jersey that have spent a significant amount of money, billions of dollars, to clean up their fleet, but they don't get credit under the Clean Power Plan. And then there are stranded assets, such as the one I note in Mississippi where a \$1 billion of scrubbers is essentially not counted under the plan.

So those are issues you will hear about as the comments come in on the rule.

The rule is based on, compliance is on four building blocks. You've probably gone into them. I'll point out one that has a little bit of concern to me, which is essentially getting the gas fleet up to 70% dispatch. Now the challenge there is that we have traditionally gone under something called economic dispatch, where the cheapest power plants are called in the merit order of dispatch. This would change it to environmental dispatch.

You can do that with a carbon fee, and mesh the two, but obviously the prices go up. It is a fundamental change with not only how we regulate power but actually how the system is operated. And it needs to be examined very closely.

The related issue that concerns me has to do with the example that we have in New England. Almost everybody in the country, not universally, but almost everyone believes that we need more pipeline into New England because of the pipeline constraints. The challenge is financing it because pipelines have traditionally been financed under long-term contracts with local distribution companies.

But the new customer class for pipelines is basically power plants that may or may not be called on a daily basis based on the market they are in. So with that, the challenge is: How do you get long-term financing with power plants that aren't going to sign, essentially, long-term contracts?

Now, these are not insurmountable problems. But it is a real issue in New England. We haven't been able to solve it, and I'm concerned that if we move to a system where there is a lot more gas generation to be dispatched, are we going to have the pipeline capacity? Can we finance the pipeline capacity to meet that need?

It is real conundrum, one that we need to take a look at more closely.

Essentially, what I've been calling for is a more formal role for our Commission as we deal with EPA on these issues. An open and transparent role so that, basically, we can get the engineers together to discuss the challenges involved because it really comes down to a very granular level with reliability.

The laws of physics will trump regulation. There are always unintended consequences when we shut down power plants because although they may not produce a lot of power, they may be producing other products – ancillary services – that maintain reliability in the grid. And the location of those plants is key, and sometimes you can't replicate a plant in that location.

So the granular level of analysis is important, and I think it should be open and transparent because engineers disagree, but we need kind of an open forum for them to do it.

I'm also not here to say that we shouldn't do anything. I think we can do a lot of good by essentially improving and modernizing the pricing of electricity. Under the leadership of Acting Chair LaFleur, the FERC has opened up a proceeding on price formation in the wholesale markets. It's overdue, it's a good effort. I'm kind of impatient; I want this to move forward because we have some inefficient pricing right now.

Similarly at the retail level, I urge my colleagues at the state level to consider more real-time and dynamic pricing at the retail level because that will send more accurate pricing to consumers and, hence, they should use their power more efficiently.

Again, thank you for having us, and I look forward to any question you have.