

**Written Comments of Lauren Azar
Attorney and Advisor, Azar Law LLC
Former Public Service Commissioner of Wisconsin
Former Senior Advisor to the Secretary of U.S. DOE**

FERC Docket No. AD15-4-000

Technical Conference on Environmental Regulations and Electric
Reliability, Wholesale Electricity Markets
and Energy Infrastructure

St. Louis, Missouri, March 31, 2015

Thank you for the opportunity to speak on the infrastructure needs to
comply with the Clean Power Plan (CPP)

Regional Planning for the Necessary Infrastructure:

While the final § 111(d) rule is not yet released, we know that states
will be well positioned to comply if they bolster energy efficiency and
increase the generation of low- and no-carbon electricity. Not
surprisingly, several studies have shown that regional approaches will
be the most cost-effective method of compliance.

As is apparent from the draft rule, some states are closer to
compliance than other states. The rule's differential impact on states
must be addressed if states are to pursue regional compliance.
States have successfully navigated regional approaches in the past,
even when the states were not similarly situated. The Mid-continental
Independent System Operator's (MISO) Multi-Value Projects (MVPs)

are a perfect example.

The states in the upper Midwest were faced with renewable portfolio standards or goals (RPS) and realized that a regional approach to compliance would be most cost-effective. Those states identified geographic areas where they wanted to develop renewable generation and asked MISO to develop a transmission plan around those areas. The remaining states in MISO replicated this process.

In the end, MISO developed a number of MVPs that allowed all of the states within the MISO footprint to comply with their respective RPSs. The states and MISO stakeholders then developed a cost-allocation proposal that shared the costs of the MVPs.

The MISO MVP process succeeded because of the following three factors:

- (1) Legal mandates or goals – the states were required to comply with their own various RPSs;
- (2) MISO developed a portfolio of transmission projects that allowed all of the states to benefit. Even though some states benefited more than others, all of the states were able to comply with their legal mandates; and
- (3) The transmission owners coalesced around the final product, both the transmission plan and cost allocation, because their state commissioners were not only supportive of the effort, but leading it.

The similarities between complying with § 111(d) and the RPSs are striking. The MISO states have already demonstrated the ability to comply with legal mandates through regional cooperation. It can be done again.

FERC's Role in Interregional Planning

The United States has a plethora of low- and no-carbon fuels to generate electricity. But those fuels are not evenly distributed throughout the states. To fully utilize all of our low- and no-carbon fuels, the RTOs must conduct meaningful interregional planning.

As we discovered during the Eastern Interconnection Planning effort, the planning authorities and RTOs use different metrics and different planning assumptions. Consequently, it is difficult to identify where interregional transmission projects would be most beneficial.

FERC can solve this problem by requiring adjacent planning authorities and RTOs to use the same metrics and planning assumptions when conducting interregional planning. Only by comparing apples-to-apples, will we be able to identify infrastructure needed at the seams, which will result in the most cost-effective compliance of § 111(d).

Building Infrastructure Quickly Enough to Aid Compliance

The United States needs new infrastructure for many reasons: to remain globally competitive; to address aging infrastructure; to meet public policy goals; and to respond to changes in the generation fleet prompted by emerging technologies, low natural gas prices and struggling nuclear plants. Both the electric industries and natural gas industries are already responding to this call to action. The nation's transmission and natural gas industries have been in build cycles for years. To comply with § 111(d), these build cycles must and can continue.

While federal and state permitting has improved during the current build cycle, we can do better. While at the DOE, I worked with nine federal agencies, including FERC, on the Rapid Response Team for Transmission (RRTT). The Secretaries of Interior, Agriculture, and Energy along with the Chairs of FERC and Council on Environmental Quality (collectively the Transmission Cabinet) held quarterly meetings on the federal permitting process. Streamlining efforts continue to this day.

For example, DOE is currently preparing a joint EIS with the State of Minnesota and is piloting a pre-application process that is expected to result in dramatically shorter permitting times. DOE and Minnesota are on track to publish the Final EIS for the Great Northern Transmission Line – a 220-mile 500 kV line – within 16 months of the issuance of DOE’s Notice of Intent. This pilot project is not only proving that NEPA and infrastructure development can co-exist, it demonstrates that electric transmission can be used as a compliance tool for § 111(d).

Federal and state agencies are not the only ones working on shorter development timelines. The private sector is as well. For example, a class one railway is currently working on a project to install a high capacity HVDC line underground on its railroad right-of-way (ROW). The developer does not anticipate needing eminent domain since it already owns the ROW. Of course, already owning the ROW, not needing eminent domain and having lines underground will help to speed the federal and state approval processes. Projects like this could certainly be used as a compliance tool for § 111(d).

In sum, while the permitting time for transmission remains a challenge, at least one federal agency and one state are proving that it can be done quickly. The private sector is also developing creative solutions to simplify and shorten the permitting process. Though both of these efforts are encouraging, more must be done to ensure transmission is permitted in a timely manner.

FERC's Role in Transmission Permitting:

FERC can play a role in streamlining the federal permitting. First, the Chair of FERC could convene quarterly meetings with the Transmission Cabinet to discuss the progress in evaluating applications for transmission lines that are required for compliance with the CPP (“Compliance Projects”).

Second the Transmission Cabinet could announce an “all hands on deck” approach to Compliance Projects. The Principals could ensure that pertinent field staff understands the importance of prompt evaluation of these applications. (DOE is demonstrating that the evaluation can be completed within a two-year period.) The call for “all hands on deck” should come from the Principals and should be repeated often.

Agency field staff is currently implementing rules and guidances that were created before the need for significant infrastructure build-out. Staff is making decisions today that are based on how things were done yesterday. But today differs from yesterday. Accordingly, the management of federal agencies, both career and political, must ensure that current policies are infused into the staff-level decisions. Equally importantly, agency management must create feedback loops to obtain confidence that field staff is implementing their duties in light of current policies.

Fourth, as part of the RRTT, agencies’ “front offices” convened weekly conference calls with its project managers for transmission projects, which sent a strong signal to field staff about the need to streamline. FERC “front office” staff could participate in these calls.

Fifth, FERC could develop an informal appeal process for applicants of Compliance Projects who believe the vetting of their applications

are stalled or not being handled according to current policies. The appeals would be done within the confines of the Transmission Cabinet.

Sixth, during the Transmission Cabinet's quarterly meetings, FERC could ensure that Principals receive an accurate status report on how their agency staff is performing on the Compliance Projects. FERC, as an independent agency, could play an important role in providing this accurate assessment.

Where there is a Will, there is a Way

The federal government has an important role in assisting the states to comply with § 111(d), including FERC. Federal permitting of transmission need not be an impediment to § 111(d) compliance; indeed, with sufficient dedication, federal agencies can facilitate compliance.

Today, the states have all of the tools that they need to comply with § 111(d). My hope is that states invest significant resources to create State Implementation Plans (SIP) that adopt regional approaches. The current mantra in some corners of "just say no", will likely result in those states having insufficient time to develop a cost-effective SIP, i.e. those states are painting themselves into the proverbial corner. Instead, states can use the MISO MVP model to develop a plan where all states benefit.

Where there is a will, there is a way.

My background:

I bring to this panel three perspectives: state, federal and the private sector. From 2007 to 2011, I was a Commissioner at the PSC of Wisconsin. While a state commissioner, I chaired both the state and RTO processes for cost-allocation over MISO's MVPs. I also co-founded and was the first President of the Eastern Interconnection States Planning Council (EISPC). Through that endeavor, we represented most of the states and Canadian provinces east of the Rockies in the interconnection-wide transmission planning.

From 2011 to 2013, I was senior advisor to U.S. DOE Secretary Chu focusing on, among other things, transmission infrastructure. While at DOE, I co-led the RRTT and was the DOE's representative to the President's steering committee on streamlining federal permitting.

I have returned to the private sector, which is where I started my 21-year career. I am currently representing utilities, including transmission companies, both incumbent and merchants. Not only am I working on permitting new transmission infrastructure, but I am also assisting utilities in how to address the challenges created by new emerging technologies and low natural gas prices. I am also co-leading a non-profit initiative aimed at required changes in our regulatory frameworks.