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## FERC commissioners split on EPA's Clean Power Plan

By Glen Boshart

Despite the U.S. EPA saying it relied on comments supplied by FERC and information gathered during several FERC technical conferences in writing its final [Clean Power Plan](#), a couple of FERC commissioners are being highly critical of the final result.

Philip Moeller, a Republican who will be leaving the agency later this year, was the most critical, claiming that the final rule is not about global warming but rather cutting domestic coal consumption.

Noting that more than 1.2 billion people in the world do not have access to electricity, Moeller insisted in a statement that the carbon reductions that will occur under the Clean Power Plan "will be swamped" by the increased global carbon emissions that will be produced to meet the electricity needs of those people.

"If carbon concentration is the problem, it must be addressed by the entire world, as the concentration of carbon — unlike sulfur dioxide or nitrogen oxides — is the same in Beijing, Bangalore, or Baltimore," Moeller maintained.

Moeller said all nations should work to improve energy efficiency and reduce incentives that promote the overconsumption of energy. To reduce domestic emissions, the focus should also be promoting competitive wholesale electricity markets, he said, insisting that such markets "have already improved emissions dramatically, and everything I've seen indicates that trend will continue if the markets are not fundamentally altered."

Moeller said the problem with the Clean Power Plan is that it may require grid operators to dispatch generating plants based on their environmental attributes instead of economics. Moreover, he said the final rule will lead to major changes to the way the power sector is regulated, with the most radical change requiring state officials with little knowledge of the power sector to develop a state compliance plan.

"This will be a huge challenge for them," Moeller predicted, and he worried that the plans they develop will disrupt existing competitive wholesale markets and thereby actually increase emissions by creating greater inefficiencies.

"It's easy to claim that the CPP will provide more benefits than costs 15 years from now. But ... there are real costs today. We will be closing coal plants, some of which haven't been fully paid for and still have useful lives," Moeller said. "That means that consumers will still be paying for plants that no longer produce electricity at the same time they are paying the costs of replacement plants that comply with the CPP."

On a positive note, Moeller commended the EPA for reaching out to FERC in developing the final rule, noting that communication with the EPA "has improved remarkably" since FERC [announced](#) in December 2014 that it was going to hold technical conferences on the draft version of the Clean Power Plan. In particular, Moeller praised the EPA for pushing back two years the 2020 initial compliance date that was included in the proposed rule and adding reliability measures, including a reliability safety valve, to the final version of the CPP.

In a statement of his own, fellow Republican Commissioner Tony Clark drove home the cost impacts of the EPA's final rule, including the costs of stranded investments forced to retire well before the end of a plant's useful life.

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**— FERC Commissioner Tony Clark on the Clean Power Plan**

"Whatever EPA believes are the environmental benefits of this regulation, it cannot be said that it will be easy or inexpensive. Such is the stuff of unicorns and leprechauns," Clark said. "For if EPA's energy vision was the most reliable and affordable means of providing power, we would not need the rule. Engineering experts, markets, utilities and their regulators would already be choosing these resources without EPA dictates. No amount of political posturing changes that fact."

Clark also shared Moeller's concerns about how the final rule will change the regulatory paradigm. "States will be faced with an exceptionally difficult decision," he said.

"Either 'play ball' with the EPA, cede greater authority to

Washington and become complicit in a plan that complicates efforts to ensure reliable, affordable power — or choose to let the EPA go it alone via a potentially unattractive federal implementation plan."

As for FERC, Clark said his agency must now "take a leadership role by requiring that the Federal Power Act, which governs reliability, rates and markets, does not take a backseat to an energy plan promulgated under a separate statute."

"EPA's new regulation is undeniably an enormous task for the people who actually plan, finance, construct, operate and regulate this complex U.S. power system. Though EPA officials are writing these regulations, EPA officials are not responsible for ensuring reliable, affordable power. That task falls to America's utility regulators, engineers, and operators," Clark noted.

Clark said he is concerned that many may assume that these people "will get the job done simply because they always have before."

"No one should think reliability and affordability are slam dunks, lest we deny the science of electrical engineering. Make no mistake, this work is extraordinarily difficult and it will be even more so should this regulation come to pass," Clark concluded.

The Democrats on the commission were more supportive of the final rule. While Chairman Norman Bay did not issue a statement, he did say publicly that he appreciated the EPA's "participation in FERC's technical conferences, its willingness to consider potential reliability concerns, and its efforts to address those concerns by adding time and flexibility for compliance, adopting a reliability safety valve and requiring state plans to be reviewed for reliability."

Commissioner Cheryl LaFleur, who initiated the series of Clean Power Plan technical conferences while chair of the commission before giving way to Bay in April, described the final rule as "an important step forward in our nation's response to climate change." Like her colleagues, LaFleur also said she appreciated the EPA's consideration of FERC's comments on the plan's timing, flexibility and the need for a reliability safety valve.

LaFleur also agreed that FERC will play a role in ensuring that efforts to comply with the Clean Power Plan do not affect the reliability of the nation's power supply. In particular, she said FERC needs to ensure that jurisdictional energy markets successfully adapt to changes driven by the EPA rule and support the development of the necessary electric and gas infrastructure.

Commissioner Colette Honorable also praised the EPA's involvement in FERC's technical conferences and listening to the agency's concerns by making several substantial changes to the rule. "These changes clearly demonstrate that the EPA listened to feedback from FERC and other stakeholders, and incorporated these suggestions into the final product. The rule should be better because of it," Honorable said.

Honorable further agreed that the "hard work" is just beginning, and called for collaboration and cooperation among regulators, stakeholders and others.