

National Climate Coalition

Ensuring Reliable Electricity Supply under the EPA Clean Power Plan

May 6, 2015

The National Climate Coalition (NCC) recognizes that federal, state and regional electric power planning authorities are actively providing input to the US Environmental Protection Agency (EPA) to ensure that its Clean Power Plan (CPP) is implemented in a manner that assures the reliable and affordable supply of electricity. The NCC makes the following recommendations:

CONTEXT	NCC RECOMMENDATION
Reliability Assurance Mechanism (RAM)	The NCC agrees with the near-consensus stakeholder comment that the potential effects of the CPP on reliability should be analyzed by the Federal Energy Regulatory Commission (FERC), the North American Electric Reliability Corporation (NERC), the various regional transmission organizations and independent system operators or the reliability coordinators in regions outside of organized markets at several <i>anticipatory</i> stages (i.e., prior to EPA's final action, pending and following state 111(d) plan submittal) to inform the states and EPA of material electric system reliability risks associated with poorly aligned state plans or with the potential lack of readiness of electric generation, fuel supply or transmission networks. This assessment and input should then continue <i>throughout</i> CPP implementation with sufficient compliance flexibility to avoid reliability risks (<i>see</i> RSV section below).
State-Driven Interim Glide Path	As the NCC has previously commented, under Clean Air Act (CAA) §110 Congress provided states with the primary authority to designate progress milestones towards achieving the National Ambient Air Quality Standards. Consistent with that framework, EPA should allow states to set the interim (i.e., 2020-2030) glide path for implementing their 111(d) plans subject to appropriate EPA reasonable progress criteria. As many commenters have noted, states are in the best position to project their readiness to implement energy measures under the EPA CPP Building Blocks. Allowing states to set interim milestones, subject to EPA scrutiny, is the best way to minimize reliability risks in the first instance.
Reliability Safety Valve (RSV) Mechanism <ul style="list-style-type: none">existing law	Existing law recognizes that unanticipated events can result in energy emergencies and provides certain mechanisms for addressing a temporary energy emergency: The Department of Energy's (DOE) authority under Federal Power Act (FPA) §202(c) ("whenever the Commission



	<p>determines that an emergency exists . . . the Commission shall have the authority . . . to require by order such temporary connections of facilities and such generation, delivery, interchange, or transmission of electric energy as in its judgment will best meet the emergency and serve the public interest.”) 16 USC §824a(c).¹</p> <p>FERC’s authority under FPA §207 (upon a complaint from a state public utility commission, “[w]henver the Commission shall find that any interstate service of any public utility is inadequate or insufficient, the Commission shall determine the proper, adequate or sufficient service to be furnished, and shall fix the same by its order, rule or regulation . . .”) 16 USC §824f.</p> <p>FERC’s authority under FPA §215(i) (while FPA §215(i) authorizes FERC to stay the effectiveness of certain “State actions” pending its determination of whether such State action is inconsistent with a reliability standard established under FPA §215, it is unclear whether this authority would allow FERC to stay the effectiveness of a state implementation plan (SIP), or §111(d) state plan, given the state-federal hybrid nature of the CPP. The relevant sections provide that, upon an application by NERC, “the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, . . . [and] may stay the effectiveness of any State action, . . .”) 16 USC §824o(i)(4)-(5).</p> <p><i>The problem with existing authority is that the CAA and CPP do not “connect the dots” between the Department of Energy’s and FERC’s reliability authority on the one hand, and a state’s (or source’s) ability to deviate from SIP commitments on the other hand.</i> Instead existing authority appears to set an impractically high bar for reliability-related relief. For example, unless the SIP itself otherwise provides, a state may deviate from a SIP to respond to an energy emergency under CAA §§110(f) and (g) only where a Governor seeks a non-delegable Presidential exemption to suspend portions of the SIP temporarily based on the Governor’s determination that there are inadequate energy</p>
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¹ While the language in Section 202(c) of the FPA refers to “the Commission,” the authority to require power plants to operate in fact lies with the Secretary of Energy and DOE. The Department of Energy Organization Act transferred the powers previously vested with the Federal Power Commission to DOE unless the authority is expressly reserved to FERC. DOE has retained its authority under Section 202(c) of the FPA. *See* 42 USC §7151(b).

	supplies. 42 USC §§7410(f)-(g). CAA §111 provides no further mechanism to address energy emergencies. Because the CAA does not currently provide states with practical authority to deviate from a SIP provision to address temporary energy emergencies that DOE, FERC or authorized reliability entities may identify, it is paramount that state 111(d) plans provide an appropriate mechanism to anticipate and address energy emergencies.
RSV Mechanism <ul style="list-style-type: none"> what is needed 	<p>To ensure that state 111(d) plans anticipate the periodic need to address unanticipated reliability challenges to the bulk power system and to avoid the difficult, cumbersome and lengthy default process provided by existing law as described above, EPA should require state 111(d) plans to pre-authorize a practical, self-executing reliability safety valve when a designated reliability oversight entity makes a qualifying determination. Elements of such an approach should include:</p> <p>Triggering Events – Any unanticipated event that would result in the violation of a reliability standard, such as the loss of generation, unanticipated load increases, insufficient or unanticipated loss of fuel supply, unreadiness or loss of transmission or similar events, would trigger review by the Appropriate Reliability Entity.</p> <p>Appropriate Reliability Entity – In the final CPP, EPA should identify the appropriate reliability entities that would be authorized to make a reliability need determination that would automatically trigger operation of the RSV.</p> <p>State 111(d) Performance Upon RSV Use – Because emergency action is by nature unanticipated and outside the control of the individual EGU(s) called upon to respond, EPA must provide in the final CPP that state 111(d) plans presumptively waive any compliance obligation for any incremental excess emissions attributable to the must-run EGU's required operation.²</p>

² Under this approach, a state would retain the option of addressing, *on a portfolio basis*, any performance shortfall due to the incremental operation of a must-run unit. But to avoid penalizing the individual, must-run EGU, the 111(d) plan would not require it to offset any incremental excess emissions attributable to emergency operation unless the state assured the EGU full recovery of additional costs, including the costs of further reducing GHG emissions under unanticipated conditions.

Because this document contains an integrated package of recommendations that reconciles often conflicting individual company or association perspectives, no particular position should be attributed to any individual National Climate Coalition member. The Coalition offers these comments recognizing that EPA will receive a variety of comments from other stakeholders. We look forward to continued dialogue with all stakeholders and commit to give serious consideration to and to comment upon constructive ideas offered by others. Coalition positions may evolve over time in response to such ideas or following further ongoing analysis.

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