

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-first Legislature – Second Regular Session

**COMMITTEE ON ENERGY, ENVIRONMENT
AND NATURAL RESOURCES**

Minutes of Special Meeting
Tuesday, June 10, 2014
House Hearing Room 4 -- 1:30 p.m.

Chairman Pratt called the meeting to order at 1:46 p.m. and attendance was noted by the secretary.

Members Present

Mr. Orr
Ms. Peshlakai

Mr. Saldate
Mr. Thorpe

Mr. Pratt, Chairman

Members Absent

Mr. Hale (excused)

Mr. Shope

Ms. Fann, Vice-Chairman (excused)

OPENING REMARKS

Speaker Andy Tobin stated concern for the U.S. Environmental Protection Agency's (EPA) Clean Power Plan proposed rule to further reduce carbon emissions. He opined that the controversial and sweeping changes to current standards will negatively affect the industry, the power supply and the economy. EPA estimates that the preferred plan will cost utilities as much as \$8.8 billion annually with an environmental benefit not being realized until 2030. Speaker Tobin commented that the benefits of the proposed rule are speculative at best. He explained that the price associated with the change is cause for concern as the nation's economy continues to struggle. The impact will be significant and is estimated to cost the economy \$50 billion per year, which is far from a national economic growth program.

Speaker Tobin related the achievements of the Arizona Department of Environmental Quality (ADEQ) to reduce other air pollutants such as particulate matter (PM) 10. He said that ADEQ worked diligently and in direct reciprocation with the federal government to find workable solutions on improving Arizona's environmental conditions, which the state has a great interest in. He encouraged stakeholders to collaborate and devise a statewide plan to achieve the necessary carbon emission reductions by using a balanced and reasonable approach.

Chairman Pratt stated appreciation for Speaker Tobin and his work on the issue.

PRESENTATION

Henry Darwin, Director, Arizona Department of Environmental Quality (ADEQ), gave an overview on EPA's proposed Clean Power Plan to reduce carbon dioxide (CO₂) (Attachment 1). He advised that on June 2, 2014, EPA announced the new proposed rule that require states to develop plans to reduce CO₂. The states have until June 2016 to submit implementation plans with possible EPA extensions for legislative approvals and multi-state approaches. The timeline is incredibly aggressive and contains the following deadlines:

- Public comment period ends – October 30, 2014
- Publish final rule – June 2, 2015
- State's initial plans are due – June 30, 2016
- EPA extension for legislative approvals if necessary – June 30, 2017
- EPA extension for multi-state plans – June 30, 2018

Mr. Darwin advised that if states do not meet the initial plan limit of June 30, 2016, then EPA will take over the planning process, eliminating stakeholder's input. He strongly recommended starting the development of Arizona's plan to meet the fast approaching deadline.

The nationwide goal is to reduce CO₂ emissions 30 percent below 2005 emission levels. The proposed plan significantly impacts this state compared to others as Arizona has the second highest goal in the country with a 52 percent reduction goal, excluding the Navajo Generating Station. EPA calculated individual state goals by looking at each state's mix of existing power sources and their ability to reduce CO₂ levels by using a combination of the following "building blocks":

- Increase efficiency of existing fossil fuel power plants through equipment upgrades and process improvements
- Expand use of low-emitting power sources such as natural gas
- Use more zero- and low-emitting power sources such as solar, wind and nuclear power
- Increase energy efficiency and reduce energy demand

Mr. Darwin stated that additional remedies will be necessary for Arizona to be in compliance with the new regulations. The proposed rule requires Arizona to reduce its carbon intensity amid a growing population and rising energy demand. The state's approach must be realistic about meeting future energy needs. A lack of reliable, affordable and stable electricity production, transmission and availability for cooling needs is an immediate risk to the health and safety of Arizona's citizens. He explained that, in recent years, ADEQ has reduced emissions of nitrogen oxides by more than 50 percent, significantly increased solar energy, required utilities to generate a percentage of power from renewable energy sources and achieved energy efficiency goals.

Mr. Darwin indicated that ADEQ must quickly assemble a stakeholder group and work in collaboration to submit comments to EPA by October 30, 2014. Stakeholders will be responsible for evaluating the impact of the proposed rule and determining if the 52 percent goal is

attainable. He said that he believes EPA mistakenly included the Navajo Generating Station when establishing the state's goal, which could be the reason for the excessive percentage rate.

Mr. Darwin advised the Committee that ADEQ is also exploring the possibility of a lawsuit to challenge EPA's authority to set CO2 emission reduction goals for the states. He said that the Clean Air Act gave EPA the authority to only set procedures for the states, not standards.

Mr. Darwin reviewed the various plans the states can pursue and reminded Members that in 2010, the Legislature enacted HB2442 (Forty-ninth Legislature, Second Regular Session) which requires "express legislative authorization" to allow Arizona's participation in a state or multi-state program designed to limit greenhouse gas emissions. He said that ADEQ cannot do anything in response to EPA's proposed rule until the Legislature first gives the authority to do so.

In response to Mr. Thorpe's questions, Mr. Darwin reiterated that noncompliance of the CO2 emission reduction goals will result in EPA taking over the planning process and that additional information from the EPA is necessary in determining how reduction goals were factored.

Mr. Orr questioned the impact the new rules will have on consumers' electricity rates. Mr. Darwin responded that he is uncertain; however, the issue will be addressed in upcoming stakeholder meetings. Mr. Orr asked if the tribal entities are being considered as separate negotiating partners when creating a state or multi-state plan. Mr. Darwin related that the federal government deferred the proposal and the plan decision for any utility located on tribal land; they will not be included in Arizona's plan. Mr. Orr questioned the reason for the high emission reduction rate. Mr. Darwin stated that the reason is unknown at this time.

Chairman Pratt inquired about the limitations for developing a multi-state plan. Mr. Darwin responded that the aggressive timeline will hinder the ability to achieve a multi-state plan because these plans can take years to reach an agreement. Chairman Pratt questioned the urgency of granting ADEQ with the necessary legislative authority. Mr. Darwin related that the authority can be given during the next regular legislative session.

Eric Massey, Air Quality Division Director, Arizona Department of Environmental Quality, in response to a question, explained that increased efficiency for fossil fuel plants will address the amount of energy produced per the amount of fuel burned. New technology and maintenance repair plans will assist in these efforts.

PUBLIC TESTIMONY

Lori Lustig, Legislative Liaison, Arizona Corporation Commission (Commission), said that the primary responsibility of the Commission is to protect Arizona's ratepayers. She related that the Commission is carefully reviewing EPA's proposed rule to determine the impact on power plants, the ability of power companies to continue to provide reliable service and any jobs that could be affected.

Jeff Gray, Legislative Liaison, Arizona Chamber of Commerce and Industry, Arizona Manufacturers Council, stated concern that EPA's 650-page rule proposal will negatively impact

Arizona's businesses, particularly the manufacturing industry. This proposal will reduce the nation's competitiveness by eliminating reliable, abundant and affordable energy sources resulting in fewer jobs and increased energy charges. Mr. Gray questioned the model used by EPA to determine the state's reduction rate and reiterated that Arizona has the second highest reduction goal in the nation. He said that the world will not lower greenhouse gas emissions enough to prevent the effects of climate change. EPA estimates that overall CO2 emissions around the world will only be reduced by 1.4 percent under this new proposal. Mr. Gray opined that the costs of the proposal significantly outweigh the benefits.

Larry Lucero, Government Relations Liaison, Tucson Electric Power, provided background and ensured the Committee that the utility companies will wholeheartedly participate in the stakeholder process to address concerns and develop a statewide plan. He said that the industry has been making improvements for many years with the ultimate goal of keeping Arizona competitive on the energy front. In response to questions, Mr. Lucero discussed the proposed reduction goal for Arizona and the importance of removing legislative limitations from ADEQ. He opined that the proposed rule will boost the nuclear energy industry and reiterated that EPA's timeline is extremely aggressive considering the complexity of the issue.

Bob Jones, Bullhead City Chamber of Commerce; Bullhead Regional Economic Development Authority; Bullhead City/Mohave Valley Board of REALTORS®, provided background on the Mohave Electric Cooperative, a nonprofit member-owned cooperative serving the power needs of Bullhead City and surrounding areas. He expressed frustration with the proposed EPA rule and said that the changes will result in significant rate increases and an inability to attract businesses to the state. Mr. Jones said that EPA is choosing winners and losers with these federal regulations that may result in power plant closures in rural Arizona.

Sandy Bahr, Chapter Director, Sierra Club-Grand Canyon Chapter, encouraged the Committee to support the goals to reduce CO2 emissions from power plants. She said that carbon pollution contributes to climate change and the consequences of not taking action will be detrimental to future generations. In reply to Mr. Thorpe's question, Ms. Bahr advised that 97 percent of scientists performing global warming studies agree that the climate is being negatively affected by carbon pollution.

Ms. Peshlakai stated that she believes there is a responsible way to provide energy without negatively impacting the environment. She commended EPA's efforts and explained that the impact of climate change is currently being seen on Indian reservations. Ranchers currently have to haul water in for the animals because many of the wells have gone dry.

Phillip Bashaw, Director of Government Relations and Grassroots Advocacy, Grand Canyon State Electric Cooperative Association, Inc., provided background on the predominately rural, consumer-owned nonprofit cooperative. He said that after reviewing EPA's proposed rule, the Cooperative has more questions than answers. Mr. Bashaw compared Arizona's 52 percent emission reduction goal to other state goals and said that the proposed rule has created significant inequities. He said that 25 states emit higher levels of CO2 than Arizona; however, EPA's proposed rule calls for a much lower percent of reduction for these states. Vermont and Washington do not have any fossil fuel generation plants and will not have to submit state plans. Mr. Bashaw stated that he agrees with previous statements that EPA is picking winners and

losers in the electric power industry. He stated that the assumption is that EPA wants a complete retirement of coal generation power plants in Arizona which will create a fundamental shift in the state's energy portfolio. In response to a question, Mr. Bashaw explained that at one time, U.S. policy stated that natural gas should not be used in the generation of electricity. That policy drove the electric power industry into using coal generation or nuclear power plants. He said that Arizona chose coal generation because nuclear energy was not cost effective.

Bret Fanshaw, State Advocate, Environment Arizona, stated that he believes that Arizonans deserve clean air and a safer climate. He commended the federal government for addressing climate change and limiting carbon pollution to improve the public health of all citizens. Mr. Fanshaw encouraged the Committee to embrace EPA's proposed rule and consider expanding solar and wind power projects to meet energy needs.

Will Greene, Phoenix Organizing Representative for Beyond Coal Campaign, Sierra Club, stated that the proposed rule to reduce CO₂ emissions is good economics and good for Arizona. He said that policymakers and regulators need to set the playing field so that the power plant owners will clean up their operations. Pollution causes harm to citizens and affects overall healthcare costs. In response to inquiries, Mr. Greene stated that the proposed rule provides incentives for power plants to "clean up their act". He reviewed recent information on healthcare costs and premature deaths caused by coal burning power plants.

Andrew Lane, representing self, in support of EPA's Clean Power Plan proposed rule, stressed the importance of taking care of and preserving the planet. He provided examples of producing clean energy and encouraged the use of renewable energy sources.

Tom Dorn, Lobbyist, American Coalition for Clean Coal Electricity; Peabody Energy, submitted and reviewed handouts addressing six major myths about EPA's proposed carbon regulations (Attachment 2), Peabody Energy's position on the proposal with regard to existing power plants (Attachment 3) and a memorandum on the reasons EPA's Clean Power Plan is legally invalid (Attachment 4). Mr. Dorn stated concern for the economic impact of EPA's proposed rule and said that according to the U.S. Chamber of Commerce, the proposal will cost the nation's economy \$50 billion per year.

Mr. Dorn pointed out that China and India together emit more than 20 percent of all global greenhouse gas emissions. In one month, China emits more CO₂ than the maximum amount EPA's proposal will reduce in one year. If America shuts down every coal generated power plant, there will be no discernable effect on climate; the result will be 1/20th of one degree in climate temperature. He said that EPA's proposal is all pain without any U.S. gain.

Mr. Dorn related that the world is increasingly turning to coal to alleviate energy poverty and to satisfy global demand. He said that over the past decade, coal has become the fastest growing major fuel and is expected to surpass oil as the world's largest energy source. The rest of the world is moving toward coal while America is moving away from it. Natural gas is not the answer as it is volatile with the market. Natural gas generation declined ten percent in 2013 and four percent this year while coal production continues to increase. Americans are voting with their wallets and choosing coal over natural gas.

Mr. Dorn related that coal production has increased 170 percent since 1970 while key emission rates have been reduced by 90 percent. Coal continues to become increasingly cleaner as new technologies evolve.

Chairman Pratt announced the names of those who signed up in support of EPA's Clean Power Plan proposed rule but did not speak:

Tiffany Sprague, representing self

Thomas Hulen, representing self

Without objection, the meeting adjourned at 4:03 p.m.

Abby Selvey, Committee Secretary

June 17, 2014

(Original minutes, attachments and audio on file in the Office of the Chief Clerk; video archives available at <http://www.azleg.gov>)